

# **BIDDING DOCUMENT**

**Issued on: 15<sup>th</sup> June 2017**

**MCA Honduras  
On Behalf of:**

**The Government of Honduras  
Millennium Challenge Account – Honduras  
(MCA-Honduras)**

**Funded by  
THE UNITED STATES OF AMERICA**

**Through  
THE MILLENNIUM CHALLENGE  
CORPORATION**

**for  
Procurement of**

**e-GP Information System for HonduCompras**

**\*\*\***

**No: CB-UMBRAL-01-2017**

# INVITATION FOR BIDS WITHOUT PRE-QUALIFICATION

Tegucigalpa, Honduras  
15<sup>th</sup> June 2017

Re: e-GP Information System for HonduCompras CB-UMBRAL-01-2017

Dear Madam/Sir:

1. The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of Honduras (the “Government”) have entered into a Threshold Program Grant Agreement for Millennium Challenge Account Honduras (MCA-Honduras) assistance to help facilitate poverty reduction through economic growth in Honduras (the “Agreement”) in the amount of approximately USD 15,650,000.00 (“MCC Funding”). The Government, acting through the Millennium Challenge Account-Honduras (the “Purchaser”), intends to apply a portion of the proceeds of MCC Funding to eligible payments under a contract associated with this Invitation for Bids. Any payments made by the Purchaser under the proposed contract will be subject, in all respects, to the terms and conditions of the Agreement and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the Purchaser shall derive any rights from the Agreement or have any claim to the proceeds of MCC Funding. The Agreement and its related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) and on the website of the Purchaser.
2. The Purchaser requests interested Bidders to submit sealed bids for the supply and installation of e-GP Information System for HonduCompras. All eligible Bidders are encouraged to apply. Please note that no pre-qualification has been undertaken for this procurement. The selection process, as described, includes a qualification step, which shall include a review of past performance, and a reference check and shall be subject to verification prior to the contract award.
3. A Supplier will be selected using the Competitive Bidding procedures as described in the Bidding Document accompanying this Invitation for Bids. Bidders are advised that these procedures are governed by MCC Program Procurement Guidelines, which can be found on the MCC website at <https://www.mcc.gov/pages/business/guidelines>, and its amendments. Although these procedures are similar to those set out in the World Bank Standard Bidding Documents for Procurement of Supply and Installation of Information Systems (Single-Stage Bidding),<sup>1</sup> there are several significant differences and firms are advised to review these instructions carefully.
4. Pre-Bid Conference **will not** be held as described in the Bid Data Sheet (“BDS”), Section II of this Bidding Document.
5. Site visit **will not** be organized as described in the Bid Data Sheet (“BDS”), Section II of this Bidding Document.

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<sup>1</sup> World Bank copyright <http://www.worldbank.org>

6. Bids must be delivered to the address and in the manner specified in BDS ITB 20.2(b), no later than **17<sup>th</sup> July 2017 at 15:00 hours Honduras Time**. Bids do not need to be secured by a Bid Security. Bids will be opened in a public Bid opening at the address and time specified in BDS ITB 24.1
7. Submissions from Bidders will be evaluated by a Bid Review Panel (“BRP”) in accordance with Section I, Bid Opening and Evaluation, and Section III, Bidder Qualification Requirements.
8. The Bids should be received by the Purchaser no later than **17<sup>th</sup> July 2017 at 15:00 hours Honduras Time**, at the following address. Bidders should be aware that distance and customs formalities may require longer than expected delivery time. Late Bids will not be accepted under any circumstances and will be returned unopened at the written request and cost of the Bidder.

Please note that electronic Bids shall not be accepted.

Yours sincerely,

Marco Antonio Bogran

General Director Millennium Challenge Account- Honduras (MCA-Honduras)

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## A. GENERAL

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### Definitions

*In Section I, II, III and IV of this Bidding Document, the following words and expressions shall have the meanings stated. These definitions shall not apply to any words or expressions in the Sections V, VI, and VII (General Conditions of Contract, Particular Conditions of Contract, and Purchaser's Requirements) of this Bidding Document, in which such words and expressions shall have the meanings stated in GCC Clause 1.1 unless otherwise specified.*

- (a) "Addendum" or "Addenda" means a modification to this Bidding Document issued by the Purchaser.
- (b) "Association" or "association" means an association of entities that forms the Bidder.
- (c) "BDS" or "Bid Data Sheet" means the Bid Data Sheet in Section II (Bid Data Sheet) of this Bidding Document used to reflect specific requirements and/or conditions.
- (d) "Bid" means a bid for the provision of the supply and installation of IT Systems submitted by a Bidder in response to this Bidding Document.
- (e) "Bid Security" means the security a Bidder may be required to furnish as part of its Bid in accordance with ITB Clause 17.
- (f) "Bidder" means any eligible entity, including any associate or joint venture of such eligible entity that submits a Bid.
- (g) "Bidding Document" means this document, including any Addendum that may be made by the Purchaser.
- (h) "Commencement Date" means the date for the commencement of work on the system as notified under GCC Clause 8.1.
- (i) "Agreement" means the Millennium Challenge Agreement **identified in the BDS.**
- (j) "Competitive Bidding" or "CB" means the competitive bidding procedures set out in this Bidding Document and which conform to the MCC Program Procurement Guidelines.
- (k) "Contract" means the contract proposed to be entered into between the Purchaser and the Supplier, including all of the documents specified in GCC Clause 2.1 and any attachments, appendices, and all documents incorporated by reference therein. The words 'Agreement' and 'Contract' are used interchangeably.

- (l) “Contract Agreement” means the completed contract to be entered into between the Purchaser and the Supplier substantially in the form of the agreement provided in Section VI.
- (m) “Contract Price” means the price to be paid for the services set forth in the Contract Agreement.
- (n) “CPPRS” or “Contractor Past Performance Reporting System” means MCC’s Contractor Past Performance Reporting System maintained and utilized in accordance with Part 2 of MCC’s Program Procurement Guidelines.
- (o) “Force Account” has the definition given the term in the MCC Program Procurement Guidelines.
- (p) “General Conditions of Contract” or “GCC” means the Conditions of Contract.
- (q) “Goods” means all of the commodities, software, hardware, communications, equipment raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (r) “Government” means the Government **identified in the BDS**.
- (s) “Government-Owned Enterprise” or “GOE” has the definition given the term in the MCC Program Procurement Guidelines.
- (t) “IFB” means “Invitation for Bids”.
- (u) “Information Systems” or “IS” means all the required information technologies, including all information processing and communications-related hardware, software, supplies, and consumable items that the Supplier is required to supply and install under the Contract, plus all associated documentation, and all other materials and goods to be supplied, installed, integrated, and made operational (collectively called “the Goods” in some clauses of the ITB); and the related software development, transportation, insurance, installation, customization, integration, commissioning, training, technical support, maintenance, repair, and other services necessary for proper operation of the Information System to be provided by the selected Bidder and as specified in the Contract.
- (v) “Instructions to Bidders” or “ITB” means Section I (Instructions to Bidders) of this Bidding Document which provides Bidders with information needed to prepare their Bids.



- (w) “Key Professional Personnel” means the Key Professional Personnel specified in Form TECH-6 Key Professional Personnel Capabilities.
- (x) “Millennium Challenge Account Entity” or “MCA Entity” means an accountable entity designated by a government to implement the Agreement.
- (y) “Millennium Challenge Corporation” or “MCC” means the Millennium Challenge Corporation, a United States Government corporation, acting on behalf of the United States Government.
- (z) “MCC Funding” means the funding MCC has made available to the Government under the terms of the Agreement.
- (aa) “MCC Program Procurement Guidelines” or “MCC PPG” means the MCC Program Procurement Guidelines and its amendments posted from time to time on the MCC website at [www.mcc.gov](http://www.mcc.gov).
- (bb) “Performance Security” means the security the Supplier must furnish in accordance with GCC Clause 13.3.
- (cc) “Project Manager” means the person appointed by the Purchaser to act as the Project Manager for the purposes of the Contract.
- (dd) “Purchaser” means the entity referenced in ITB 1.1, the party with which the Supplier signs the Contract for the provision of the Goods and Related Services.
- (ee) “Related Services” means the services incidental to the supply of the Goods such as, insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
- (ff) “Site” means the place or places identified in the Technical Specifications where the System is to be installed.
- (gg) “Subcontractor” has the meaning given the term in ITB Clause 6.4.
- (hh) “Supplier” means the entity(ies), which is responsible for providing the Goods and Related Services to the Purchaser under the Contract.
- (ii) “Taxes” has the meaning given the term in the Agreement.
- (jj) “Trafficking in Persons” or “TIP” has the definition given the term in the MCC Program Procurement Guidelines.

- 1. Scope of Bid**
  - 1.1. The Purchaser **named in the BDS** invites Bids for the supply and installation of the Information Systems, as briefly **described in the BDS** and specified in greater detail in this Bidding Document.
  - 1.2. The title and identification number of the Invitation for Bids and resulting Contract(s) are **provided in the BDS**. The Bid will be the basis for contract negotiations and ultimately for a signed Contract with the Supplier should a Contract be entered into.
  - 1.3. Throughout this Bidding Document, the term "in writing" means communicated in written form (e.g. by mail, e-mail, fax) and the term "days" means calendar days unless a different meaning is evident from the context.
  - 1.4. Throughout this Bidding Document, except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and the feminine means the masculine and vice versa.
- 2. Source of Funds**
  - 2.1. The United States of America, acting through the Millennium Challenge Corporation, and the Government have entered into the Agreement. The Government, acting through the Purchaser, intends to apply a portion of the MCC Funding to eligible payments under the Contract. Any payments made under the Contract with MCC Funding will be subject, in all respects, to the terms and conditions of the Agreement and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the Purchaser shall derive any rights from the A or have any claim to any proceeds of MCC Funding. The Agreement and its related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) or on the website of the Purchaser.
- 3. Corrupt and Fraudulent Practices**
  - 3.1. MCC requires that all beneficiaries of MCC Funding, including the Purchaser and any applicants, Bidders, Suppliers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. In pursuance of this policy, the following provisions will apply:
    - (a) For the purposes of these provisions, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as "Fraud and Corruption":

- (i) ***“coercive practice”*** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract;
- (ii) ***“collusive practice”*** means a tacit or explicit agreement between two or more parties to perform a coercive, corrupt, fraudulent, obstructive or prohibited practice, including any such agreement designed to fix, stabilize, or maintain prices or to otherwise deprive the Purchaser of the benefits of free and open competition;
- (iii) ***“corrupt practice”*** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Purchaser staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process, or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;
- (iv) ***“fraudulent practice”*** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;
- (v) ***“obstructive practice”*** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding:
  - (aa) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of a coercive, collusive, corrupt, fraudulent or prohibited practice;
  - (bb) that threatens, harasses or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; and/or

- (cc) intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or an authorized Inspector General of MCC provided under the Agreement; and
- (vi) “***prohibited practice***” means any action that violates Section E (Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions) of Annex A (Additional Provisions) of the Contract.
- (b) The Purchaser will reject a Bid (and MCC will deny approval of a proposed Contract award) if it determines that the Bidder recommended for award has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for the Contract.
- (c) MCC and the Purchaser have the right to sanction a Bidder or Supplier, including declaring the Bidder or Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Purchaser determines that the Bidder or Supplier has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for, or in executing, such a contract.
- (d) MCC and the Purchaser have the right to require that a provision be included in the Contract requiring the selected Bidder or Supplier to permit the Purchaser, MCC, or any designee of MCC, to inspect the Bidder’s or Supplier’s, or any of the Supplier’s Subcontractors on the Contract, accounts, records and other documents relating to the submission of its Bid or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the Purchaser with the approval of MCC.
- (e) In addition, MCC has the right to cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices during the selection process or the execution of any MCC-funded contract, without the Purchaser having taken timely and appropriate action satisfactory to MCC to remedy the situation.

**4. Trafficking in Persons**

- 4.1 MCC has a zero tolerance policy with regard to trafficking in persons. Trafficking in Persons is the crime of using force, fraud

and/or coercion to exploit another person. Human trafficking can take the form of domestic servitude, peonage, forced labor, sexual servitude, bonded labor, and the use of child soldiers. This practice deprives people of their human rights and freedoms, increases global health risks, fuels growing networks of organized crime, and can sustain levels of poverty and impede development. MCC is committed to ensuring appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the projects it funds.

- 4.2 Section VII, Purchaser's Requirements, of this Bidding Document sets out certain prohibitions, Supplier requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into. As such, those provisions should be given careful consideration.
- 4.3 Additional information on MCC's requirements aimed at combating trafficking in persons can be found in MCC's Counter-Trafficking in Persons Policy that can be found on MCC's website (<https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>). All contracts funded by MCC are required to comply with MCC's Counter-Trafficking in Persons requirements as described in the Counter-Trafficking in Persons Policy. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the MCA Entity and implemented by the corresponding contractor).

**5. Eligibility**

**Eligible Bidders**

- 5.1. The eligibility criteria set out in this section will apply to the Bidder, including all parties constituting the Bidder, for any part of the Contract, including related services.
- 5.2. A Bidder may be a private entity, certain government-owned entities (in accordance with MCC's Program Procurement Guidelines as described in ITB Clause 5.4), or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement in association in the form of a joint venture or other association.
- 5.3. A Bidder, all parties constituting the Bidder, and any Subcontractors and suppliers for any part of the Contract, including related services, may have the nationality of any country, subject to the nationality restrictions specified in this ITB Clause 5. An entity will be deemed to have the nationality of a country if such entity and its all partners, associates, subsidiaries, parents is constituted, incorporated, or registered in, and operates in conformity with, the provisions of the laws of that country.

- Government-Owned Enterprises** 5.4. According to MCC PPG, Government-Owned Enterprises (“GOEs”) are not eligible to compete for MCC-funded contracts for goods or works. This GOE policy applies to Information Systems that will be procured using this Bidding Document. The policy states that the GOEs (a) may not be party to any MCC-funded contract for goods, or works procured through an open solicitation process, limited bidding, direct contracting, or sole source selection; and (b) may not be pre-qualified or shortlisted for any MCC-funded contract for goods or works anticipated to be procured through these means. This prohibition does not apply to Government-owned Force Account units owned by the Government of the Purchaser’s country, or Government-owned educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with Part 7 of MCC’s Program Procurement Guidelines. All Bidders must certify their status as part of their Bid submission.
- Joint Venture or Association** 5.5. In the case where a Bidder is, or proposes to be, a joint venture or other association (a) all members of the joint venture or association must satisfy the legal, financial, litigation and other requirements set out in this Bidding Document; (b) all members of the joint venture or association will be jointly and severally liable for the execution of the Contract; and (c) the joint venture or association will nominate a representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the association during the bidding process and, in the event the joint venture or association is awarded the Contract, during Contract performance.
- Conflict of Interest** 5.6. A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated to the satisfaction of the Purchaser. The Purchaser requires that Bidders hold the Purchaser’s interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Bidder, including all parties constituting the Bidder, or Supplier and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, may be considered to have a conflict of interest and (i) in the case of a Bidder may be disqualified or (ii) in the case of a Supplier, the Contract may be terminated if they:

- (a) have at least one controlling partner in common with one or more other parties in the process contemplated by this Bidding Document; or
- (b) have the same legal representative as another Bidder for purposes of this Bid; or
- (c) have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Bid of another Bidder, or influence the decisions of the Purchaser regarding the selection process for this procurement; or
- (d) participate in more than one Bid in this process; participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved; however, this provision does not limit the inclusion of the same Subcontractor in more than one Bid; or
- (e) are, or have been associated in the past, with a person or entity, or any of their affiliates, which has been engaged to provide consulting services for the preparation of the design, specifications, or other documents to be used for the procurement and provision of the Supply and Installation of Information System under the Contract; or
- (f) any of their affiliates have been hired (or are proposed to be hired) by the Purchaser as the Project Manager for the Contract; or
- (g) are themselves, or have a business or family relationship with, (i) a member of the Purchaser's board of directors or staff or consultant, (ii) the project's implementing entity's staff, or (iii) the Procurement Agent or Fiscal Agent, or the Auditor (as defined in the Agreement) hired by the Purchaser in connection with the Agreement, any of whom is directly or indirectly involved in any part of (A) the preparation of this Bidding Document, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or
- (h) any of their affiliates have been or, at present, are engaged by the Purchaser in the capacity of the Procurement Agent or Fiscal Agent under the Agreement.

- (i) Bidders have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Purchaser, or that may be reasonably perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Bidder.
- (j) No member of the MCA Entity's board of directors or current employees of the MCA Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) shall be proposed or work as, or on behalf of, any Bidder/Supplier.
- (k) Except as provided in ITB Clause 5.6 (m), no current employees of the Government shall work for the Bidder/Supplier under MCC funded contracts benefiting their own ministries, departments or agencies.
- (l) Recruiting former MCA Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists.
- (m) If a Bidder proposes any Government employee as Key Professional Personnel in their Bid, such Key Professional Personnel must have written certification from the Government confirming that: (i) they will be on leave without pay from the time of their official Bid submission and will remain on leave without pay until the end of their assignment with the Bidder/Supplier and they are allowed to work full-time outside of their previous official position; or (ii) they will resign or retire from Government employment on or prior to the Contract award date. Under no circumstances shall any individuals described in (i) and (ii) be responsible for approving the implementation of this Contract. Such certification shall be provided to the MCA Entity by the Bidder as part of its Bid.
- (n) In the case where a Bidder/Supplier seeks to engage the services of any person falling under ITB Clauses 5.6 (j) – 5.6 (m), who may have left the MCA Entity within a period of less than twelve (12) months of the date of the submission of this IFB, it must obtain a “no-objection” from the MCA Entity for the inclusion of such a person, prior to the Bidder's submission of its Bid.

**Ineligibility**

- 5.7. A Bidder, all parties constituting the Bidder, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, will not be



any person or entity under (a) a declaration of ineligibility for engaging in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices as contemplated by ITB Clause 3.1 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of MCC's Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC's website. This would also remove from eligibility for participation in procurement any entity that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanctions or restrictions by law or policy of the United States.

5.8. A Bidder, all parties constituting the Bidder, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates not otherwise made ineligible for a reason described in this ITB Clause 5.8 will nonetheless be excluded if:

- a) as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Bidder (including any associates, Subcontractors, and any respective affiliates); or
- b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Bidder or Supplier (including any associates, Subcontractors and any respective affiliates) or any payments to entities in such country; or
- c) such Bidder or Supplier, any parties constituting the Bidder or Supplier, any Subcontractors or their respective personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC's website.

5.9. Bidders or Suppliers must also satisfy all other eligibility criteria contained in the MCC PPG. In the case where a Bidder or Supplier intends to join with an associate, then such associate will also be subject to the eligibility criteria set forth in this Bidding Document and the MCC PPG.

**Evidence of Continued Eligibility**

5.10. Bidders shall provide such evidence of their continued eligibility in a manner satisfactory to the Purchaser, as the Purchaser shall reasonably request.

**Commissions and Gratuities**

5.11. A Bidder will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Bid and during performance of the Contract if the Bidder is awarded the Contract, as requested in this Bidding Document.

**Eligible Goods and Services**

5.12. The materials, equipment, and services to be supplied under the Contract may have their origin in any country subject to the same restrictions specified for Bidders and their associates and personnel set forth in ITB Clause 5.3 above. At the Purchaser's request, Bidders will be required to provide evidence of the origin of materials, equipment, and services.

5.13. For purposes of ITB Clause 5.12 above, "origin" means the place where the materials and equipment are mined, grown, cultivated, produced, manufactured, or processed, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized article results that differs substantially in its basic characteristics, purposes or utility from its underlying components.

5.14. The origin of materials, equipment, and services is distinct from the nationality of the Bidder.

5.15. Country of origin for major items of plant, materials, goods, and services provided under the Contract must be indicated in the Country of Origin Code form in Section IV. During the Contract implementation, the sources used will be verified by the Purchaser's Project Manager.

5.16. An Information System is deemed to be produced in a certain country when, in the territory of that country, through software development, manufacturing, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

5.17. For purposes of ITB Clauses 5.12 - 5.16, the nationality of the Bidder is distinct from the country in which the Information System and its goods components are produced or from which the related services are supplied.

**6. Qualifications of the Bidder**

6.1. By submission of documentary evidence in its Bid, the Bidder must establish to the Purchaser's satisfaction:

- (a) that it has the financial, technical, and production capability necessary to perform the Contract, meets the qualification criteria **specified in the BDS**, and has a successful

performance history as **required in the BDS**.

For the purposes of establishing a Bidder's qualifications, and unless stated to the contrary in the BDS, the experience and/or resources of any Subcontractors will not contribute to the Bidder's qualifications; only those of a joint venture partner will be considered.

- (b) that, in the case of a Bidder offering to supply key goods components of the Information System, as **identified in the BDS**, that the Bidder does not itself produce, the Bidder is duly authorized by the producer to supply those components in the Purchaser's country under the Contract(s) that may result from this bidding; this will be accomplished by including Manufacturer's Authorizations in the Bid, based on the sample found in Section IV.
- (c) that, if a Bidder proposes Subcontractors for key services if and as **identified in the BDS**, these Subcontractors have agreed in writing to serve for the Bidder under the Contract(s) that may result from this bidding; and
- (d) that, in the case of a Bidder not doing business within the Purchaser's country, the Bidder is or will be (if awarded the Contract) represented by an Agent in that country who is equipped and able to carry out the Bidder's maintenance, technical support, training, and repair obligations prescribed in the General and Particular Conditions of Contract, and/or Purchaser's Requirements. An Agent, acceptable to the Purchaser, shall be established prior to contract signature.

6.2. Bids submitted by a joint venture of two or more firms as partners shall also comply with the following requirements:

- (a) the Bid shall be signed so as to be legally binding on all partners;
- (b) one of the partners shall be nominated as being in charge, and this nomination shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
- (c) the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture, and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
- (d) the partner or combination of partners that is responsible for

a specific component of the Information System must meet the relevant minimum qualification criteria for that component;

- (e) a firm may submit a Bid either as a single Bidder on its own, or as partner in one, and only one, joint venture. If, as a result of the Bid opening pursuant to ITB Clause 24, this requirement is not met, all Bids involving the firm as a single Bidder or joint venture partner will be disqualified;
- (f) all partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a statement to this effect shall be included in the authorization mentioned under ITB Clause 6.2 (b) above, in the Bid as well as in the Contract (in case of a successful Bid).

6.3. If a Bidder intends to subcontract major items of supply or services, it shall include in the Bid details on the name and nationality of the proposed Subcontractor for each of those items and shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB Clause 5, and that any Goods or Services components of the Information System to be provided by the Subcontractor comply with the requirements of ITB Clause 6 and the related evidence required by ITB Clause 13.1 e) (v) is submitted.

6.4. Bidders are free to list more than one Subcontractor against each item within the limits **specified in the BDS**. Quoted rates and prices will be deemed to apply, whichever Subcontractor is appointed, and no adjustment of the rates or prices will be permitted. Subsequent additions and deletions from the list of approved Subcontractors shall be performed in accordance with GCC Clause 20 (as revised in the PCC, if applicable) and Appendix 3 to the Contract Agreement.

For the purposes of this Bidding Document, a Subcontractor is any vendor or service provider with whom the Bidder contracts for the supply or execution of any part of the Information System to be provided by the Bidder under the Contract (such as the supply of major hardware, software, or other components of the required Information Technologies specified, or the performance of related Services, e.g., software development, transportation, installation, customization, integration, commissioning, training, technical support, maintenance, repair, etc.).

6.5. A firm which is a Bidder, whether as a single Bidder or as a partner in a joint venture, cannot be a Subcontractor in other Bids,

except for the supply of commercially available hardware or software by the firm, as well as purely incidental services such as installation/configuration, routine training, and ongoing maintenance/support. If BDS ITB 6.1(a) allows the qualification of Subcontractors nominated for certain components to be taken into account in assessing the Bidder's overall qualifications, any Subcontractor so proposed by any Bidder is automatically disqualified from being a Bidder itself or a partner in a joint venture. The same will apply to firms that have provided Subcontractor agreements for certain services pursuant to ITB Clause 6.1(c). Non-compliance may result in the rejection of all Bids in which the affected firm participates as a Bidder or as a partner in a joint venture. As long as in compliance with these provisions, or as long as unaffected by them due to not participating as Bidder or as partner in a joint venture, a firm may be proposed as a Subcontractor in any number of Bids.

**7. Cost of Bidding**

7.1. The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

**8. Site Visit**

8.1. If a site visit is organized by the Purchaser, as specified in BDS ITB 10.2, the Bidder may wish to visit and examine the site or sites of the Information System and obtain for itself, at its own responsibility and risk, all information that may be necessary for preparing the Bid and entering into the Contract. The costs of participating in the site visit shall be at the Bidder's own expense.

8.2. The Purchaser may organize a site visit or visits concurrently with the pre-bid conference, as specified in BDS ITB 10.2. Attendance at pre-bid conferences and/or site visits is encouraged, but not mandatory.

8.3. No site visits shall be arranged or scheduled or permitted after the deadline for the submission of the Bids and prior to the award of Contract.

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**B. THIS BIDDING DOCUMENT**

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**9. Content of this Bidding Document**

9.1. The contents of this Bidding Document are listed below and should be read in conjunction with any addenda issued in accordance with ITB Clause 11:

- Section I Instructions to Bidders ("ITB")
- Section II Bid Data Sheet ("BDS")

- Section III Bid Review, Evaluation Criteria, and Bidder Qualification Requirements
- Section IV Bidding Forms
- Section V General Conditions of Contract (“GCC”)
- Section VI Particular Conditions of Contract (“PCC”)
- Section VII Purchaser’s Requirements (including Implementation Schedule)

- 9.2. Bidders are expected to examine all instructions, forms, terms, specifications, and other information in the Bidding Document. Failure to furnish all information required by the Bidding Document or to submit a Bid not substantially responsive to the Bidding Document in every respect will be at the Bidder’s risk and may result in the rejection of its Bid.
- 9.3. The Invitation for Bids is not formally part of the Bidding Document and is included for reference only. In case of inconsistencies, the actual Bidding Document shall prevail.

**10. Clarification of this Bidding Document and Pre-bid Conference**

- 10.1. A prospective Bidder requiring any clarification of this Bidding Document shall contact the Purchaser in writing at the Purchaser’s address as **indicated in the BDS** or raise its inquiry during the pre-bid conference if provided for in accordance with BDS ITB 10.2. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than the number of days as **specified in the BDS** prior to the deadline for submission of Bids. The Purchaser shall post the responses on its website, including a description of the inquiry but without identifying its source by no later than the number of days as **specified in the BDS** prior to the deadline for submission of Bids. Should the clarification result in changes to the essential elements of this Bidding Document, the Purchaser shall amend this Bidding Document following the procedure under ITB Clauses 11 and 21.2.
- 10.2. The Bidder’s designated representative is invited to attend a pre-bid conference, if **provided for in the BDS**. The purpose of the conference will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 10.3. The Bidder is requested to submit any questions in writing, to reach the Purchaser no later than the number of days before the pre-bid conference as **specified in the BDS**.
- 10.4. Minutes of the conference, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the conference, will

be posted on the Purchaser's website as **indicated in the BDS**. Any modification to this Bidding Document that may become necessary as a result of the pre-bid conference, shall be made by the Purchaser exclusively through the issue of an Addendum and not through the minutes of the pre-bid conference.

10.5. Nonattendance at the pre-bid conference will not be a cause for disqualification of a Bidder and will not be taken into consideration during review of its Bid.

**11. Amendment of this Bidding Document**

11.1. At any time prior to the deadline for submission of bids, the Purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend this Bidding Document. Later amendments on the same subject modify or replace earlier ones.

11.2. Amendments will be provided in the form of Addenda to this Bidding Document, which will be sent in writing to all prospective Bidders that received this Bidding Document from the Purchaser. Addenda will be binding on Bidders. Bidders are required to immediately acknowledge receipt of any such Addenda. It will be assumed that the amendments contained in such Addenda will have been taken into account by the Bidder in its Bid.

11.3. In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of Bids, in which case, the Purchaser will notify all Bidders in writing of the extended deadline.

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## **C. PREPARATION OF BIDS**

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**12. Language of Bid**

12.1. The Bid prepared by the Bidder and all correspondence and documents related to the Bid exchanged by the Bidder and the Purchaser shall be written in the language(s) **specified in the BDS**. Any printed literature furnished by the Bidder as part of its Bid may be in a language not specified in the BDS, as long as such literature is accompanied by a translation of its pertinent passages into the language of the Bid, in which case, for purposes of interpretation of the Bid, the translation shall govern.

**13. Documents Comprising the Bid**

13.1. The Bid submitted by the Bidder shall comprise:

- a) all Bidding Forms in Section IV completed and signed by a person or persons duly authorized to bind the Bidder to the

Contract;

- b) all Price Schedules in Section IV duly completed in accordance with ITB Clauses 14, 15, and 18 and signed by a person or persons duly authorized to bind the Bidder to the Contract;
- c) if **required in the BDS**, Bid Security furnished in accordance with ITB Clause 17;
- d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 19.2;
- e) Attachments:

- (i) Attachment 1: Bidder's Eligibility

- In the absence of pre-qualification, documents establishing to the Purchaser's satisfaction the Bidder's eligibility to bid, including but not limited to documentary evidence that the Bidder is legally incorporated in a territory of an eligible source country as defined under ITB Clause 5.3;

- (ii) Attachment 2: Bidder's Qualifications

- Documentary evidence establishing to the Purchaser's satisfaction, and in accordance with ITB Clause 6, that the Bidder is qualified to perform the Contract if its Bid is accepted.

- Any Manufacturer's Authorizations and Subcontractor agreements specified as required in BDS ITB 6.1 (b) and (c);

- (iii) Attachment 3: Eligibility of Goods and Services

- Documents establishing, to the Purchaser's satisfaction, that the Goods and Services components of the Information System to be supplied, installed, and/or performed by the Bidder are eligible Goods and Services as defined under ITB Clauses 5.12-5.17. If awarded the Contract, the Bidder shall submit for such components of the Information System evidence of eligibility, which shall be confirmed by a certificate of origin issued at the time of shipment;

- (iv) Attachment 4: Conformity of the Information System to this Bidding Document



Documentary evidence establishing to the Purchaser's satisfaction, and in accordance with ITB Clause 16, that the Goods and Services components of the Information System to be supplied, installed, and/or performed by the Bidder conform to this Bidding Document;

(v) Attachment 5: Proposed Subcontractors

A list of all major items of Goods or Services that the Bidder proposes to purchase or subcontract from others, and the name and nationality of the proposed Subcontractor, including vendors, for each of those items;

(vi) Attachment 6: Intellectual Property

A list of:

All Software included in the Bidder's Bid, assigning each item to one of the software categories defined in GCC 1.1 ((fff), (qqq), (w), (d), (iii), and (r)): System, General Purpose, and Application Software; and Standard and Custom Software.

All Custom Materials, as defined in GCC 1.1(q), included in the Bidder's Bid.

All Materials not identified as Custom Materials shall be deemed Standard Materials, as defined in GCC 1.1 (hhh).

Re-assignments among the Software and Materials categories, if necessary, will be made during the implementation of the Contract according to GCC Clause 39 (Changes to the System).

13.2. In addition to the requirements above, Bids submitted by a joint venture or other association shall include a copy of the joint venture/association agreement entered into by all members. Alternatively, a letter of intent to execute a joint venture/association agreement shall be signed by all members and submitted with the Bid, together with a copy of the proposed agreement.

13.3. If there is a change in the legal structure of the Bidder after the Bid submission, the Bidder is required to immediately inform the Purchaser. However, any change of legal structure shall not be used to satisfy a qualification requirement that was not satisfied as of the deadline of Bid submission.

## 14. Bid Prices

- 14.1. All Goods and Services identified in the Supply and Installation Cost Sub-Table and the Recurrent Cost Sub-Table in Section IV (Forms 2.5 and 2.6), and all other Goods and Services proposed by the Bidder to fulfill the requirements of the Information System, must be priced separately in the format of the same tables and summarized in the corresponding Cost Summary Tables in the same Section. Prices must be quoted in accordance with the instructions provided in Section IV for the various price tables, in the manner specified below. Recurrent Cost to be provided if **stated as 'required' in the BDS**.
- 14.2. The price of items that the Bidder has left blank in the price tables provided in Section IV shall be assumed to be included in the price of other items. Items omitted altogether from the price tables shall be assumed to be omitted from the Bid and, provided that the Bid is substantially responsive, an adjustment to the Bid price will be made during evaluation in accordance with ITB Clause 28.7 (c) (iii).
- 14.3. Unit prices must be quoted at a level of detail in accordance with the Price Tables 2.3 through 2.7 in Section IV for calculation of any partial deliveries or partial payments under the contract, in accordance with the Implementation Schedule in Section VII, and with GCC Clause 12 and the PCC GCC Clause 12 – Terms and Schedule of Payment. Bidders may be required to provide a breakdown of any composite or lump-sum items included in the Price Tables.
- 14.4. The prices for Goods components of the System are to be expressed and shall be defined and governed in accordance with the rules prescribed in the edition of Incoterms **specified in the BDS**, and quoted in the appropriate columns of the Price Tables of Section IV as follows:
- (i) For Goods manufactured in Purchaser's country:
    - (i) the price of the Goods quoted EXW (ex-works, ex-factory, ex-warehouse, ex-showroom, or off-the-shelf, as applicable); and
    - (ii) the price for inland transportation, insurance, and other local services required to convey the Goods to their Final Destination **specified in the BDS**.
  - (ii) For Goods manufactured outside Purchaser's country, to be imported:
    - (i) the price of the Goods, quoted in CIP to their Final Destination **specified in the BDS**. In quoting the price, a

Bidder shall be free to use transportation through carriers registered in any eligible countries. Similarly, a Bidder may obtain insurance services from any eligible source country;

- (ii) the price for inland transportation, insurance, and other local services required to convey the Goods to their Final Destination **specified in the BDS**.
  
- (iii) For Goods manufactured outside Purchaser's country, already imported:
  - (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost and Taxes already paid in connection with the importation of the Goods; and
  - (ii) the price for inland transportation, insurance, and other local services required to convey the Goods to their Final Destination **specified in the BDS**.
  
- (iv) For Related Services, other than inland transportation and other local services required to convey the goods to their Final Destination, price of any other related services if so specified in the Purchaser's Requirements in Section VII.

14.5. The price of Services shall be quoted in total for each service (where appropriate, broken down into unit prices), separated into their local and foreign currency components. Prices must include all taxes, duties, levies and fees whatsoever, except only VAT or other indirect taxes, or stamp duties, that may be assessed and/or apply in the Purchaser's country on/to the price of the Services invoiced to the Purchaser, if the Contract is awarded. Unless otherwise **specified in the BDS**, the prices must include all costs incidental to the performance of the Services, as incurred by the Supplier, such as travel, subsistence, office support, communications, translation, printing of materials, etc. Costs incidental to the delivery of the Services but incurred by the Purchaser or its staff, or by third parties, must be included in the price only to the extent such obligations are made explicit in these Bidding Documents (as, e.g., a requirement for the Bidder to include the travel and subsistence costs of trainees).

14.6. GCC Clause 14 sets forth the tax provisions of the Contract. Bidders should review this clause carefully in preparing their Bid.

14.7. Prices for Recurrent Costs beyond the scope of warranty services to be incurred during the Warranty Period, defined in the PCC

GCC Clause 29.10 and prices for Recurrent Costs to be incurred during the Post-Warranty Services Period, defined in the PCC GCC Clause 1.1 (tt), shall be quoted as Service prices in accordance with ITB Clause 14.5 on the Recurrent Cost Sub-Table in detail, and on the Recurrent Cost Summary Table in currency totals. Recurrent costs are all-inclusive of the costs of necessary Goods such as spare parts, software license renewals, labor, etc., needed for the continued and proper operation of the System and, if appropriate, of the Bidder's own allowance for price increases.

14.8. Unless otherwise **specified in the BDS**, prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to increases on any account. Bids submitted that are subject to price adjustment will be rejected.

**15. Currencies of Bid and Payment**

15.1. The currency(ies) of the Bid and the currency(ies) of payments shall be as **specified in the BDS**.

**16. Documents Establishing the Conformity of the Information System to this Bidding Document**

16.1. Pursuant to ITB Clause 13.1 e) (iv), the Bidder shall furnish, as part of its Bid, documents establishing the conformity to the Bidding Document of the Information System that the Bidder proposes to supply and install under the Contract.

16.2. The documentary evidence of conformity of the Information System to the Bidding Document shall be in the form of written descriptions, literature, diagrams, certifications, and client references, including:

- (i) the Bidder's technical response, i.e., a detailed description of the Bidder's proposed technical solution conforming in all material aspects with the Purchaser's Requirements (Section VII) and other parts of this Bidding Document, overall as well as in regard to the essential technical and performance characteristics of each component making up the proposed Information System;
- (ii) an item-by-item commentary on the Purchaser's Requirements, demonstrating the substantial responsiveness of the Information System offered to those requirements. In demonstrating responsiveness, the commentary shall include explicit cross references to the relevant pages in the supporting materials included in the Bid. Whenever a discrepancy arises between the item-by-item commentary and any catalogs, technical specifications, or other preprinted materials submitted with the Bid, the item-by-item commentary shall prevail;

- (iii) a Preliminary Project Plan describing, among other things, the methods by which the Bidder will carry out its overall management and coordination responsibilities if awarded the Contract, and the human and other resources the Bidder proposes to use. The Plan should include a detailed Contract Implementation Schedule in bar chart form, showing the estimated duration, sequence, and interrelationship of all key activities needed to complete the Contract. The Preliminary Project Plan must also address any other topics **specified in the BDS**. In addition, the Preliminary Project Plan should state the Bidder's assessment of what it expects the Purchaser and any other party involved in the implementation of the Information System to provide during implementation and how the Bidder proposes to coordinate the activities of all involved parties;
- (iv) a written confirmation that the Bidder accepts responsibility for the successful integration and interoperability of all components of the Information System as required by this Bidding Document.

16.3. For purposes of the commentary to be furnished pursuant to ITB Clause 16.2 (b), the Bidder shall note that references to brand names or model numbers or national or proprietary standards designated by the Purchaser in its Purchaser's Requirements are intended to be descriptive and not restrictive. Except where explicitly **prohibited in the BDS** for specific items or standards, the Bidder may substitute alternative brand/model names or standards in its Bid, provided that it demonstrates to the Purchaser's satisfaction that the use of the substitute(s) will result in the Information System being able to perform substantially equivalent to or better than that specified in the Purchaser's Requirements.

## **17. Bid Security**

- 17.1. **As required in the BDS**, the Bidder shall furnish as part of its Bid, a Bid Security in original form and in the amount and currency **specified in the BDS**.
- 17.2. When a Bid Security is required in accordance with BDS ITB 17.1, unless otherwise **specified in the BDS**, the Bid Security shall be a demand guarantee at the Bidder's option, in any of the following forms:
- (i) an unconditional bank guarantee, or
  - (ii) an irrevocable letter of credit, from a reputable source in an eligible country.

If the Bid Security is issued by a financial institution located outside the Purchaser's country, the Bid Security must be confirmed by a correspondent financial institution located in the Purchaser's country, satisfactory to the Purchaser, to make the Bid Security enforceable. In the case of a bank guarantee, the Bid Security shall be submitted either using the Bid Security Form 4.11 included in Section IV, Bidding Forms, or another substantially similar format approved by the Purchaser prior to Bid submission. In either case, the form must include the complete name of the Bidder and identify the correspondent financial institution if the financial institution is located outside the Purchaser's country. The Bid Security shall be valid for the twenty-eight (28) days beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB Clause 18.2.

- 17.3. If a Bid Security is required in accordance with BDS ITB 17.1, any Bid not accompanied by an enforceable and compliant Bid Security shall be rejected by the Purchaser as non-responsive. Bidders are advised that a bid-securing declaration or a bid bond is not an acceptable form of Bid Security, and if a bid-securing declaration or a bid bond is provided as Bid Security, the Bid shall be deemed non-responsive and rejected.
- 17.4. The Bid Security of unsuccessful Bidders shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security.
- 17.5. The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security.
- 17.6. The Bid Security of a joint venture or other association shall be in the name of the association that submits the Bid. If the association has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent referred to in ITB Clause 13.2.
- 17.7. A Bid Security, if any, may be forfeited, at the Purchaser's sole discretion:
  - (i) if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Submission Form, except as provided under ITB Clause 18.2 in case of Bid extension; or
  - (ii) if the successful Bidder fails to sign the Contract in accordance with ITB Clause 37, or fails to furnish a

performance security in accordance with GCC Clause 13.3.1.

**18. Period of  
Validity of Bids**

18.1. Bids shall remain valid, at a minimum, for the period and date **specified in the BDS** after the Bid submission deadline date prescribed by the Purchaser, pursuant to ITB Clause 21. A Bid valid for a shorter period may be rejected by the Purchaser as non-responsive.

18.2. In exceptional circumstances, prior to expiry of the Bid validity period, the Purchaser may request that the Bidders extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested, it shall also be extended for twenty-eight (28) days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid, except as provided in ITB Clause 18.3.

18.3. If the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial bid validity, the following conditions shall apply:

- (a) The Contract Price will be adjusted if so specified in the request for extension.
- (b) Bid evaluation shall be based on the original Bid price without taking into consideration any adjustment applied pursuant to paragraph (a) above.

**19. Format and  
Signing of Bid**

19.1. The Bidder shall prepare one original of the documents comprising the Bid as described in ITB Clause 13.1 and clearly mark it ORIGINAL. In addition, the Bidder shall submit copies of the Bid, in the number **specified in the BDS** and clearly mark each one "COPY NO. 1," "COPY NO. 2," "COPY NO. 3," etc., as appropriate. In the event of any discrepancy between the original and the copies, the original shall prevail.

19.2. The original and all copies of the Bid shall be typed and shall be signed by a person duly authorized to sign on behalf of the Bidder. A letter of authorization shall consist of a written confirmation as **specified in the BDS** and shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Bid, except for unedited printed literature, shall be signed or initialed by the person(s) signing the Bid.

19.3. A Bid submitted by a joint venture or other association shall comply with the following requirements:

- (a) be signed so as to be legally binding on all partners; and
- (b) include the Supplier's representatives; authorization and be signed by those legally authorized to sign on behalf of the joint venture or association.

19.4. The Bid shall contain no interlineations, erasures, or overwriting, except to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

19.5. A Bidder will furnish information regarding commissions or gratuities, if any, paid or to be paid relating to this procurement or its Bid and during performance of the Contract if the Bidder is awarded the Contract, as requested in this Bidding Document.

## **D. SUBMISSION OF BIDS**

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### **20. Sealing and Marking of Bids**

20.1. The Bidder shall enclose the original and all copies of the Bid in separate, sealed envelopes, duly marking the envelopes as "ORIGINAL" and "COPY NO. [number]." These envelopes containing the original and the copies shall then be enclosed in one single outer envelope.

20.2. The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Purchaser at the address **given in the BDS;**
- (c) bear the specific identification of this bidding process specified in BDS ITB 1.1 and 1.2; and
- (d) bear a warning not to open before the time and date for Bid opening specified in BDS ITB 24.1.

20.3. If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the Bid.

### **21. Deadline for Submission of Bids**

21.1. Bids must be received by the Purchaser at the address specified in the BDS ITB 20.2 no later than the time and date **stated in the BDS.**

21.2. The Purchaser may, at its discretion, extend this deadline for submission of Bids by amending the Bidding Document in accordance with ITB Clause 11.3, in which case all rights and



obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

**22. Late Bids**

22.1. The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with BDS ITB 21.1. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected and returned unopened to at the Bidder's expense, if so requested by the Bidder.

**23. Withdrawal, Substitution, and Modification of Bids**

23.1. A Bidder may withdraw, substitute, or modify its Bid after it has been submitted, but before the deadline for submission of Bids, by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB Clause 19.2 (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be:

- (a) Prepared and submitted in accordance with ITB Clauses 19 and 20 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "BID WITHDRAWAL NOTICE," "BID SUBSTITUTION NOTICE," or "BID MODIFICATION NOTICE," and
- (b) received by the Purchaser prior to the deadline prescribed for submission of Bids, in accordance with ITB Clause 21.

23.2. A notice may also be sent by electronic means such as fax or e-mail.

23.3. Bids requested to be withdrawn in accordance with ITB Clause 23.1 shall be returned unopened at the cost of the Bidder, if requested by the Bidder. Bid withdrawal notices received after the bid submission deadline will be ignored, and the submitted Bid will be deemed to be a validly submitted Bid.

23.4. No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of Bid validity specified by the Bidder in the Bid Submission Form, or any extension thereof agreed to by the Bidder. Withdrawal of a Bid during this interval shall result in the forfeiture of the Bid Security, if any, pursuant to ITB Clause 17.7.

## E. BID OPENING AND EVALUATION

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### 24. Opening of Bids by Purchaser

- 24.1. The Purchaser will open the Bids in public at the address, date and time **specified in the BDS**. Anyone may attend that Bid opening including representatives of the Bidders and members of the general public.
- 24.2. First, envelopes marked “BID WITHDRAWAL NOTICE” shall be opened and read out and the envelope with the corresponding Bid shall not be opened. No Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Bid opening. Next, envelopes marked “BID SUBSTITUTION NOTICE” shall be opened and read out and exchanged with the corresponding Bid being substituted; the substituted Bid shall not be opened, but returned to the Bidder at the Bidder’s expense, if so requested by the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Bid opening. Envelopes marked “BID MODIFICATION NOTICE” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only Bids that are opened and read out at Bid opening shall be considered further.
- 24.3. All other envelopes shall be opened one at a time, and the official shall read aloud: the name of the Bidder and whether there is a modification; the total Bid price including any discounts; the presence of a Bid Security, if one is required; and any other such details as the Purchaser may consider appropriate. Only discounts read out at Bid opening shall be considered for evaluation. No Bid shall be rejected at Bid opening except for late Bids, in accordance with ITB Clause 22.1.
- 24.4. The Purchaser shall prepare a record of the Bid opening that shall include, at a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid price, including any discounts; and the presence or absence of a Bid Security, if one is required. The Bidder’s representatives who are present shall be required to sign the record. The omission of any signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be posted on the Purchaser’s website and will be sent electronically to all Bidders who received the Bidding Document from the Purchaser.

**25. Clarification of Bids**

25.1. To assist in the examination and evaluation of the Bids, and qualification of the Bidders, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the Bidder's response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Bids, in accordance with ITB Clause 26.2.

25.2. If a Bidder does not provide clarifications of its Bid by the date and time set in the Purchaser's request for clarification, its Bid may be rejected.

**26. Preliminary Examination of Bids**

26.1. The Purchaser will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether valid and genuine Bid Security has been furnished, whether the documents have been properly signed, and whether the Bids are generally in order.

26.2. The Purchaser shall correct arithmetical errors on the following basis:

(a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;

(b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

(c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetical error, in which case the amount in figures shall prevail subject to (a) or (b) above.

26.3. If the Bidder does not accept the correction of errors, its Bid shall be rejected.

26.4. Provided that a Bid is substantially responsive, the Purchaser may waive any nonconformities in a Bid that does not constitute a material deviation, reservation or omission.

26.5. Prior to the detailed evaluation, the Purchaser will determine whether each Bid is substantially responsive to the Bidding Document. For purposes of this determination, a substantially responsive Bid is one that meets all the terms, conditions, and specifications of this Bidding Document without material deviations, exceptions, objections, conditionalities, or reservations. A material deviation, exception, objection, conditionality, or reservation is one that:

(a) If accepted, would:

- (i) affect in any substantial way the scope, quality, or performance of the Information System specified in the Contract; or
- (ii) limit in any substantial way, inconsistent with this Bidding Document, the Purchaser's rights or the Bidder's obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.

26.6. If a Bid is not substantially responsive to the requirements of this Bidding Document, it shall be rejected by the Purchaser and may not subsequently be made responsive by correction of the material deviation, reservation or omission. The Purchaser's determination of bid responsiveness will be based on the contents of the Bid itself.

**27. Conversion to Single Currency**

27.1. For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as **specified in the BDS**.

**28. Evaluation and Comparison of Bids**

28.1. The Purchaser will evaluate and rank the Bids that have been determined to be substantially responsive, pursuant to ITB Clause 26. The evaluation will be performed assuming that the Contract will be awarded to the Bidder receiving the highest Evaluated Bid Score for the entire Information System.

28.2. To be considered for Contract award, Bidders must have submitted Bids:

- (a) for which detailed bid evaluation as per ITB Clauses 26.4 and 26.5 confirms that the Bids are commercially and technically responsive, and include the hardware, Software, related equipment, products, materials, and other Goods and Services components of the Information System in, substantially, the full required quantities for the entire Information System;

- (b) that offer Information Technologies that are proven to perform up to the standards promised in the Bid by having successfully passed the performance, benchmark, and/or functionality tests the Purchaser may require, pursuant to ITB Clause 31.2.

28.3. The Purchaser's evaluation of a Bid will be made on the basis of prices quoted in accordance with ITB Clause 14 (Bid Prices).

28.4. **Unless indicated otherwise in the BDS**, the Purchaser's evaluation of responsive Bids will take into account technical factors, in addition to cost factors. An Evaluated Bid Score (B) will be calculated for each responsive Bid using the following formula, which permits a comprehensive assessment of the Bid price and the technical merits of each Bid:

$$B \equiv \frac{C_{low}}{C} X + \frac{T}{T_{high}} (1 - X)$$

where

$C$  = Evaluated Bid Price

$C_{low}$  = the lowest of all Evaluated Bid Prices among responsive Bids

$T$  = the total Technical Score awarded to the Bid

$T_{high}$  = the Technical Score achieved by the Bid that was scored highest among all responsive Bids

$X$  = weight for the Price as **specified in the BDS**

The Bid with the highest Evaluated Bid Score (B) among responsive Bids shall be eligible for Contract award, provided the Bidder was found to be qualified to perform the Contract in accordance with ITB Clause 31 (Qualification) and the price was found to be reasonable as per the price reasonable analysis according to Clause 2.2 of Section III.

28.5. If, in addition to the price factors, the Purchaser has chosen to give weight to important technical factors (i.e., the price weight, X, is less than 1 in the evaluation), the Total Technical Points assigned to each Bid in the Evaluated Bid Formula will be determined by adding and weighting the scores assigned by an evaluation committee to technical features of the Bid in accordance with the criteria set forth below.

- (a) The technical features to be evaluated are **specified in the BDS**:

- (i) Performance, capacity, or functionality features that either exceed levels specified as mandatory in the Purchaser's Requirements; and/or influence the life-cycle cost and effectiveness of the Information System.
  - (ii) Usability features, such as ease of use, ease of administration, or ease of expansion, which influence the life-cycle cost and effectiveness of the Information System.
  - (iii) The quality of the Bidder's Preliminary Project Plan as evidenced by the thoroughness, reasonableness, and responsiveness of: (a) the task and resource schedules, both general and specific, and (b) the proposed arrangements for management and coordination, training, quality assurance, technical support, logistics, problem resolution, and transfer of knowledge, and other such activities as specified by the Purchaser in Section VII (Purchaser's Requirements) or proposed by the Bidder based on the Bidder's experience.
- (b) Feature scores will be grouped into a small number of evaluation categories, generally defined below and specifically **identified in the BDS**, namely:
- (i) The technical features that reflect how well the Information System meets the Purchaser's Business Requirements (including quality assurance and risk-containment measures associated with the implementation of the Information System).
  - (ii) The technical features that reflect how well the Information System meets the System's Functional Performance Standards.
  - (iii) The technical features that reflect how well the Information System meets the General Technical Requirements for hardware, network and communications, Software, and Services.
- (c) As **specified in the BDS**, each category will be given a weight and within each category each feature may also be given a weight.
- (d) During the evaluation process, the evaluation committee will assign each desirable/preferred feature a whole number score from 0 to 4, where 0 means that the feature is absent, and 1 to 4 either represent predefined values for desirable features amenable to an objective way of rating (as is the case for, e.g., extra memory, or extra mass storage capacity, etc., if these extras would be conducive for the utility of the system), or if the feature represents a desirable functionality

(e.g., of a software package) or a quality improving the prospects for a successful implementation (such as the strengths of the proposed project staff, the methodology, the elaboration of the project plan, etc., in the Bid), the scoring will be 1 for the feature being present but showing deficiencies; 2 for meeting the requirements; 3 for marginally exceeding the requirements; and 4 for significantly exceeding the requirements.

- (e) The score for each feature (i) within a category (j) will be combined with the scores of features in the same category as a weighted sum to form the Category Technical Score using the following formula:

$$S_j \equiv \sum_{i=1}^k t_{ji} * w_{ji}$$

where:

$t_{ji}$  = the technical score for feature “i” in category “j”

$w_{ji}$  = the weight of feature “i” in category “j”

$k$  = the number of scored features in category “j”

and 
$$\sum_{i=1}^k w_{ji} = 1$$

- (f) The Category Technical Scores will be combined in a weighted sum to form the total Technical Bid Score using the following formula:

$$T \equiv \sum_{j=1}^n S_j * W_j$$

where:

$S_j$  = the Category Technical Score of category “j”

$W_j$  = the weight of category “j” as **specified in the BDS**

$n$  = the number of categories

and 
$$\sum_{j=1}^n W_j = 1$$

28.6. The Evaluated Bid Price (C) for each responsive Bid will be determined as the sum of the Adjusted Supply and Installation Costs (P) plus the Recurrent Costs (R);

28.7. Where the Adjusted Supply and Installation Costs (P) are determined as:

- (a) The price of the hardware, Software, related equipment, products, Materials and other Goods offered from within or from outside the Purchaser's Country, in accordance with ITB Clause 14.4; plus
- (b) The total price for all software development, transportation, insurance, installation, customization, integration, Commissioning, testing, training, technical support, repair, and other Services, in accordance with ITB Clause 14.5;
- (c) With adjustments for:
  - (i) Deviations proposed to the Implementation Schedule in the Purchaser's Requirements resulting in delayed completion of the entire Information System, if **permitted in the BDS** and provided they do not exceed the maximum permissible delay period **specified in the BDS**. For evaluation purposes, a pro rata increase of the total Supply and Installation Costs will be added using the percentage(s) **specified in the BDS** for each week of delay. Bids offering deliveries beyond the maximum permissible delay specified may be rejected.
  - (ii) Deviations taken to the Contract payment schedule specified in the PCC. If deviations are **permitted in the BDS**, for evaluation purposes the total Supply and Installation Costs will be increased pro rata by the amount of interest that could otherwise be earned on the amount of any payments that would fall due under the proposed schedule earlier than the schedule stipulated in the PCC, at the interest rate **specified in the BDS**.
  - (iii) Goods and Services that are required for the Information System but have been left out or are necessary to correct minor deviations of the Bid will be added to the total Supply and Installation Costs using costs taken from the highest prices from other responsive Bids for the same Goods and Services, or in the absence of such information, the cost will be estimated at prevailing list prices. If the missing Goods and Services are a scored technical feature, the relevant score will be set at zero.
  - (iv) Corrections to errors in arithmetic, in accordance with ITB Clause 26.2.



- (d) The Recurrent Costs (R) are reduced to net present value and determined using the following formula:

$$R \equiv \sum_{x=1}^{N+M} \frac{R_x}{(1+I)^x}$$

where

$N$  = number of years of the Warranty Period, defined in the PCC GCC Clause 29.4

$M$  = number of years of the Post-Warranty Services Period, as defined in the PCC GCC Clause 1.1.(tt)

$x$  = an index number 1, 2, 3, ...  $N + M$  representing each year of the combined Warranty Service and Post-Warranty Service Periods.

$R_x$  = total Recurrent Costs for year “ $x$ ,” as recorded in the Recurrent Cost Sub-Table.

$I$  = discount rate to be used for the Net Present Value calculation, as **specified in the BDS**.

**29. Domestic Preference**

29.1. In accordance with the MCC PPG, a margin of preference for domestic Bidders shall not be used.

**30. Contacting the Purchaser**

30.1. From the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the Bid, it should do so in writing at the address where the Bids were submitted.

30.2. If a Bidder tries to directly or indirectly influence the Purchaser or otherwise interfere in the bid evaluation process and the contract award decision, its Bid shall be rejected.

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## **F. PRE AWARD QUALIFICATION AND AWARD OF CONTRACT**

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**31. Qualifications**

31.1. The Purchaser will determine at its own cost and to its satisfaction whether the Bidder (including joint venture partners, and any Subcontractors for which BDS ITB 6.1 (a) permits that their qualifications count towards the required Bidder qualifications) that is selected as having submitted the Bid receiving the highest Bid Score is qualified to perform the Contract satisfactorily, in accordance with ITB Clause 6.

31.2. Pursuant to ITB Clauses 6 and 16, and as additionally may be **specified in the BDS**, the determination will evaluate the Bidder’s financial, technical, design, integration, customization,

production, management, and support capabilities and will be based on an examination of the documentary evidence of the Bidder's qualifications, as well as other information the Purchaser deems necessary and appropriate. This determination may include visits or interviews with the Bidder's clients referenced in its Bid, site inspections, and any other measures. If so **specified in the BDS**, during the bid review and qualification the Purchaser may also carry out tests to determine that the performance or functionality of the Information System offered meets those stated in the Purchaser's Requirements.

31.3. An affirmative qualification determination will be a prerequisite for award of the Contract to the Bidder having the highest Evaluated Bid Score. A negative determination will result in rejection of the Bidder's Bid, in which event the Purchaser will proceed to the next lowest evaluated Bidder to make a similar determination of that Bidder's capabilities to perform satisfactorily.

**32. Award Criteria**

32.1. Subject to ITB Clause 34, the Purchaser will award the Contract to the Bidder whose Bid has been determined to be substantially responsive and received the highest Evaluated Bid Score, provided further that the Bidder has been determined to be qualified to perform the Contract satisfactorily, pursuant to ITB Clause 31.

**33. Purchaser's  
Right to Vary  
Quantities at  
Time of Award**

33.1. The Purchaser reserves the right at the time of Contract award to increase or decrease, by the percentage(s) **indicated in the BDS**, any of the following:

- (a) the quantity of individual hardware, Software, related equipment, Materials, products, and other Goods components of the Information System; or
- (b) the quantity of Installation or other Services to be performed,

From that was originally specified in the Purchaser's Requirements (as amended by any Addenda issued pursuant to ITB Clause 11), without any change in unit prices or other terms and conditions.

**34. Purchaser's  
Right to Accept  
Any Bid and to  
Reject Any or All  
Bids**

34.1. The Purchaser reserves the right to accept or reject any Bid or to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders. In case of annulment, all Bids submitted and specifically, Bid Securities, shall be promptly returned to the Bidders at the Purchaser's expense. If all Bids are rejected, the

Purchaser shall review the causes justifying the rejection and consider making revisions to the conditions of Contract, design and specifications, scope of the Contract, or a combination of these, before inviting new Bids. The Purchaser reserves the right to cancel the procurement if this is no longer in the interest of the Purchaser. Rejection of all Bids and canceling the procurement requires prior approval by MCC.

**35. Notification of Intent to Award**

35.1. Prior to the expiration of the period of Bid validity, the Purchaser shall send the Notice of Intent to Award to the successful Bidder. The Notice of Intent to Award shall include a statement that the Purchaser shall issue a formal Letter of Acceptance/Notification of Award and draft Contract Agreement after expiration of the period for filing a Bid challenge and the resolution of any Bid challenges that are submitted. Delivery of the Notice of Intent to Award **shall not constitute the formation of a contract** between the Purchaser and the successful Bidder and no legal or equitable rights will be created through the delivery of the Notice of Intent to Award.

35.2. At the same time it issues the Notice of Intent to Award, the Purchaser shall also notify, in writing, all other Bidders of the results of the bidding. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid challenge.

**36. Bid Challenges**

36.1. Bidders may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the Purchaser and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the Purchaser's website **indicated in the BDS**.

**37. Signing of Contract**

37.1. Upon expiration of the period for timely filing of Bid challenges and the resolution of any Bid challenges that are submitted, the Purchaser shall send the Letter of Acceptance to the successful Bidder. The Letter of Acceptance shall specify the sum that the Purchaser will pay the Bidder in consideration of the Supply and Installation of Information Systems and the requirement for the Purchaser to remedy any defects therein as prescribed by the Contract. Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract between the Purchaser and the Supplier.

37.2. The Letter of Acceptance shall include the Contract Agreement for the review and signature of the successful Bidder.

37.3. Within twenty-eight (28) days of issuance from the Purchaser of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Purchaser along with a Performance Security pursuant to ITB Clause 38.

37.4. If any negotiations or clarifications are required either by the Purchaser or by the successful Bidder, they shall be completed within the same twenty-eight (28) days of receipt of the Letter of Acceptance by the successful Bidder, unless otherwise agreed in writing by both parties. Failure to conclude negotiations/clarifications does not excuse the successful Bidder from timely submission of the Performance Security as described in ITB Clause 38.

### **38. Performance Security**

38.1. As soon as practically possible, but no more than twenty-eight (28) days following receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, using the Performance Security form provided in the Bidding Document or another form acceptable to the Purchaser. A foreign institution providing a Performance Security shall have a correspondent financial institution located in the Purchaser's country.

38.2. Failure of the successful Bidder to comply with the requirements of ITB Clauses 36 or 37.1 shall constitute sufficient grounds for the annulment of the award and, if and as applicable, forfeiture of the Bid Security. In that event, the Purchaser may award the Contract to the Bidder with the next highest evaluated Bid score that is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.

### **39. Adjudicator**

39.1. If so **stated in the BDS**, the Purchaser proposes that the person named in the BDS be appointed as Adjudicator under the Contract to assume the role of informal Contract dispute mediator, as described in GCC Clause 6. In this case, a résumé of the named person is **attached to the BDS**. The proposed hourly fee for the Adjudicator is **specified in the BDS**. The expenses that would be considered reimbursable to the Adjudicator are also **specified in the BDS**. If a Bidder does not accept the Adjudicator proposed by the Purchaser, it should state its non-acceptance in its Bid Submission Form and make a counterproposal of an Adjudicator and an hourly fee, attaching a résumé of the alternative. If the successful Bidder and the Adjudicator nominated in the BDS happen to be from the same country, and this is not the country of the Purchaser too, the Purchaser reserves the right to cancel the Adjudicator nominated in the BDS and propose a new one. If by the day the Contract is signed, the Purchaser and the successful Bidder have not agreed

on the appointment of the Adjudicator, the Adjudicator shall be appointed, at the request of either party, by the Appointing Authority specified in the PCC GCC Clause 6.1.4, or if no Appointing Authority is specified there, the Contract will be implemented without an Adjudicator.

**40. Posting of Award Notice**

40.1. Upon receipt of the signed Contract Agreement and a valid Performance Security, the Purchaser shall return the Bid Securities of unsuccessful Bidders and shall publish in *UNDB Online*, in *dgMarket* and on the Purchaser's website and other places as MCC may specify and in accordance with MCC's Program Procurement Guidelines, the results identifying the Bid and the following information:

- (a) the name of the winning Bidder;
- (b) the price of the winning Bid and the price of Contract award if different; and
- (c) the duration and the summary scope of the Contract awarded.

**41. Commencement Date**

41.1. The Commencement Date shall be agreed between the successful Bidder and the Purchaser but shall be within forty-two (42) days after the Supplier receives the Letter of Acceptance issued by the Purchaser.

**42. Inconsistencies with MCC Program Procurement Guidelines**

42.1. The procurement that is the subject of this Bidding Document is being conducted in accordance with and is subject in all respects to MCC's Program Procurement Guidelines. In the event of any conflict between any section or provision of this Bidding Document (including any Addenda that may be issued to this Bidding Document) and the MCC Program Procurement Guidelines, the terms and requirements of the MCC Program Procurement Guidelines shall prevail, unless MCC has granted a waiver of the guidelines.

**43. Applicable Agreement Conditions**

43.1. Bidders are advised to examine and consider carefully the provisions that are set forth in Annex A (Additional Provisions) attached to and made part of the Particular Conditions of the Contract, as these are part of the Government's and the Purchaser's obligations under the Agreement and related documents which, under the terms of the Agreement and related documents, are required to be transferred onto any Bidder, Supplier, or Subcontractor who partakes in procurement or subsequent contracts in which MCC Funding is involved.

**44. Contractor Past Performance Reporting System**

44.1. During the performance of the Contract, the Purchaser shall maintain a performance record of the Contractor in accordance with MCC's Contractor Past Performance Reporting System as described on MCC's website.

## SECTION II. BID DATA SHEET (“BDS”)

The following specific information relating to the System to be procured and the procurement procedures that will be used shall complement, supplement, or amend the provisions in the Instructions to Bidders (“ITB”). Whenever there is a conflict, the provisions in the Bid Data Sheet (“BDS”) shall prevail over those in the ITB.

### A. GENERAL

ITB Definitions	<p>(i) “Agreement” means the Millennium Challenge agreement between the United States of America, acting through the Millennium Challenge Corporation, and the Government of Honduras, entered into on August 2013.</p> <p>(ii) “Government” means the Government of Honduras.</p>
ITB 1.1	<p>Name of Purchaser: Millennium Challenge Account-Honduras <b>(MCA Honduras)</b></p> <p>Beneficiary: ONCAE</p> <p>Description of the System for which Bids are invited: <b>e-Government Procurement (e-GP) Information System for HonduCompras.</b></p> <ul style="list-style-type: none"> <li>- Deliver Licenses of Standard Software for all purchased modules, to an unlimited number of users on perpetuity basis.</li> <li>- Prepare system requirement documents (FRS and SRS).</li> <li>- Provide DEV and TEST environments including IT infrastructure, licenses and connectivity during the Contract Period.</li> <li>- Carry out the certification of the IT Infrastructure provided by the Government of Honduras for PROD and TRAIN.</li> <li>- Implement Standard Software on-premises in PROD and TRAIN environments.</li> <li>- Configure and customize the Standard Software to meet the Functional Requirements in accordance with FRS and SRS.</li> <li>- Provide necessary support for acceptance testing, integration and launch of the e-GP Information System.</li> <li>- Train ONCAE team, up to five (5) buyer agencies and 200 suppliers in usage of the e-GP Information System.</li> <li>- Support the operation of the e-GP Information System after Go-Live during the Contract Period.</li> <li>- Monitor the SLAs and overall health of the e-GP Information System during the Contract Period.</li> </ul> <p><b>The conditions for Operational Acceptance must be met within ten (10) months of the contract effective date. With the exception of the stabilization period, a timeline of 10 months or less must be</b></p>

	<p>reflected in the Bidder's Bid and shall be formalized in an implementation plan in the contract with the awarded Bidder. Any Bid that reflects that conditions for Operational Acceptance will not be met within 10 months will be rejected. MCC funding will not be available beyond August 31, 2018</p> <p>The Purchaser reserves the right not to procure some of the modules offered by the Bidder.</p>
ITB 1.2	<p>Title of IFB: <b>Procurement of e-GP Information System for HonduCompras</b></p> <p>Number of IFB: <b>CB-UMBRAL-01-2017</b></p> <p>Name of resulting Contract(s): <b>e-GP Information System for HonduCompras</b></p>
ITB 2.1	<p>Name of Project: <b>e-GP Information System for HonduCompras</b></p>
ITB 6.1 (a)	<p>Qualification Requirements for Bidders:</p> <p><b>a) Financial Capacity</b></p> <p>Minimum average annual turnover of <b>US 6 million</b>, calculated as total certified payments received for contracts in progress or completed, within the last three (3) years, evidenced by audited financial statements (income statement) of the last three (3) years (2016, 2015, 2014).</p> <p>Access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the following cash-flow requirement: <b>US 500.000</b> over the last year, evidenced by audited financial statements (cash flow statement) for the last year (2016).</p> <p><b>b) Experience</b></p> <p><b>General experience.</b> The Bidder must have experience in e-Procurement Information Systems Supply, Installation and Implementation contracts in the role of contractor, subcontractor, or management contractor for at least <b>ten (10)</b> customers (buyers) during the last five [5] years.</p> <p><b>Similar Experience.</b> During the last five (5) years, the Bidder must have completed two (2) successful contracts involving the following components:</p> <ul style="list-style-type: none"> <li>- Implementation and Maintenance of a e-GP Information System for a government at national level.</li> <li>- Requirement specifications of Standard Software.</li> </ul>



	<ul style="list-style-type: none"> <li>- Similar functional and technical characteristics and comparable scale.</li> <li>- Provision of training and knowledge transfer activities.</li> <li>- At least <b>US 2 million</b> in value.</li> </ul> <p><b>Bidders who meet the Qualification Requirements will undergo Technical Evaluation based on criteria as indicated in Section VII - Technical Evaluation Methodology.</b></p>
ITB 6.1 (b)	<p>Manufacturer's Authorizations for Information Technologies - except for those technologies which the Bidder itself manufactures - are required for the following types/categories:</p> <ul style="list-style-type: none"> <li>- <b>Standard Software</b></li> <li>- <b>All application software</b></li> <li>- <b>Any other third party software/hardware used for developing, customizing, implementing or maintenance of proposed e-GP Information System.</b></li> </ul>
ITB 6.1 (c)	<p>If the Bidder proposes to use Subcontractors for the provision of certain key services, written agreements by the proposed firms to provide these services in case of contract(s) resulting from this bidding are required for the following types/categories of services: <b>All</b></p>
ITB 6.4	<p>Specify Subcontracting limits as: <b>30% of the contract value</b></p>

## B. THIS BIDDING DOCUMENT

ITB 10.1	<p>Purchaser's / duly authorized Purchasing Agent's address:</p> <p><b>Millennium Challenge Account- Honduras (MCA-H) Building Los Castaños, 5<sup>th</sup> floor, Boulevard Morazán, Tegucigalpa, Honduras, C. A. Telephones: (504) 2232-3539 / 2232-3514 / 2235-6626 email: <a href="mailto:egpsystemhonducpr@mcahonduras.hn">egpsystemhonducpr@mcahonduras.hn</a></b></p> <p>Deadline for submitting Bid clarifications: <b>15 calendar days</b> prior to the deadline for submission of bids prescribed by the Purchaser.</p> <p>Deadline for Purchaser's response to Bidder's clarifications: <b>10 calendar days</b> prior to the deadline for submission of bids prescribed by the Purchaser.</p>
ITB 10.2	<p>A Pre-Bid Conference will take place as follows:</p> <p><b>There will be no Pre-Bid conference meeting for this project.</b></p>

ITB 10.3	Deadline for submitting any questions in writing for the Pre-Bid Conference: <b>N/A.</b>
ITB 10.4	Minutes of the conference, including the text of the questions and the responses will be posted at <a href="http://www.mcahonduras.hn/adquisiciones/">http://www.mcahonduras.hn/adquisiciones/</a>

### C. PREPARATION OF BIDS

ITB 12.1	The language of the Bid and of all correspondence and documents related to it is: <b>English</b>
ITB 14.1	<p>The total bid price for 1.1 Supplier management module, 1.2 Electronic sourcing module and 2. Installation services must be less than the bid ceiling of \$1.8 million. <b>No bids higher than this amount will be considered.</b></p> <p>Supply and Installation Cost are inclusive of all recurrent cost items for the contract duration and shall not exceed the budget.</p> <p>Costs of the licenses for electronic catalog module and contract management module will be part of the Bid Evaluation, but will not be part of this Contract.</p> <p>Recurrent Cost required for the operation of the e-GP Information System in the years following the go-live will be part of the Bid Evaluation.</p>
ITB 14.4	The Incoterms edition is <b>Incoterms 2010.</b>
ITB 14.4 (a)	<p>For foreign goods, prices shall be quoted on a <b>DDP</b> (named place of destination) basis.</p> <p>(i) The carriage shall include the cost of unloading the goods at destination, as well as payment by the Supplier of other charges payable on the foreign Goods for their transit through any country other than the Purchaser's country.</p> <p>(ii) The named place of destination shall be: <b>The Project Site(s).</b></p>
ITB 14.5	The prices must include all costs incidental to the performance of the Services, as incurred by the Supplier.
ITB 14.8	Prices quoted by the Bidder shall be <b>fixed</b> , and will be evaluated using the forms provided in <b>Section IV - Price Schedule Forms.</b>
ITB 15.1	The currency(ies) of the Bid shall be as follows: <b>United States Dollars (USD).</b> The currency(ies) of the payment shall be the currencies of the Bid.
ITB 16.2 (c)	In addition to the topics described in ITB 16.2 (c), the Preliminary Project Plan must address the following topics:

	<p>(i) <b>Resource plan.</b> Proposed personnel for key positions and when and where each resource would be located.</p> <p>(ii) <b>Project schedule.</b> Milestones, dates, activities, and deliverables. The Project schedule cannot have an implementation period longer than 10 months.</p> <p>(iii) <b>Risk plan.</b> Foresee risks, estimate impacts, and define responses to issues.</p> <p>(iv) <b>Proposed subcontractors and their areas of responsibility</b></p> <p>(v) <b>Implementation plan.</b> This plan must include:</p> <ul style="list-style-type: none"> <li>- Software development plan.</li> <li>- System integration plan</li> <li>- Acceptance testing plan</li> <li>- Training and capacity building plan</li> <li>- Go-live plan</li> </ul> <p>(vi) <b>Operations and maintenance plan.</b></p>
ITB 16.3	<p>In the interest of effective integration, cost-effective technical support, and reduced re-training and staffing costs, Bidders are required to offer specific brand names and models for the following limited number of specific items:</p> <p>(i) <b>Proposed Standard Software</b></p> <p>(ii) <b>All software and hardware necessary for implementation, operation and maintenance of e-GP Information System.</b></p>
ITB 17.1	<p>Bids <b>do not need</b> to be secured by a <b>Bid Security</b>.</p> <p>The amount of Bid Security required is: <b>N/A</b></p>
ITB 17.2	<p>Bid Security is <b>not required</b>.</p>
ITB 18.1	<p>The bid validity period shall be <b>ninety (90)</b> days after the deadline for bid submission, as specified below in reference to ITB Clause 22.</p>
ITB 19.1	<p>Required number of bid copies, besides the original: <b>two (2) copies plus one (1) electronic copy in pdf format.</b></p> <p><b>All price tables should be submitted in Microsoft Excel format for accurate and easier tabulation during evaluation.</b></p>
ITB 19.2	<p>The written confirmation of authorization to sign on behalf of the Bidder shall consist of:</p> <p>In addition, the following authorization requirements may apply as applicable:</p> <p style="padding-left: 40px;">A. If the Bidder did not submit a JV or Association agreement or a letter of intent to execute the same:</p> <p style="padding-left: 80px;">The written authorization shall consist of the original copy of a Board resolution or certification from the Corporate</p>

	<p>Secretary (or equivalent officer) of the Bidder, duly notarized by a notary public (and duly authenticated by <b>Honduras</b> consul, if necessary):</p> <ol style="list-style-type: none"><li>(1) attesting to the authority of the Bidder to bid for, negotiate, enter into, and perform its obligations under, the Contract;</li><li>(2) (a) attesting to the authority of the authorized representative to:<ol style="list-style-type: none"><li>(i) execute and deliver the Bid, the Contract, and any other document, and</li><li>(ii) perform any act necessary,</li></ol>for the Bidder to bid for, negotiate, enter into, and perform its obligations under, the Contract, and</li><li>(b) containing his specimen signature.</li></ol> <p>B. If the Bidder submitted a JV or consortium agreement or a letter of intent to execute the same:</p> <p>Each partner (including the lead partner) in the JV or consortium shall submit the original copy of its Board resolution or certification from its Corporate Secretary (or equivalent officer) duly notarized by a notary public (and duly authenticated by <b>Honduras</b> consul, if necessary), attesting to the authority of the partner to enter into:</p> <ol style="list-style-type: none"><li>(1) an agreement (a) creating a joint venture entity or consortium, and (b) appointing the lead partner in the JV or consortium with authority to execute, deliver, and perform the obligations of JV or consortium under, the Contract on behalf of the JV or consortium; and</li><li>(2) the Contract as partner of the JV or consortium, and be held jointly and severally liable with the JV or consortium under the Contract;</li></ol> <p>C. In addition, the lead partner in the JV or consortium shall submit the original copy of its Board resolution or certification from its Corporate Secretary (or equivalent officer) duly notarized by a notary public (and duly authenticated by Honduras consul, if necessary):</p> <ol style="list-style-type: none"><li>(1) attesting to the authority of the authorized representative to:</li></ol>
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	<p>(a) execute and deliver the Bid, the Contract, and any other document, and</p> <p>(b) perform any act necessary,</p> <p>(2) for the Bidder to bid for, negotiate, enter into, and perform its obligations under, the Contract, and</p> <p>(3) Containing the authorized representative's specimen signature.</p>
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### D. SUBMISSION OF BIDS

ITB 20.2 (b)	<p>The address for Bid submission is:</p> <p><b>Millennium Challenge Account- Honduras (MCA-H) Building Los Castaños, 5<sup>th</sup> floor, Boulevard Morazán, Tegucigalpa, Honduras, C. A. Telephones: (504) 2232-3539 / 2232-3514 / 2235-6626</b></p>
ITB 21.1	<p>Deadline for Bid submission is: <b>17<sup>th</sup> July 2017 at 15:00 hours Honduras Time</b></p>

### E. BID OPENING AND EVALUATION

ITB 24.1	<p>Time, date, and place for Bid opening are: <b>17<sup>th</sup> July 2017 at 15:15 hours Honduras Time. Bid submission address.</b></p>
ITB 27.1	<p>The currency that shall be used for Bid evaluation and comparison is: <b>USD Dollars</b>. The basis for conversion shall be: <b>N/A</b>. The date for the exchange rate shall be <b>N/A</b></p>
ITB 28.4	<p>The Bid evaluation <b>will</b> take into account technical factors in addition to cost factors.</p> <p>The weight of the Price ("X" multiplied by 100 in the Evaluated Bid Score formula) = <b>50%</b></p>
ITB 28.5	<p>The technical evaluation categories and the features to be evaluated within each category as detailed in <b>Attachment to the BDS - Technical Evaluation Methodology</b>.</p> <p>The minimum Technical Score for the Bid to be considered responsive and eligible for further evaluation is <b>70%</b></p>

ITB 28.7 (c) (i)	The Purchaser <b>will not</b> accept deviations in the schedule of installation and commissioning specified in the Implementation Schedule.
ITB 28.7 (c) (ii)	The Purchaser <b>will not</b> accept deviations in the payment schedule in the PCC.
ITB 28.7 (d)	Interest Rate (I) for net present value calculations of recurrent costs = <b>zero (0%) percent per annum.</b>

## F. PRE-AWARD QUALIFICATION AND AWARD OF CONTRACT

ITB 31.2	<p>As additional pre-award measures, the Information System (or components/parts of it) offered by the Bidders who meet the Qualification Requirements will be subjected to the following tests and performance benchmarks:</p> <p><b>(i) Demonstration Meeting</b></p> <p>Qualified Bidders are required to carry out a full demonstration of its Standard Software to prove the real availability of the Functional Requirements stated in Section VII.</p> <p>The Bidder will undertake all its travel and related expenses on itself; the Bidder will be required to arrange for testing the Standard Software using Internet.</p> <p>The Bidder shall bear all costs associated with the preparation, demonstration, benchmark tests.</p> <p>The Demonstration Meeting will be conducted by the Purchaser following the protocol as indicated in Section VII-I.</p>
ITB 33.1	Percentage for quantity increase or decrease: <b>15%</b>
ITB 36.1	Any Bidder or Potential Bidder who believes that he has or may be harmed by a procurement action of the Purchaser that constitutes a violation of the procurement rules may file a protest in accordance with the MCA-Honduras Bid Challenge System, available at <a href="http://www.mcahonduras.hn">http://www.mcahonduras.hn</a> .
ITB 39.1	<p>The proposed Adjudicator is: <b>To Be Determined before contract is signed.</b></p> <p>The proposed hourly fee is: <b>To Be Determined before contract is signed.</b></p> <p>The expenses that would be considered reimbursable to the Adjudicator are: <b>To Be Determined before contract is signed.</b></p>

## **ATTACHMENT TO BDS - TECHNICAL EVALUATION METHODOLOGY**

Bidders who meet the Qualification Requirements as indicated in BDS - ITB 6.1 (a) will undergo Technical Evaluation based on the compliance of Section VII-B – Functional Requirements by the System, as follows:

1. The maximum obtainable Technical Score is **1000** points (100%), as follows:

Score	Requirement
<b>100 points (10%)</b>	If the manufacturer of the System is the Bidder or part of the Joint Venture, as indicated in the format provided in Section IV - 4.8 Form TECH-8 Manufacturer’s Authorization.
<b>900 points (90%)</b>	Based on the compliance of Functional Requirements by the System.

2. The minimum Technical Score for the Bid to be considered responsive and eligible for further evaluation is **700 (70%)**.
3. Mandatory Functional Requirements are marked with the initials (MFR). The System that does not **fully** met the MFRs will be disqualified.
4. The importance of remaining Functional Requirements of the System will be assigned the **Weight** 1 or 2.
5. Bidder is asked to specify the **Compliance** to Functional Requirements of its proposed Standard Software using the Section VII-H – Technical Responsiveness Checklist, as follows:

Compliance status	Description	Compliance code
Not available	Functional Requirement is not available in the proposed Standard Software.	NA
Partially Satisfied	The Functional Requirement is partially available or could be implemented using an alternative approach or through customization.	PART
Fully satisfied	The Functional Requirement is available in the Standard Software and can be implemented with simple configurations.	FULL

As part of the Bid Evaluation, Purchaser will schedule a Demonstration Meeting with the Bidder to verify the real availability of the Functional Requirements in the System, in accordance with **Section VII-I – Demonstration Meeting Protocol**.

## **SECTION III. BID REVIEW, EVALUATION CRITERIA, AND BIDDER QUALIFICATION REQUIREMENTS**

**Process** This Section contains all the criteria that the Purchaser shall use to review Bids, post-qualify Bidders and select the winning Bid. In accordance with ITB Clause 28, no other factors, methods or criteria shall be used. The Bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms. This review shall be based on the information provided by the Bidder in these forms, response to the technical questions under technical requirement plus the Bidder's record of past performance, other references and any other sources at the Purchaser's discretion to confirm and verify the Bidder's qualifications and representations in its Bid. In case of discrepancy between Section I and Section III, the Section III shall prevail. The Purchaser may conduct the following review in any sequence, as considered appropriate by the Purchaser.

### **1. Bid Review**

#### **1.1 Administrative Review**

This review is conducted to determine that the Bid is complete, all required documents are included and all forms are included and are completed. The Bidder may be requested to submit additional information or documentation within a reasonable period of time and/or to correct nonmaterial nonconformities in the Bid related to documentation requirements. Determinations made during this review include:

Determine if the Bid is sealed and signed as per the requirements of ITB Clauses 19 and 20;

Determine if the Bid Security in the correct value, validity, and in the right format is enclosed;

Determine eligibility of Bidder and goods to be incorporated in the Schedule of Requirements;

Determine if GOE certification is enclosed and completed correctly; and

Determine if all required forms and additional information requested under ITB Clause 13 are included and completed.

#### **1.2 Responsiveness Determination**

This review will be conducted to determine if the Bid is substantially responsive as explained in ITB Clause 26.5. A substantially responsive Bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission in accordance with ITB Clause 26.5. If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Purchaser and may not be subsequently made



responsive by correction of the material deviation, reservation, or omission. However, the Purchaser may request any Bidder to clarify its Bid according to the procedures set out in ITB Clause 25.

Technical Review for Responsiveness Determination:

Documents Comprising Technical Submission: The Bidder shall furnish a technical submission including a description of Information Technologies, Materials, Other Goods, and Services, Item-by-Item Commentary on the Technical Requirements provided in the Technical Responsiveness Checklist of Section F, Preliminary Project Plan, Confirmation of Responsibility for Integration and Interoperability of Information Technologies and other information as stipulated in Section VII, Purchaser's Requirements in sufficient detail to demonstrate the adequacy of the Bidder's Bid to meet the information system and plant and equipment requirements and the completion time.

Assessment of Adequacy of Technical submission: Review of the Bidder's technical Bid will include an assessment of the Bidder's preliminary design and technical method and management, and support capabilities for the Contract consistent with the requirements stipulated in Section VII, Purchaser's Requirements. The review of the technical Bid will also include an assessment of the Bidder's personnel as called for in Section VII, Purchaser's Requirements.

## **2. Evaluation Criteria**

**2.1 Price Review** This review is conducted to determine the Evaluated Bid Price of each Bid.

The "Evaluated Bid Price" shall be the Bid price adjusted as follows:

- a) The Evaluated Bid Price does not include the estimated effect of the price adjustment (If any) to rates due to extensions of the Bid validity period in accordance with ITB Clause 18.3;
- b) The Evaluated Bid Price includes adjustment for quantifiable nonmaterial nonconformities in accordance with ITB Clause 28.7 (c) (iii) based on Purchaser's own assessment.
- c) The Evaluated Bid Price includes adjustment for correction of arithmetical errors, omissions, clarifications, etc., in accordance with ITB Clause 26.2; and

The Evaluated Bid Price "B" shall be calculated based on the factors mentioned above.

### **2.2. Price Reasonableness Determination**

Price Review also includes a determination of price reasonableness as required in the MCC Program Procurement Guidelines. If the price reasonableness analysis suggests that a Bid is significantly unbalanced or front loaded, the Purchaser may require the Bidder to

produce a detailed price analysis for any or all items of the Schedule of Prices that demonstrates the internal consistency of prices with the implementation methods and schedule proposed. The Purchaser reserves the right to seek clarification; however, the clarification will not be used to change the Bid price. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Bid at the discretion of the Purchaser. The Bidder shall not be permitted to revise its Bid after this determination.

After determining the Evaluated Bid Score of each Bid, the Purchaser will rank the Bids from the highest to the lowest.

Combined Scoring. Evaluated Bid Score (B) will be calculated based on the formula provided under ITB Clause 28.4 and the Bid with the highest Evaluated Bid Score (B) among responsive Bids is eligible for Contract award, provided the Bidder was found to be qualified to perform the Contract in accordance with ITB Clause 31 (Qualification) and the price was found to be reasonable.

### **3. Bidder Qualification**

**3.1. Qualification Review** This process will be conducted to determine if the Bidder satisfies the qualification requirements as listed in ITB Clause 6 and in Section 4.0 below. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder as requested in Section IV, Bidding Forms, plus the Bidder's record of past performance and a review of references and any other source at the Purchaser's discretion. All qualification requirements shall be considered on a pass/fail basis. An affirmative determination of qualification shall be a prerequisite for award of the Contract to a Bidder.

**3.2. References and Past Performance Review** In accordance with ITB Clause 31.2, the Bidder's performance on earlier contracts will be considered in determining if the Bidder is qualified for award of the Contract.

In accordance with the MCC PPG, the Bidder's performance on earlier contracts will be considered a factor in the Purchaser's qualification of the Bidder. The Purchaser reserves the right to check the performance references provided by the Bidder or to use any other source at the Purchaser's discretion. If the Bidder (including any of its associates or joint venture/association members) is or has been a party to an MCC-funded contract (either with MCC directly or with any Millennium Challenge Account Entity, anywhere in the world), whether as a lead contractor/Supplier, affiliate, associate, subsidiary, Subcontractor, or in any other role, the Bidder must identify the contract in its list of references submitted with its Bid Submission using 3.12 Form REF-1: References of MCC Funded Contracts. Failure to include any such contracts may be used to form a negative

determination by the Purchaser on the Bidder's record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser on the Bidder's record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The Purchaser will check the references, including the Bidder's past performance reports filed in MCC's Contractor Past Performance Reporting System ("CPPRS"). A negative determination by the Purchaser on the Bidder's record of performance in prior contracts may be a reason for disqualification of the Bidder at the discretion of the Purchaser. However, before rejecting the Bidder, the Purchaser shall give the Bidder one opportunity to respond to the negative determination.



**4.0. Qualification**

Documents Establishing the Qualifications of the Bidder

The Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms, to establish that the Bidder meets the requirements established below.

Factor	4.1 Eligibility					
	Requirement	Bidder				Documentation Required
		Single Entity	Joint Venture or Association			
			All members combined	Each Member	At least one member	
<b>4.1.1 Nationality</b>	Nationality in accordance with ITB 5.3.	Must meet requirement	Existing or intended joint venture or other association must meet requirement	Must meet requirement	N/A	Forms ELI-1 and ELI-2
<b>4.1.2 Conflict of Interest</b>	No conflicts of interests as described in ITB 5.6.	Must meet requirement	Existing or intended joint venture or other association must meet requirement	Must meet requirement	N / A	Letter of Bid
<b>4.1.3 Ineligibility</b>	Not having been declared ineligible based on any of the criteria set forth in ITB 5.	Must meet requirement	Existing or intended joint venture or other association must meet requirement	Must meet requirement	N/A	Letter of Bid
<b>4.1.4 Government-Owned Enterprise</b>	Compliance with conditions of ITB 5.4	Must meet requirement	Existing or intended joint venture or other association must meet requirement	Must meet requirement	N/A	Form ELI-3

Factor	4.2 Historical Contract Non-Performance					
	Requirement	Bidder				Documentati on Required
		Single Entity	Joint Venture or Association			
			All members combined	Each member	At least one member	
<p><b>4.2.1 History of non-performing contracts</b></p>	<p>Non-performance of a contract (including contracts terminated for cause) did not occur within the last five (5) years prior to the deadline for Bid submission, determined using all information on fully settled proceedings, litigation, arbitrations, actions, claims, investigations or disputes. A fully settled proceeding, litigation, arbitration, action, claim, investigation or dispute is one that has been resolved in accordance with the dispute resolution mechanism under the respective contract, and where all appeal instances available to the Bidder have been exhausted.</p>	<p>Must meet requirement by itself, including as member of past or existing joint venture or other association (not mandatory if in the past was as a member of a joint venture or other association with less than 20% role in the contract).</p>	<p>N/A</p>	<p>Must meet requirement by itself or as member of past or existing joint venture, or other association (not mandatory if in the past was as a member of a joint venture or other association with less than 20% role in the contract).</p>	<p>N/A</p>	<p>Form CON-1</p>

Factor	4.2 Historical Contract Non-Performance					
	Requirement	Bidder				Documentation Required
		Single Entity	Joint Venture or Association			
			All members combined	Each member	At least one member	
<p><b>4.2.2 Failure to Sign a Contract</b></p>	<p>Failure to sign a contract after receiving a notice of award has not occurred in the past five years. Any deviation should be explained in the enclosed Contract Non-Performance form.</p>	<p>Must meet requirement</p>	<p>Must meet requirement</p>	<p>Must meet requirement</p>	<p>N/A</p>	<p>Form CON-1</p>
<p><b>4.2.3 Pending Litigation</b></p>	<p>All pending proceedings, litigation, arbitrations, actions, claims, investigations or disputes, in total, shall not represent more than ten percent (10%) of the Bidder's net worth.</p>	<p>Must meet requirement by itself, including as member of past or existing joint venture or other association (not mandatory if in the past was as a member of a joint venture or other association with less than 20% role in the contract).</p>	<p>N/A</p>	<p>Must meet requirement by itself or as member of past or existing joint venture, or other association (not mandatory if in the past was as a member of a joint venture or other association with less than 20% role in the contract).</p>	<p>N/A</p>	<p>Form CON-1</p>

Factor	4.3 Financial Situation <sup>1</sup>					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture or Association			
All members combined			Each member	At least one member		
<b>4.3.1 Historical Financial Performance</b>	Submission of audited financial statements, including balance sheets, income statements and cash flow statements, for the last three (3) years (2016, 2015, 2014) to demonstrate the current soundness of the Bidder’s financial position and its prospective long term profitability.	Must meet requirement	N/A	Must meet requirement	N/A	Form FIN-1 with attachments
<b>4.3.2 Annual Average Turnover</b>	Minimum average annual turnover of <b>US 6 million</b> , calculated as total certified payments received for contracts in progress or completed, within the last three (3) years, evidenced by audited financial statements (income statements) of the last three (3) years (2016, 2015, 2014).	Must meet requirement	Must meet requirement	Must meet at least twenty-five percent (25%) of the requirement	Must meet at least fifty-five percent (55%) of the requirement	Form FIN-2

<sup>1</sup> Financial information provided by a Bidder shall be reviewed in its entirety to allow a truly informed judgment about the capacity of the Bidder to undertake the contract, and will not be limited strictly to substantiate the financial ratios indicated here.



Factor	4.3 Financial Situation <sup>1</sup>					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture or Association			
All members combined			Each member	At least one member		
<b>4.3.3 Cash Flow</b>	Access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the following cash-flow requirement: <b>US 500.000</b> over the last year, evidenced by audited financial statements (cash flow statement) for the last year (2016).	Must meet requirement	Must meet requirement	Must meet at least twenty-five percent (25%) of the requirement	Must meet at least fifty-five percent (55%) of the requirement	Form FIN-3

Factor	4.4 Experience					
Sub-Factor	Criteria					Documentation Required
	Indicative Requirement	Single Entity	Bidder			
			Joint Venture or Association			
			All members combined	Each member	At least one member	
<b>4.4.1 General Experience</b>	The Bidder must have experience in e-Procurement Information Systems Supply, Installation and Implementation contracts in the role of contractor, subcontractor, or management contractor for at least <b>ten (10)</b> customers (buyers) during the last five [5] years.	Must meet requirement	N/A	N/A	Must meet requirement	Form EXP-1
<b>4.4.2 Similar Experience</b>	During the last five (5) years, the Bidder must have completed two (2) successful contracts involving the following components: <ul style="list-style-type: none"> <li>- Implementation and Maintenance of a e-GP Information System for a government at national level.</li> <li>- Requirement specifications of Standard Software.</li> <li>- Similar functional and technical characteristics and comparable scale.</li> <li>- Provision of training and knowledge transfer activities</li> <li>- At least <b>US 2 million</b> in value.</li> </ul>		N/A	N/A	Must meet requirement	Form EXP-2

## FORM OF NOTICE OF INTENT TO AWARD

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[Letterhead paper of the Purchaser]

[Date]

**THIS IS NOT A NOTICE OF AWARD OR LETTER OF ACCEPTANCE.  
THE PURCHASER INTENDS NO CONTRACT TO BE FORMED  
WITH THIS NOTICE.**

To: [insert name and address of the successful Bidder]

As provided in the Bidding Document (ITB Clause 36.1) in connection with [insert name of the Contract and identification number, as given in the Bidding Document], this notice is to inform you that we have selected you as the successful Bidder in the procurement associated with such Bidding Document and, following the expiration of the period for filing a bid challenge and the resolution of any bid challenges that are submitted in accordance with our bid challenge system as more fully described in the Bidding Document, we anticipate issuing to you a formal Letter of Acceptance/Notification of Award and Contract Agreement.

While we are providing you with this Notice of Intent to Award, it does NOT constitute the formation of a contract between you and us. You shall not acquire any legal or equitable rights and we do not extend and shall not accept any legal or equitable rights or obligations until and unless such time as you receive from us an executed Letter of Acceptance/Notification of Award, together with a form of Contract Agreement, and the requirements set forth in such Letter of Acceptance/Notification of Award have been fulfilled in a manner acceptable to us. We reserve the right to cancel this Notice of Intent to Award at any time prior to Contract award, without thereby incurring any liability.

Thank you for participating in the bidding process. For information about this notice, please contact the undersigned.

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Millennium Challenge Account-[Insert Country Name]

## **FORM OF LETTER OF ACCEPTANCE/NOTIFICATION OF AWARD**

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[letterhead paper of the Purchaser]

[date]

To: [insert name and address of the Supplier]

This is to notify you that your Bid dated [date] for execution of the Design, Supply, Installation and Commissioning of [insert Bid Name], CB No: [insert Bid number] for the Accepted Contract Amount of the equivalent of [insert amount in numbers and words] [insert name of currency], as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted by us in our capacity as Purchaser under the Contract.

Within 28 days of your receipt of this Letter of Acceptance and the attached Contract Agreement you are hereby instructed to (a) sign and return the attached Contract Agreement in accordance with Clause 2.1 of the General Conditions of Contract and (b) forward the Performance Security in accordance with Clause 13.3 of the General Conditions of Contract, using for that purpose the Form of Performance Bank Guarantee included in Section, Sample Forms, or another form acceptable to us.

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

## **SECTION IV. BIDDING FORMS**

## Notes to Bidders on Working with the Bidding Forms

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The Purchaser has prepared the forms in this section of the Bidding Document to suit the specific requirements of the System being procured. In its Bid, the Bidder must use these forms (or forms that present in the same sequence substantially the same information). Bidders should not introduce changes without the Purchaser's prior written consent (which may also require the clearance of MCC). If the Bidder has a question regarding the meaning or appropriateness of the contents or format of the forms and/or the instructions contained in them, these questions should be brought to the Purchaser's attention as soon as possible during the bid clarification process, either at the pre-bid conference or by addressing them to the Purchaser in writing pursuant to ITB Clause 10.

The Purchaser has tried to provide explanatory text and instructions to help the Bidder prepare the forms accurately and completely. The instructions that appear directly on the forms themselves are indicated by use of typographical aides such as italicized text within square brackets.

In preparing its Bid, the Bidder must ensure all such information is provided and that the typographical aides are removed.

The Bidding Forms provide a standard set of documents that support the procurement process as it moves forward from the stage of bidding, through Contract formation and onto Contract performance.

- **Bid Submission Form:** In addition to being the place where official confirmation of the Bid price, the currency breakdown, the completion date(s), and other important Contract details are expressed, the Bid Submission Form is also used by the Bidder to confirm - in case adjudication applies in this Contract - its acceptance of the Purchaser's proposed Adjudicator, or to propose an alternative. If the Bid is being submitted on behalf of a joint venture, it is essential that the Bid Submission Form be signed by the partner in charge and that it be supported by the authorizations and power of attorney required pursuant to ITB Clause 6.2.

Given widespread concern about illegal use of licensed software, Bidders will be asked to certify in the Bid Submission Form that either the Software included in the Bid was developed and is owned by the Bidder, or, if not, the Software is covered by valid licenses with the proprietor of the Software.

- **Price Schedules:** The prices quoted in the Price Schedules should constitute full and fair compensation for supply, installation, and achieving Operational Acceptance of the System as described in the Purchaser's Requirements based on the Implementation Schedule, and the terms and conditions of the proposed Contract as set forth in this Bidding Document. Prices should be given for each line item provided in the Schedules, with costs carefully aggregated first at the Subsystem level and then for the entire System. If the Price Schedules provide only a summary breakdown of items and components, or do not cover some items unique to the Bidder's specific technical solution, the Bidder may extend the Schedules to capture those items or components. If supporting price tables are needed for a full understanding of the Bid, they should be included.

Arithmetical errors should be avoided. If they occur, the Purchaser will correct them according to ITB Clause 26.2 without consulting the Bidder. Major omissions,

inconsistencies, or lack of substantiating detail can lead to rejection of a Bid for commercial non-responsiveness. Presenting prices according to the breakdown prescribed in the Price Schedules is also essential for another reason. Once Bids are opened, none of these problems can be rectified. At that stage, Bidders are not permitted to change their Bid prices to overcome errors or omissions.

- **Manufacturer's Authorizations and written agreements by key Subcontractors:** In accordance with ITB Clauses 6.1 (b) and (c), a Bidder may be required to submit, as part of its Bid, Manufacturer's Authorizations in the format provided in this Bidding Document, and agreements by Subcontractors proposed for key services, for all items specified in the Bid Data Sheet. There is no particular format (or Bidding Form) for Subcontractor agreements.
- **Form ELI-2: JV/Association/Subcontractor Information Sheet:** In accordance with ITB Clause 6.3, a Bidder must submit, as part of its Bid, a list of proposed subcontracts for major items of Technologies, Goods, and/or Services. The list should also include the names and places of registration of the Subcontractors proposed for each item and a summary of their qualifications.
- **List of Software and Materials:** In accordance with ITB Clause 13.1 e) (vi), Bidders must submit, as part of their Bids, lists of all the Software included in the Bid assigned to one of the following categories: (A) System, General-Purpose, or Application Software; or (B) Standard or Custom Software. Bidders must also submit a list of all Custom Materials. If provided for in the Bid Data Sheet, the Purchaser may reserve the right to reassign certain key Software to a different category.
- **Qualification Information Forms:** In accordance with ITB Clause 6, the Purchaser will determine whether the Bidder is qualified to undertake the Contract. This entails financial, technical as well as performance history criteria which are specified in BDS ITB 6. The Bidder must provide the necessary information for the Purchaser to make this assessment through the forms in this sub-section. The forms contain additional detailed instructions which the Bidder must follow.
- **Securing the Bid:** If BDS ITB 16 requires that Bids be secured, the Bidder shall do so in accordance with the type and details specified in the same ITB/BDS Clause, either using the form(s) included in these Bidding Forms or using another form acceptable to the Purchaser. If a Bidder wishes to use an alternative form, it should ensure that the revised format provides substantially the same protection as the standard format; failing that, the Bidder runs the risk of rejection for commercial non-responsiveness.

Bidders need not provide the Performance Security and Advance Payment Security with their Bids. Only the Bidder selected for award by the Purchaser will be required to provide these securities.

The following forms, once completed, will be part of the contract: (i) Contract Agreement, with all Appendices; (ii) Performance Security; and (iii) Advance Payment Security.

- **Contract Agreement:** In addition to specifying the parties and the Contract Price, the Contract Agreement is where the: (i) Supplier Representative; (ii) if applicable, agreed Adjudicator and his/her compensation; and (iii) the List of Approved Subcontractors are specified. In addition, modifications to the successful Bidder's Bid Price Schedules are attached to the Agreement. These contain corrections and adjustments to the Supplier's Bid prices to correct errors, adjust the Contract Price to reflect – if applicable - any extensions to bid validity beyond the last day of original bid validity.
- **Performance Security:** Pursuant to GCC Clause 13.3, the successful Bidder is required to provide the Performance Security in the form contained in this section of this Bidding Document and in the amount specified in accordance with the PCC.
- **Advance Payment Security:** Pursuant to GCC Clause 13.2, the successful Bidder is required to provide a bank guarantee for the full amount of the Advance Payment - if an Advance Payment is specified in the PCC GCC Clause 12.1 - in the form contained in this section of this Bidding Document or another form acceptable to the Purchaser.

The Purchaser and Supplier will use the following additional forms during Contract implementation to formalize or certify important Contract events: (i) the Installation and Operational Acceptance Certificates; and (ii) the various Change Order forms. These and the procedures for their use during performance of the Contract are included in the Bidding Document for the information of Bidders.



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# 1. BID SUBMISSION FORM

## Letter of Bid

Invitation for Bid No.: \_\_\_\_\_

Name of Contract: \_\_\_\_\_

To: The Purchaser/Procurement Agent

Address:

Ladies and Gentlemen:

We, the undersigned, declare and certify that:

1. We have examined and we have no reservations to the Bidding Document, including addenda thereto issued in accordance with the Instructions to Bidders.
2. In accordance with the Conditions of Contract, Technical Specifications, Drawings, and Price Schedules and Addenda Nos. **[insert Addenda Nos.]** for the supply and installation of the above-named information system, we offer to supply, install, achieve Operational Acceptance of, and support the Information System under the above-named Contract in full conformity with the said Bidding Document for the sum of **[insert amount in numbers and words] [as specified in the Appendix to Bid or such other sums as may be ascertained in accordance with the conditions]**.
3. We undertake, if our Bid is accepted, to commence work on the Information System and to achieve Installation and Operational Acceptance within the respective times stated in the Bidding Document.
4. We undertake, if our Bid is accepted, and if these Bidding Document so require, to provide an advance payment security and a performance security in the form, in the amounts, and within the times specified in the Bidding Document.
5. We undertake, if our Bid is accepted, to commence work on the Information System and to achieve Installation and Operational Acceptance within the respective times stated in the Bidding Document
6. We hereby certify that the Software offered in this Bid and to be supplied under the Contract (i) either is owned by us, or (ii) if not owned by us, is covered by a valid license from the proprietor of the Software.
7. Our Bid shall be valid for a period of **[insert number in numbers and words]** days from the date fixed for the bid submission deadline in accordance with the Bidding Document,

and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

8. Unless and until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof in the form of a signed Letter of Acceptance delivered by you to us, shall constitute a binding contract between us.
9. We understand that you are not bound to accept the lowest or any Bid you may receive.
10. We comply with the requirements of ITB Clause 5 of the Bidding Document, as applicable.
11. Any Subcontractors do or will comply with the requirements of ITB Clause 5 of the Bidding Document, as applicable.
12. We are not participating, as a Bidder or as a Subcontractor, in more than one Bid in this bidding process in accordance with ITB Clause 5.6 (d).
13. We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITB Clause 3.
14. Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to Contract execution if we are awarded the Contract, are listed below:

Name and address of agent	Amount and currency	Purpose of commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

(if none, state "none")

15. We have taken steps to ensure that no person acting for us or on our behalf will engage in bribery.
16. We are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combating Trafficking in Persons) and will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, any Subcontractor, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
17. We understand and accept without condition that, in accordance with ITB Clause 36.1 any challenge or protest to the process or results of this procurement may be brought only through the Purchaser's Bid Challenge System ("BCS").

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signature \_\_\_\_\_ In the capacity of \_\_\_\_\_  
Duly authorized to sign Bids for and on behalf of \_\_\_\_\_

**[in block letters or typed]**

Address: \_\_\_\_\_

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

ENCLOSURES:

Price Schedules

Bid-Securing Declaration or Bid-Security (if and as required)

Signature Authorization *[plus, in the case of a joint venture Bidder, list all other authorizations pursuant to ITB Clause 6.2]*

Attachment 1. Bidder's Eligibility

Attachment 2. Bidder's Qualifications (including Manufacturer's Authorizations and Subcontractor agreements if and as required)

Attachment 3. Eligibility of Goods and Services

Attachment 4. Conformity of the Information System to this Bidding Document

Attachment 5. Proposed Subcontractors

Attachment 6. Intellectual Property (Software and Materials Lists)

*[if appropriate, specify further attachments or other enclosures]*

### **Bid Table of Contents and Checklist**

**Note:** Bidders should expand and (if appropriate) modify and complete the following table. The purpose of the table is to provide the Bidder with a summary checklist of items that must be included in the Bid as described in ITB Clause 14.1 and ITB Clause 17, in order for the Bid to be considered for Contract award. The table also provides a summary page reference scheme to ease and speed the Purchaser’s bid evaluation process.

Item	present: y/n	page no.
Bid Submission Form		
Price Schedules		
Signature Authorization (for joint ventures additionally including the authorizations listed in ITB 6.2)		
Attachment 1		
Attachment 2		
Manufacturer’s Authorizations Subcontractor agreements		
Attachment 3		
Attachment 4		
Attachment 5		
Attachment 6		

## **2. PRICE SCHEDULE FORMS**

**Note:** in information systems procurement, the Contract Price (and payment schedule) should be linked as much as possible to achievement of operational capabilities, not just to the physical delivery of technology.

## 2.1 Preamble

### General

1. The Price Schedules are divided into separate Schedules as follows:
  - 2.2 Grand Summary Price Table
  - 2.3 Supply and Installation Cost Summary Table
  - 2.4 Recurrent Cost Summary Table
2. The Schedules do not generally give a full description of the information technologies to be supplied, installed, and operationally accepted, or the Services to be performed under each item. However, it is assumed that Bidders shall have read the Purchaser's Requirements and other sections of this Bidding Document to ascertain the full scope of the requirements associated with each item prior to filling in the rates and prices. The quoted rates and prices shall be deemed to cover the full scope of these Purchaser's Requirements, as well as overhead and profit.
3. If Bidders are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with the Instructions to Bidders in this Bidding Document prior to submitting their Bid.

### Pricing

4. Prices shall be typed, and any alterations necessary due to errors, etc., shall be initialed by the Bidder. As specified in the Bid Data Sheet, prices shall be fixed and firm for the duration of the Contract.
5. Bid prices shall be quoted in the manner indicated and in the currencies specified in ITB Clauses 15 and 16. Prices must correspond to items of the scope and quality defined in the Purchaser's Requirements or elsewhere in this Bidding Document.
6. The Bidder must exercise great care in preparing its calculations, since there is no opportunity to correct errors once the deadline for submission of bids has passed. A single error in specifying a unit price can therefore change a Bidder's overall total Bid price substantially, make the Bid noncompetitive, or subject the Bidder to possible loss. The Purchaser will correct any arithmetic error in accordance with the provisions of ITB Clause 27.2).
7. Payments will be made to the Supplier in the currency or currencies indicated under each respective item. As specified in ITB Clause 16.1, only United States Dollars as a foreign currency may be used. The price of an item should be unique regardless of installation site.



### 2.2 Grand Summary Price Table

		<b>USD Price</b>	<b>USD Price</b>
1.	Supply and Installation Costs (from Supply and Installation Cost Summary Table)		
2.	Recurrent Costs (from Recurrent Cost Summary Table)		
3.	Grand Totals (to Bid Submission Form)		

<b>Name of Bidder:</b>	
<b>Authorized Signature of Bidder:</b>	

### 2.3 Supply and Installation Cost Summary Table

Costs MUST reflect prices and rates quoted in accordance with ITB Clauses 15 and 16.

Line Item No.	Subsystem / Item	Section VII	Supply & Installation Prices *		
			Locally supplied items	Items supplied from outside the Purchaser's Country	
			USD Price	USD Price	USD Price
<b>1</b>	<b>Supply Standard Software</b>	<b>B, C</b>			
1.1	Supplier management module	B 1.1			
1.2	Electronic sourcing module	B 1.2			
1.3	Electronic catalog module *	B 1.3			
1.4	Contract management module *	B 1.4			
<b>2</b>	<b>Installation services</b>	<b>D, E, F, G</b>			
2.1	Implementation services	E			
2.2	Training services	F			
2.3	Operational services	G			
<b>SUBTOTALS</b>					
<b>TOTAL (To Grand Summary Table)</b>					

\* Costs of the licenses for electronic catalog module and contract management module will be part of the Bid Evaluation, but will not be part of this Contract. The total price for 1.1 Supplier management module, 1.2 Electronic sourcing module and 2. Installation services must be less than the bid ceiling of \$1,8 million.

<b>Name of Bidder:</b>	
<b>Authorized Signature of Bidder:</b>	

### 2.4 Recurrent Cost Summary Table

Costs MUST reflect prices and rates quoted in accordance with ITB Clauses 15 and 16.

Line Item No.	Subsystem / Item	Quantity	USD Unit Price	USD Total Price
3	<b>Recurrent Cost Items *</b>			
3.1	Annual Software Updates	1		
3.2	Annual Technical Support Services	1		
3.3	Annual software development hours for CR	5000		
	Subtotals (to Grand Summary Table)			

<b>Name of Bidder:</b>	
<b>Authorized Signature of Bidder:</b>	

### **3. BIDDER QUALIFICATION FORMS**

To establish its qualifications to perform the Contract in accordance with the qualification requirements set out in Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements, the Bidder shall provide the information requested in the following forms.

### 3.1 Form ELI-1: Bidder Information Sheet

All individual firms and each partner of a joint venture that are bidding must complete the information in this form. Nationality information should be provided for all owners or Bidders that are partnerships or individually owned firms.

Where the Bidder proposes to use named Subcontractors for highly specialized components of the Information System, the following information should also be supplied for the Subcontractor(s).

<b>Bidder's legal name</b>	
<b>In case of JV or other association, legal name of each partner</b>	
<b>Bidder's country of constitution</b>	
<b>Bidder's year of constitution</b>	
<b>Bidder's legal address in country of constitution</b>	
<b>Bidder's authorized representative</b> (name, address, telephone numbers, fax numbers, e-mail address)	
<b>Bidder's in-country agent (if the Bidder is not doing business within the Purchaser's country)</b> (name, address, telephone numbers, fax numbers, e-mail address)	
<p style="text-align: center;"><b>Attached are copies of the following original documents.</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 5.2.</li> <li><input type="checkbox"/> 2. Authorization to represent the firm or JV named in above, in accordance with ITB 6.2</li> <li><input type="checkbox"/> 3. In case of JV or other Association, letter of intent to form JV or other association or JV/association agreement, in accordance with ITB 6.2</li> <li><input type="checkbox"/> 4. Government-Owned Enterprise Certification Form [ELI-3]</li> </ul>	

### 3.2 Form ELI-2: JV/Association/Subcontractor Information Sheet

Each member of a JV/Association making up a Bidder and each known Subcontractor must fill in this form.

<b>JV /Association/Subcontractor Information</b>	
<b>Bidder's legal name</b>	
<b>JV Partner's or Subcontractor's legal name</b>	
<b>JV Partner's or Subcontractor's country of constitution</b>	
<b>JV Partner's or Subcontractor's year of constitution</b>	
<b>JV Partner's or Subcontractor's legal address in country of constitution</b>	
<b>JV Partner's or Subcontractor's authorized representative information</b> (name, address, telephone numbers, fax numbers, e-mail address)	
<b>List of major goods and/or services that the member is proposed to provide</b>	
<p style="text-align: center;"><b>Attached are copies of the following original documents.</b></p> <p><input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 5.</p> <p><input type="checkbox"/> 2. Authorization to represent the firm named above, in accordance with ITB 26.2</p> <p><input type="checkbox"/> 3. Government-Owned Enterprise Certification Form [ELI-3].</p>	

### 3.3 Form ELI-3: Government-Owned Enterprise Certification Form

Government-Owned Enterprises are not eligible to compete for MCC-funded contracts for goods or services. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods or works or non-consulting services procured through an open solicitation process, limited bidding, direct contracting, or sole source selection; and (ii) may not be pre-qualified or shortlisted for any MCC-funded contract anticipated to be procured through these means.

This prohibition does not apply to Government-owned Force Account units owned by the Government of the Purchaser's Country, or Government-owned educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with Part 7 of MCC's Program Procurement Guidelines. The full policy is available for your review on the Compact Procurement Guidelines page at the MCC Website ([www.mcc.gov/ppg](http://www.mcc.gov/ppg)). As part of the eligibility verification for this procurement, **please fill in the form below to indicate the status of your entity**. The Certification Form shall be furnished with the Proposal REGARDLESS OF THE STATUS OF YOUR ENTITY.

For purposes of this form, the term "Government" means one or more governments, including any agency, instrumentality, subdivision or other unit of government at any level of jurisdiction (national or sub-national).



#### CERTIFICATION

**Full Legal Name of Bidder:**

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**Full Legal Name of Bidder in Language and Script of Country of Formation** (if different from above):

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**Address of Principal Place of Business or Chief Executive Office of Bidder:**

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**Full Name of Three (3) Highest Ranking Officials of Bidder** (for any Bidder that is an entity):

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**Full Legal Name(s) of Parent Entity or Entities of Bidder** (if applicable; if Bidder has no parent, please so state):

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**Full Legal Name(s) of Parent Entity or Entities of Bidder in Language and Script of Country of Formation** (if applicable and if different from above):

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**Address(es) of Principal Place of Business or Chief Executive Office of Parent Entity or Entities of Bidder (if applicable):**

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- 1) Does a Government own a majority or controlling interest (whether by value or voting interest) of your shares or other ownership interest (whether directly or indirectly and whether through fiduciaries, agents or other means)? Yes  No
  
- 2) If your answer to question 1 was yes, are you a Government-owned:
  - a. Force Account unit Yes  No
  - b. Educational institution Yes  No
  - c. Research Center Yes  No
  - d. Statistical entity Yes  No
  - e. Mapping entity Yes  No
  - f. Other technical entities not formed primarily for a commercial or business purpose Yes  No
  
- 3) Regardless of how you answered question 1, please answer the following:
  - a. Do you receive any subsidy or payment (including any form of subsidized credit) or any other form of assistance (financial or otherwise) from a Government? Yes  No   
If yes, describe:  

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  - b. Has a Government granted to you any special or exclusive legal or economic rights or benefits that may alter the competitiveness of your goods, works or services or otherwise influence your business decisions? Yes  No   
If yes, describe:  

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  - c. Does a Government have the ability to direct or decide any of the following with respect to you:
    - i. any reorganization, merger, or dissolution of you or the formation or acquisition of any subsidiary or other affiliate by you Yes  No
    - ii. any sale, lease, mortgage, pledge, or other transfer of any of your principal assets, whether tangible or intangible and whether or not in the ordinary course of business Yes  No
    - iii. the closing, relocation, or substantial alteration of the production, operational, or other material activities of your business Yes  No
    - iv. your execution, termination, or non-fulfillment of material contracts Yes  No



- v. the appointment or dismissal of your managers, directors, officers or senior personnel or otherwise participate in the management or control of your business Yes  No
- 4) Have you ever been Government-owned or controlled? Yes  No
- 5) If your answer to question 4 was yes, please answer the following questions
- a. How long were you Government-owned? \_\_\_\_\_
- b. When were you privatized? \_\_\_\_\_
- c. Do you receive any subsidy or payment (including any form of subsidized credit) or any other form of assistance (financial or otherwise) from a Government? Yes  No
- If yes, describe:  
\_\_\_\_\_
- d. Even though not majority or controlling, does a Government continue to hold any ownership interest or decision making authority in you or your affairs? Yes  No
- If yes, describe:  
\_\_\_\_\_
- e. Do you send any funds to a Government other than taxes and fees in the ordinary course of your business in percentages and amounts equivalent to other non-Government-owned enterprises in your country that are engaged in the same sector or industry? Yes  No
- If yes, describe:  
\_\_\_\_\_

Participants are advised that:

1. Prior to announcing the winning Bidder or any list of pre-qualified Bidders for this procurement, the MCA Entity will verify the eligibility of such Bidder(s) with MCC. MCC will maintain a database (internally, through subscription services, or both) of known GOEs and each winning or pre-qualified Bidder subject to this provision will be compared against the database and subject to such further due diligence as MCC may determine necessary under the circumstances.
2. Any misrepresentation by any entity submitting a Bid for this procurement may be deemed a “fraudulent practice” for purposes of the MCC Program Procurement Guidelines and any other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.
3. Any entity that is determined by MCC to have organized itself, subcontracted any part of its MCC-funded contract, or otherwise associated itself with any other entity for the purpose of, or with the actual or potential effect of, avoiding or otherwise subverting the provisions of the MCC Program Procurement Guidelines may be deemed to be a GOE for all purposes of those Guidelines.

4. Any credible accusation that any entity submitting a Bid for this procurement is a GOE ineligible to submit a Bid in accordance with the MCC Program Procurement Guidelines will be subject to review in a bid challenge in accordance with those Guidelines and the MCA Entity's Bid Challenge System.

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed a "fraudulent practice" for purposes of the MCC Program Procurement Guidelines and other applicable MCC policy or guidance, including MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Printed Name of Signatory:** \_\_\_\_\_

### 3.4 Form CON-1: History of Non-Performance and Litigation

Name of Bidder or partner of a joint venture
--

The following table shall be filled in for the Bidder and for each member of a joint venture or other association that is a party to the Bidder.

Bidder's Legal Name: **[insert full name]**

Date: **[insert day, month, year]**

Bidder's Party's Legal Name: **[insert full name]**

Page **[insert page number]** of **[insert total number]** pages

<b>Non-Performing Contracts in accordance with Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements</b>			
<input type="checkbox"/> Contract non-performance did not occur during the five years prior to the deadline for Bid submission in accordance with <b>Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements</b> ), Sub-Factor 4.2.1. <b>OR</b> <input type="checkbox"/> Contract(s) not performed during the five years prior to the deadline for Bid submission in accordance with <b>Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements</b> ), Sub-Factor 4.2.1.			
Year	Non performed portion of contract	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
[insert year]	[insert amount and percentage]	Contract identification: <b>[indicate complete contract name, number, and any other identification]</b> Name of institution: <b>[insert full name]</b> Address of institution: <b>[insert street/city/country]</b> Reason(s) for non-performance: <b>[indicate main reason(s)]</b>	[insert amount]

<b>Failure to Sign a Contract, in accordance with Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements</b>
<input type="checkbox"/> No failure to sign a contract in accordance with Sub-Factor 4.2.2 of <b>Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements</b> <b>OR</b> <input type="checkbox"/> Failure to sign a contract in accordance with Sub-Factor 4.2.2 of <b>Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements</b>
Failure to Sign Contract
In the event of failure to sign a contract, clarify/explain your situation according to Sub-Factor 4.2.2 of Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements

Section IV. Bidding Forms

Year	Claim as Percentage of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
[insert year]	[insert percentage]	Contract identification: [indicate complete contract name, number, and any other identification] Name of institution: [insert full name] Address of institution: [insert street/city/country] Matter in dispute: [indicate main issues in dispute]	[insert amount]

**Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes in accordance with Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements**  
 (each member of a JV/association making up a Bidder must complete this table)

**Provide information on current or past proceedings, litigation, arbitration, actions, claims, investigations or disputes over the last five (5) years as shown in the form below in accordance with Sub-Factor 4.2.3 of Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements.**

The Bidder, or a related company or entity, is currently, or within the past five (5) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Purchaser could reasonably interpret may impact or have the potential to impact the financial condition of the Bidder in a manner that may adversely affect the Bidder's ability to satisfy any of its obligations under the Contract:

No **OR**  Yes

**If Yes, Describe:**

Year:	Matter in Dispute:	Value of Award (Actual or Potential) Against Bidder in US\$ Equivalent:

### 3.5 Form FIN-1: Financial Situation

Each Bidder or member of a JV/Association making up a Bidder must fill in this form.

Financial Data for Previous Three (3) Years [US\$ Equivalent]		
Year 1:	Year 2:	Year 3:

#### Information from Balance Sheet

Total Assets			
Total Liabilities			
Net Worth			
Current Assets			
Current Liabilities			

#### Information from Income Statement

Total Revenues			
Profits Before Taxes			
Profits After Taxes			

- Attached are copies of financial statements (balance sheets including all related notes and income statements) for the last three (3) years, as indicated above, complying with the following conditions.
- All such documents reflect the financial situation of the Bidder or member of a JV or other association, and not sister or parent companies.
  - Historic financial statements must be audited by a certified accountant.
  - Historic financial statements must be complete, including all notes to the financial statements.
  - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

\*Bidders to fill this table. The Purchaser will verify during the review process.

### 3.6 Form FIN-2: Average Annual Management of Information Systems Turnover

Each Bidder or member of a JV/Association making up a Bidder must fill in this form.

Annual Turnover Data for the Last Three (3) Years (Management of Information Systems only)			
Year	Amount Currency	Exchange Rate	US\$ Equivalent
<b>Average Annual Management of Information Systems Turnover</b>			

The information supplied should be the annual management of Information Systems turnover of the Bidder or each member of a JV/Association making up a Bidder in terms of the amounts billed to clients for each year for work in progress or completed, converted to USD at the rate of exchange at the end of the period reported. This form may be included for Subcontractors only if BDS ITB 6.1 (a) explicitly permits experience and resources of (certain) Subcontractors to contribute to the Bidder's qualifications.

### 3.7 Form FIN-3: Financial Resources

Each Bidder or member of a JV/Association making up a Bidder must fill in this form, specifying proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total cash flow demands of the subject Contract or contracts as indicated in **Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements.**

No.	Source of Financing	Amount (USD equivalent)
1		
2		
3		
4		

### 3.8 Form FIN-4: Current Contract Commitments / Works in Progress

Each Bidder and each member of a JV/Association making up a Bidder should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Name of Contract	Employer, contact address/tel/fax	Value of outstanding work (current USD equivalent)	Estimated completion date	Average monthly invoicing over last six months (USD/month)



### 3.9 Form EXP-1: General Information Systems Experience Record

Each Bidder or member of a JV/Association making up a Bidder must fill in this form.

All individual firms and all partners of a joint venture must complete the information in this form with regard to the proposed e-GP Information Systems contracts at

. This form may be included for Subcontractors only if BDS ITB 6.1 (a) explicitly permits experience and resources of (certain) Subcontractors to contribute to the Bidder’s qualifications.

Use a separate page for each partner of a joint venture, and number these pages. Bidders should not enclose testimonials, certificates, and publicity material with their applications; they will not be taken into account in the evaluation of qualifications.

<b>General Information Systems Experience Record</b>				
Name of Bidder or partner of a joint venture				
<b>No.</b>	<b>Starting Month Year</b>	<b>Ending Month Year</b>	<b>Contract Identification and Name Name and Address of Purchaser Brief Description of the Contract Executed by the Bidder/Member of a JV/Association making up the Bidder</b>	<b>Role of Bidder/Member of a JV/Association making up the Bidder</b>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
13				
14				
15				



### 3.11 Form EXP-3: Specific Experience in Key Activities

Fill in one (1) form per contract.

Contract with Specific Key Activities		
<b>Contract No . . . . . of . . . . .</b>	<b>Contract Identification</b>	
<b>Award Date</b>	<b>Completion Date</b>	
<b>Role in Contract</b>	<input type="checkbox"/> <b>Contractor</b> <input type="checkbox"/> <b>Management Contractor</b> <input type="checkbox"/> <b>Subcontractor</b>	
<b>Total Contract Amount</b>	<b>US\$</b>	
<b>If member of a JV or other association, or a Subcontractor, specify participation of total contract amount</b>	<b>Percent of Total</b>	<b>Amount</b>
<b>Employer's Name</b> <b>Address</b> <b>Telephone Number</b> <b>Fax Number</b> <b>E-mail</b>		
<b>Description of the key activities in accordance with the Specific Experience</b>		

### 3.12 Form REF-1: References of MCC Funded Contracts

Each Applicant or member of a JV/Association making up an Applicant must fill in this form and include information about any and all MCC-funded contracts (either with MCC directly or with any Millennium Challenge Account Entity, anywhere in the world) to which the Applicant or member of a JV/Association making up an Applicant is or has been a party whether as a lead contractor, affiliate, associate, subsidiary, Subcontractor, or in any other role.

<b>Contracts with MCC</b>			
Contract Name and Number	Role in Contract	Total Contract Amount	Purchaser Name and Address
		x	
<b>Contracts with an MCA-Entity</b>			
Contract Name and Number	Role in Contract	Total Contract Amount	Purchaser Name and Address

## **4. TECHNICAL BID FORMS**

To establish its qualifications to perform the Contract in accordance with the qualification requirements set out in Section III, Bid Review, Evaluation Criteria and Bidder Qualification Requirements, the Bidder shall provide the information requested in the following forms.

## **4.1 Form TECH-1 Description of Information Technologies, Materials, Other Goods, and Services**

- 4.1.0 The Bidder must provide detailed descriptions of the essential technical, performance, or other relevant characteristics of all key Information Technologies, Materials, other Goods, and Services offered in the Bid (e.g., version, release, and model numbers). Without providing sufficient clear detail, Bidders run the risk of their Bids being declared non-responsive.
- 4.1.1 To assist in the bid evaluation, the detailed descriptions should be organized and cross referenced in the same manner as the Bidder's item-by-item commentary on the Technical Requirements described in Section 5.2 below. All information provided by cross reference must, at a minimum, include clear titles and page numbers.

## 4.2 Form TECH-2 Technical Capabilities

Name of Bidder
----------------

The Bidder shall provide adequate information to demonstrate clearly that it has the technical capability to meet the requirements for the Information System. With this form, the Bidder should summarize important certifications, proprietary methodologies, and/or specialized technologies which the Bidder proposes to utilize in the execution of the Contract or Contracts.

### 4.3 Form TECH-3 Item-by-Item Commentary on the Technical Requirements

- 4.3.0 The Bidder must provide an item-by-item commentary on the Purchaser’s Technical Requirements, demonstrating the substantial responsiveness of the overall design of the System and the individual Information Technologies, Goods, and Services offered to those Requirements, see ITB Clause 16.2 (b).
- 4.3.1 In demonstrating the responsiveness of its Bid, the Bidder is required to use the Technical Responsiveness Checklist provided in Section F of the Technical Requirements. Failure to do so, the Bidder’s Technical Bid will be declared technically non-responsive. Among other things, the checklist should contain explicit cross references to the relevant pages in the Bidder’s Technical Bid.
- 4.3.2 The following Form is provided to help the Bidder organize and consistently present its Technical Bid. For each of the following Technical Requirements, the Bidder must describe how its Technical Bid responds to each Requirement. In addition, the Bidder must provide cross references to the relevant supporting information, if any, included in the Bid. The cross reference should identify the relevant document(s), page number(s), and paragraph(s). The Technical Responsiveness Checklist does not supersede the rest of the Technical Requirements (or any other part of this Bidding Document). If a requirement is not mentioned in the Checklist that does not relieve the Bidder from the responsibility of including supporting evidence of compliance with that other requirement in its Technical Bid. One- or two-word responses (e.g. “Yes,” “No,” “Will comply,” etc.) are normally not sufficient to confirm technical responsiveness with Technical Requirements.

Tech. Require. No. 1	Technical Requirement: <i>[insert: abbreviated description of Requirement]</i>	<i>[specify: Mandatory or Preferred]</i>
Bidder’s technical reasons supporting compliance:		
Bidder’s cross references to supporting information in Technical Bid:		
Tech. Require. No. 2	Technical Requirement: <i>[insert: abbreviated description of Requirement]</i>	<i>[specify: Mandatory or Preferred]</i>
Bidder’s technical reasons supporting compliance:		
Bidder’s cross references to supporting information in Technical Bid:		



#### 4.4 Form TECH-4 Preliminary Project Plan

- 4.4.0 The Bidder must prepare a Preliminary Project Plan describing, among other things, the methods and human and material resources that the Bidder proposes to employ in the design, management, coordination, and execution of all its responsibilities, if awarded the Contract, as well as the estimated duration and completion date for each major activity. The Preliminary Project Plan must also address the topics and points of emphasis specified in  
*[state: "PCC Clause 19" including any additional items stated in the Bid Data Sheet for ITB Clause 16.2 (c)].* The Preliminary Project Plan should also state the Bidder's assessment of the major responsibilities of the Purchaser and any other involved third parties in System supply and installation, as well as the Bidder's proposed means for coordinating activities by each of the involved parties to avoid delays or interference.
- 4.4.1 In addition to the topics and points of emphasis, the Preliminary Project Plan **MUST** address *[for example, specify: what steps will be taken if there is a failure; how project progress will be reported; etc.]*.
- 4.4.2 *[specify: any additional requirements regarding the format of the Preliminary Project Plan, for example, must it be submitted in a specific word processing format, in addition to hard copy, etc.]*.

### **4.5 Form TECH-5 Confirmation of Responsibility for Integration and Interoperability of Information Technologies**

- 4.5.0 The Bidder must submit a written confirmation that, if awarded the Contract, it shall accept responsibility for successful integration and interoperability of all the proposed Information Technologies included in the System, as further specified in the Bidding Document.

### **4.6 Form TECH-6 Key Professional Personnel Capabilities**

For specific positions essential to contract management and implementation (and/or those specified in this Bidding Document, if any), Bidders should provide the names of at least two candidates qualified to meet the specified requirements stated for each position. The data on their experience should be supplied on separate sheets using one Form TECH-7 for each candidate.

Bidders may propose alternative management and implementation arrangements requiring different Key Professional Personnel, whose experience records should be provided.

Name of Bidder	
1.	Title of position
	Name of prime candidate
	Name of alternate candidate
2.	Title of position
	Name of prime candidate
	Name of alternate candidate
3.	Title of position
	Name of prime candidate
	Name of alternate candidate
4.	Title of position
	Name of prime candidate
	Name of alternate candidate

### 4.7 Form TECH-7 CVs of Key Professional Personnel

Name of Bidder		
Position	Candidate <input type="checkbox"/> Prime  <input type="checkbox"/> Alternate	
Candidate information	Name of candidate	Date of birth
	Professional qualifications	
Present employment	Name of Employer	
	Address of Employer	
	Telephone	Contact (manager / personnel officer)
	Job title of candidate	Years with present Employer
From	To	Company/Project/Position/Relevant technical and management experience

Summarize professional experience over the last ten years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Please note that, during Contract negotiations, the Purchaser will not consider substitution of any Key Professional Personnel unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity of one of the Key Professional Personnel. Notwithstanding the above, the substitution of Key Professional Personnel at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Supplier, including but not limited to death or medical incapacity, and or if so requested by the Purchaser as a result of the Bid review process. In such a case, the Bidder shall offer a substitute Key Professional Personnel within the period of time specified by the Purchaser who shall have equivalent or better qualifications and experience than the original candidate.

### 4.8 Form TECH-8 Manufacturer's Authorization

Invitation for Bids Title and No.:

To: \_\_\_\_\_

WHEREAS \_\_\_\_\_ who are official producers of  
\_\_\_\_\_ and having production facilities at  
\_\_\_\_\_ do hereby authorize  
\_\_\_\_\_ located at  
\_\_\_\_\_ (hereinafter, the "Bidder") to  
submit a bid and subsequently negotiate and sign a Contract with you for resale of the following  
Products produced by us:

We hereby confirm that, in case the bidding results in a Contract between you and the Bidder, the  
above-listed products will come with our full standard warranty.

We confirm that we are participating in this Bid as the Bidder or as a part of the Joint Venture.

Yes

No

Name \_\_\_\_\_ In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the authorization for and on behalf of: \_\_\_\_\_

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Note:** This authorization should be written on the letterhead of the Manufacturer and be signed by a  
person with the proper authority to sign documents that are binding on the Manufacturer.





**4.11 Form of Bid Security (Bank Guarantee)**

**(NOT REQUIRED)**



**SECTION V. GENERAL CONDITIONS OF CONTRACT  
("GCC")**



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## General Conditions of Contract

### A. CONTRACT AND INTERPRETATION

---

#### 1. Definitions

1.1 Capitalized terms used in this Contract and not otherwise defined have the meanings given such items in the Agreement or the related document. Unless the context otherwise requires, the following words whenever used in this Contract have the following meanings:

- (a) “Adjudicator” means the person named in Appendix 2 of the Agreement, appointed by agreement between the Purchaser and the Supplier to make a decision on or to settle any dispute between the Purchaser and the Supplier referred to him or her by the parties, pursuant to GCC Clause 6.1 (Adjudication).
- (b) “Affiliate” means, with respect to a party, any person, entity or association that, now or hereafter, controls, is controlled by or is under common control with a party. For purposes of this definition, the term “control” (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. A person, entity or association will be conclusively deemed to “control” another person, entity or association, if it is the “beneficial owner” of securities of that entity having the power to cast more than 50% of the votes entitled to be cast for the election of directors or similar managers of such entity.
- (c) “Applicable Law” means the laws and any other instruments having the force of law in the Purchaser’s Country, as they may be issued and in force from time to time.
- (d) “Application Software” means Software formulated to perform specific business or technical functions and interface with the business or technical users of the System and is identified as such in Appendix 4 of the Agreement and such other Software as the parties may agree in writing to be Application Software.
- (e) “Bid” means the bid for the Supply and Installation of Information Systems submitted by the Supplier and accepted by the Purchaser and that forms an integral part of this Contract.

- (f) “Bidding Document” refers to the collection of documents issued by the Purchaser to instruct and inform potential suppliers of the processes for bidding, selection of the winning bid, and Contract formation, as well as the contractual conditions governing the relationship between the Purchaser and the Supplier. The General and Particular Conditions of Contract, the Purchaser’s Requirements, and all other documents included in the Bidding Documents reflect the Procurement Guidelines that the Purchaser is obligated to follow during procurement and administration of this Contract.
- (g) “Claims” means any civil, criminal, administrative or regulatory action or proceeding commenced or threatened by a third party, including governmental authorities and regulatory agencies.
- (h) “Commissioning” means operation of the System or any Subsystem by the Supplier following Installation, which operation is to be carried out by the Supplier as provided in GCC Clause 27.1 (Commissioning), for the purpose of carrying out Operational Acceptance Test(s).
- (i) “Agreement” means the Millennium Challenge Agreement **described in the PCC**.
- (j) “Completion” means the fulfilment of the related Services by the Supplier in accordance with the terms and conditions of the Contract.
- (k) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein. The Contract Agreement and the Contract Documents shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly. The words “Agreement” and “Contract” are used interchangeably.
- (l) “Contract Agreement” means the agreement entered into between the Purchaser and the Supplier using the form of Contract Agreement contained in the Particular Conditions of Contract Section of the Bidding Document and any modifications to this form agreed to by the Purchaser and the Supplier. The date of the Contract Agreement shall be recorded in the signed form.
- (m) “Contract Documents” means the documents specified in GCC Clause 2.1 and Article 1.1 (Contract

- Documents) of the Agreement (including any amendments to these Documents).
- (n) “Contract Period” is the time period during which this Contract governs the relations and obligations of the Purchaser and Supplier in relation to the System, as **specified in the PCC.**
  - (o) “Contract Price” means the price or prices defined in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement. The Contract Price shall be understood to reflect the terms and conditions used in the specification of prices in the detailed price schedules, including the terms and conditions of the associated Incoterms, and the taxes, duties and related levies if and as identified.
  - (p) “Coverage Period” means the days of the week and the hours of those days during which maintenance, operational, and/or technical support services (if any) must be available.
  - (q) “Custom Materials” means Materials developed by the Supplier at the Purchaser’s expense under the Contract and identified as such in Appendix 5 of the Contract and such other Materials as the parties may agree in writing to be Custom Materials. Custom Materials includes Materials created from Standard Materials.
  - (r) “Custom Software” means Software identified as such in Appendix 4 of the Agreement and such other Software as the parties may agree in writing to be Custom Software.
  - (s) “day” means calendar day.
  - (t) “Delivery” means the transfer of the Goods from the Supplier to the Purchaser in accordance with the current edition Incoterms specified in the Contract.
  - (u) “Effective Date” means the date of fulfillment of all conditions specified in Article 3 (Effective Date for Determining Time for Achieving Operational Acceptance) of the Contract Agreement, for the purpose of determining the Delivery, Installation, and Operational Acceptance dates for the System or Subsystem(s).
  - (v) “Eligible Country” means the countries and territories eligible for participation in procurements financed by the MCC.
  - (w) “General-Purpose Software” means Software that supports general-purpose office and software development activities and is identified as such in Appendix 4 of the Contract and such other Software

as the parties may agree in writing to be General-Purpose Software. Such General-Purpose Software may include, but is not restricted to, word processing, spreadsheet, generic database management, and application development software.

- (x) “Goods” means all equipment, machinery, furnishings, Materials, and other tangible items that the Supplier is required to supply or supply and install under the Contract, including, without limitation, the Information Technologies and Materials, but excluding the Supplier’s Equipment.
- (y) “Government” means the government **specified in the PCC**.
- (z) “GCC” means the General Conditions of Contract.
- (aa) “Implementation Schedule” means the Implementation Schedule Sub-section of the Purchaser’s Requirements.
- (bb) “Information System,” also called “the System,” means all the Information Technologies, Materials, and other Goods to be supplied, installed, integrated, and made operational (exclusive of the Supplier’s Equipment), together with the Services to be carried out by the Supplier under the Contract.
- (cc) “Information Technologies” means all information processing and communications-related hardware, Software, supplies, and consumable items that the Supplier is required to supply and install under the Contract.
- (dd) “Installation” means that the System or a Subsystem as specified in the Contract is ready for Commissioning as provided in GCC Clause 26 (Installation of the System).
- (ee) “Intellectual Property Rights” means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.

- (ff) “labour” and “labor” are synonymous.
- (gg) “Losses” means all judgments, settlements, awards, damages, losses, charges, liabilities, penalties, interest claims (including taxes and all related interest and penalties incurred directly with respect thereto), however described or denominated, and all related reasonable costs, expenses and other charges (including all reasonable attorneys’ fees and reasonable costs of litigation, hearings, proceedings, internal and external investigations, document and data productions and discovery, settlements, judgments, awards (including awards of attorneys’ fees), interest and penalties), however described or denominated.
- (hh) “Malware” means computer software, code or instructions that (i) adversely affect or disable the operation, security or integrity of a computing, telecommunications or other digital operating or processing system or environment, including, without limitation, programs, data, databases, computer libraries and computer and communications equipment, by altering, destroying, disrupting or inhibiting such operation, security or integrity; (ii) without functional purpose, self-replicate; or (iii) purport to perform a useful function but which actually perform either a destructive or harmful function, or perform no useful function and utilize substantial computer, telecommunications or memory resources.
- (ii) “Materials” means all documentation in printed or printable form and all instructional and informational aides in any form (including audio, video, and text) and on any medium, provided to the Purchaser under the Contract.
- (jj) “MCC Funding” means the funding MCC has made available to the Government under the terms of the Agreement.
- (kk) “MCC Program Procurement Guidelines” means the Millennium Challenge Corporation Program Procurement Guidelines posted to the MCC website, as may be amended from time to time and as **identified in the PCC**.
- (ll) “Millennium Challenge Corporation” or “MCC” means the Millennium Challenge Corporation, a United States Government corporation, acting on behalf of the United States Government.



- (mm) “month” means calendar month.
- (nn) “Notification Related Costs” shall include Purchaser’s and its Affiliates’ internal and external costs associated with addressing and responding to the Security Breach, including but not limited to: (i) preparation and mailing or other transmission of any notifications or other communications to customers, clients, employees, agents or others as Purchaser deems reasonably appropriate; (ii) establishment of a call center or other communications procedures in response to such Security Breach (e.g., customer service FAQs, talking points and training); (iii) public relations and other similar crisis management services; (iv) legal and accounting fees and expenses associated with Purchaser’s and its Affiliates’ investigation of and response to such event; and (v) costs for commercially reasonable credit reporting and watch and similar services that Purchaser determines are advisable under the circumstances, if such services are available in the Purchaser’s Country.
- (oo) “Operational Acceptance” means the acceptance by the Purchaser of the System (or any Subsystem(s) where the Contract provides for acceptance of the System in parts), in accordance with GCC Clause 27.3 (Operational Acceptance).
- (pp) “Operational Acceptance Tests” means the tests specified in the Purchaser’s Requirements and Agreed and Finalized Project Plan to be carried out to ascertain whether the System, or a specified Subsystem, is able to attain the functional and performance requirements specified in the Purchaser’s Requirements and Agreed and Finalized Project Plan, in accordance with the provisions of GCC Clause 27.2 (Operational Acceptance Test).
- (qq) “PCC” means the Particular Conditions of Contract.
- (rr) “Personal Information” means any information (i) relating to an identified or identifiable natural person (such as name, postal address, email address, telephone number, date of birth, Social Security number (or its equivalent), driver’s license number, account number, personal identification number, health or medical information (or any other unique identifier or one or more factors specific to the person’s physical, physiological, mental, economic or social identity)), or (ii) defined as “personal

- information” (or an equivalent term) under the law, or both (i) and (ii), whether such information is in individual or aggregate form and regardless of the media in which it is contained.
- (ss) “Plant” means the apparatus, machinery and vehicles intended to form or forming part of the permanent Works.
- (tt) “Post-Warranty Services Period” means the number of months **defined in the PCC** (if any), following the expiration of the Warranty Period during which the Supplier is obligated to provide Software licenses, maintenance, and/or technical support services for the System, upon request under this Contract.
- (uu) “Pre-commissioning” means the testing, checking, and any other required activity that may be specified in the Purchaser’s Requirements that are to be carried out by the Supplier in preparation for Commissioning of the System as provided in GCC Clause 26 (Installation).
- (vv) “Project Plan” means the document to be developed by the Supplier and approved by the Purchaser, pursuant to GCC Clause 19, based on the requirements of the Contract and the Preliminary Project Plan included in the Supplier’s bid. The “Agreed and Finalized Project Plan” is the version of the Project Plan approved by the Purchaser, in accordance with GCC Clause 19.2. Should the Project Plan conflict with the Contract in any way, the relevant provisions of the Contract, including any amendments, shall prevail.
- (ww) “Project Manager” means the person **named as such in the PCC** or otherwise appointed by the Purchaser in the manner provided in GCC Clause 18.1 (Project Manager) to perform the duties delegated by the Purchaser.
- (xx) “Project Site(s)” means the place(s) **specified in the PCC** for the supply and Installation of the System.
- (yy) “Purchaser” means the entity purchasing the Information System, as **specified in the PCC**.
- (zz) “Purchaser Data” means (i) all data and information generated, provided or submitted by, or caused to be generated, provided or submitted by, or on behalf of, Purchaser or any of its Affiliates in connection with the System or Services; (ii) all data and information regarding Purchaser or its Affiliates that is collected, generated or submitted by, or caused to be generated, provided or submitted by, Supplier or its

representatives; (iii) all such data and information processed or stored, and/or then provided to or for Purchaser or any of its Affiliates, as part of the Services, including data contained in forms, reports and other similar documents provided by or on behalf of Supplier under the Contract; and (iv) Personal Information.

- (aaa) “Purchaser Indemnites” means the Purchaser and its Affiliates, and the respective current, future and former officers, directors, employees, agents, successors and assigns of each of the foregoing.
- (bbb) “Purchaser’s Country” is the **country named in the PCC**.
- (ccc) “Purchaser’s Requirements” means the Purchaser’s Requirements Section of the Bidding Documents.
- (ddd) “Security Breach” means (i) any circumstance pursuant to which Applicable Law requires notification of such breach to be given to affected parties or other activity in response to such circumstance; or (ii) any actual, attempted, suspected or threatened circumstance that compromises, or could reasonably be expected to compromise Systems Security (as such term is defined below) in a fashion that either does or could reasonably be expected to permit unauthorized processing, use, disclosure or acquisition of or access to any of Purchaser’s Confidential Information or the System. “Systems Security” means security of computer, electronic or telecommunications systems of any variety (including data bases, hardware, software, storage, switching and interconnection devices and mechanisms), and networks of which such systems are a part or communicate with, used directly or indirectly by Supplier or its Subcontractors in connection with the System or Services.
- (eee) “Services” means all technical, logistical, management, and any other services, functions, responsibilities, activities, tasks and projects (i) to be provided by the Supplier and set forth in the Contract, and (ii) that are an inherent, necessary, or customary part of the Services described in item (i). Such Services may include, but are not restricted to, activity management and quality assurance, design, development, customization, documentation, transportation, insurance, inspection, expediting, site preparation, Installation, integration, training, data

- migration, Pre-commissioning, Commissioning, maintenance, and technical support.
- (fff) “Software” means that part of the System which are instructions that cause information processing Subsystems to perform in a specific manner or execute specific operations.
- (ggg) “Source Code” means the database structures, dictionaries, definitions, program source files, and any other symbolic representations necessary for the compilation, execution, and subsequent maintenance of the Software (typically, but not exclusively, required for Custom Software).
- (hhh) “Standard Materials” means all Materials not specified as Custom Materials.
- (iii) “Standard Software” means Software identified as such in Appendix 4 of the Agreement and such other Software as the parties may agree in writing to be Standard Software.
- (jjj) “Subcontractor” means any firm to whom any of the obligations of the Supplier, including preparation of any design or supply of any Information Technologies or other Goods or Services, is subcontracted directly or indirectly by the Supplier. The list of Purchaser-approved Subcontractors is set forth in Appendix 3 (List of Approved Subcontractors).
- (kkk) “Subsystem” means any subset of the System identified as such in the Contract that may be supplied, installed, tested, and commissioned individually before Commissioning of the entire System.
- (lll) “Supplier” means the firm or joint venture entity whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract.
- (mmm) “Supplier Indemnitees” means the Supplier and its Affiliates, and the respective current, future and former officers, directors, employees, agents, successors and assigns of each of the foregoing.
- (nnn) “Supplier’s Country” is the country in which the Supplier is legally organized, as named in the Contract.
- (ooo) “Supplier’s Equipment” means all equipment, tools, apparatus, or things of every kind required in or for installation, completion and maintenance of the System that are to be provided by the Supplier, but

excluding the Information Technologies, or other items forming part of the System.

(ppp) “Supplier’s Representative” means any person nominated by the Supplier and named as such in the Contract or otherwise approved by the Purchaser in the manner provided in GCC Clause 18.2 (Supplier’s Representative) to perform the duties delegated by the Supplier.

(qqq) “System Software” means Software that provides the operating and management instructions for the underlying hardware and other components, and is identified as such in Appendix 4 of the Agreement and such other Software as the parties may agree in writing to be Systems Software. Such System Software includes, but is not restricted to, micro-code embedded in hardware (i.e., “firmware”), operating systems, communications, system and network management, and utility software.

(rrr) “Tax” and “Taxes” have the meanings given the terms in the Agreement.

(sss) “Warranty Period” means the period of validity of the representation and warranty provided in GCC Clause 29.1 (Representations and Warranties).

(ttt) “week” means seven (7) consecutive days, beginning the day of the week as is customary in the Purchaser’s Country.

(uuu) “year” means twelve (12) consecutive months.

## 2. Contract Documents

2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts of these documents) are intended to be correlative, complementary, and mutually explanatory. The Contract shall be read as a whole.

## 3. Interpretation

3.1 Governing Language

3.1.1 All Contract Documents and related correspondence exchanged between Purchaser and Supplier shall be written in the language **specified in the PCC**, and the Contract shall be construed and interpreted in accordance with that language.

3.1.2 If any of the Contract Documents or related correspondence are prepared in a language other than the governing language under GCC Clause 3.1.1 above, the translation of such documents into the governing language shall prevail in matters of interpretation. The

originating party, with respect to such documents shall bear the costs and risks of such translation.

### 3.2 Singular and Plural

The singular shall include the plural and the plural the singular, except where the context otherwise requires.

### 3.3 Headings

The headings and marginal notes in the GCC are included for ease of reference and shall neither constitute a part of the Contract nor affect its interpretation.

### 3.4 Persons

Words importing persons or parties shall include firms, corporations, and government entities.

### 3.5 Incoterms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by the current Incoterms as **specified in the PCC**. Incoterms are the international rules for interpreting trade terms published by the International Chamber of Commerce, 38 Cours Albert 1er, 75008 Paris, France.

### 3.6 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and Supplier with respect to the subject matter of Contract and supersedes all communications, negotiations, and agreements (whether written or oral) of parties with respect to the subject matter of the Contract made prior to the date of Contract.

### 3.7 Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party to the Contract.

### 3.8 Independent Supplier

The Supplier shall be an independent contractor performing the Contract. The Contract does not create any agency,

partnership, joint venture, or other joint relationship between the parties to the Contract.

Subject to the provisions of the Contract, the Supplier shall be solely responsible for the manner in which the Contract is performed. All employees, representatives, or Subcontractors engaged by the Supplier in connection with the performance of the Contract shall be under the complete control of the Supplier and shall not be deemed to be employees of the Purchaser, and nothing contained in the Contract or in any subcontract awarded by the Supplier shall be construed to create any contractual relationship between any such employees, representatives, or Subcontractors and the Purchaser.

### 3.9 Joint Venture Entity

If the Supplier is a joint venture entity created by two or more firms, all such firms shall be parties to the Contract and shall be jointly and severally bound, together with the joint venture entity, to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the joint venture entity. The composition or constitution of the joint venture entity shall not be altered without the prior consent of the Purchaser.

### 3.10 Nonwaiver

3.10.1 Subject to GCC Clause 3.10.2 below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.10.2 Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

### 3.11 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity, or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### 3.12 Survival

The GCC Clauses and their respective references to the PCC that are expressly stated to survive, or that by their nature are intended to survive, the expiration, suspension or termination of this Contract will survive the expiration, suspension or termination of this Contract indefinitely or as limited by the time period set out in the respective clause, including, without limitation, the following: 1.1, 2, 3, 4, 5, 6, 14.1, 15, 16.1, 17, 28.2, 29, 30.1, 31, 32, 33, 36.2, 36.3, and 36.4.

### 3.13 Country of Origin

“Origin” means the place where the Information Technologies, Materials, and other Goods for the System were produced or from which the Services are supplied. Goods are produced when, through manufacturing, processing, Software development, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components. The Origin of Goods and Services is distinct from the nationality of the Supplier and may be different.

## 4. Notices

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing and shall be sent, pursuant to GCC Clause 4.3 below, by personal delivery, airmail post, special courier, cable, telegraph, telex, facsimile, electronic mail, or Electronic Data Interchange (“EDI”), with the following provisions.

4.1.1 Any notice sent by cable, telegraph, telex, facsimile, electronic mail, or EDI shall be confirmed within two (2) days after dispatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.

4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after



dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped, and conveyed to the postal authorities or courier service for transmission by airmail or special courier.

4.1.3 Any notice delivered personally or sent by cable, telegraph, telex, facsimile, electronic mail, or EDI shall be deemed to have been delivered on the date of its dispatch.

4.1.4 Either party may change its postal, cable, telex, facsimile, electronic mail, or EDI addresses for receipt of such notices by ten (10) days' notice to the other party in writing.

4.2 Notices shall be deemed to include any approvals, consents, instructions, orders, certificates, information and other communication to be given under the Contract.

4.3 Pursuant to GCC Clause 18, notices from/to the Purchaser are normally given by, or addressed to, the Project Manager, while notices from/to the Supplier are normally given by, or addressed to, the Supplier's Representative, or in its absence its deputy if any. If there is no appointed Project Manager or Supplier's Representative (or deputy), or if their related authority is limited by the PCC GCC Clauses 18.1 or 18.2.2, or for any other reason, the Purchaser or Supplier may give and receive notices at their fallback addresses. The address of the Project Manager and the fallback address of the Purchaser are as **specified in the PCC** or as subsequently established/amended. The address of the Supplier's Representative and the fallback address of the Supplier are as specified in Appendix 1 of the Agreement or as subsequently established/amended.

## 5. Governing Law

5.1 The Contract shall be governed by and interpreted in accordance with the laws of the country **specified in the PCC**.

## 6. Settlement of Disputes

6.1 Adjudication

6.1.1 If any dispute of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the System (whether

during the progress of implementation or after its achieving Operational Acceptance and whether before or after the termination, abandonment, or breach of the Contract), the parties shall seek to resolve any such dispute by mutual consultation. If the parties fail to resolve such a dispute by mutual consultation within fourteen (14) days after one party has notified the other in writing of the dispute, then, if Appendix 2 of the Agreement names an Adjudicator, the dispute shall, within another fourteen (14) days, be referred in writing by either party to the Adjudicator, with a copy to the other party. If there is no Adjudicator named, the mutual consultation period stated above shall last twenty-eight (28) days (instead of fourteen), upon expiry of which either party may move to the notification of arbitration pursuant to GCC Clause 6.2.1.

6.1.2 The Adjudicator shall give his or her decision in writing to both parties within twenty-eight (28) days of the dispute being referred to the Adjudicator. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the Purchaser or the Supplier within fifty-six (56) days of such reference, the decision shall become final and binding upon the Purchaser and the Supplier. Any decision that has become final and binding shall be implemented by the parties forthwith.

6.1.3 The Adjudicator shall be paid an hourly fee at the rate specified in Appendix 2 of the Agreement plus reasonable expenditures incurred in the execution of duties as Adjudicator, and these costs shall be divided equally between the Purchaser and the Supplier.

6.1.4 Should the Adjudicator resign or die, or should the Purchaser and the Supplier agree that the Adjudicator is not fulfilling his or her functions in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Purchaser and the Supplier. Failing agreement between the two within twenty-eight (28) days, the new Adjudicator shall be appointed at the request of either party by the Appointing Authority **specified in the PCC**, or, if no Appointing Authority is **specified in PCC**, the Contract shall, from this point onward and until the parties may otherwise agree on an

Adjudicator or an Appointing Authority, be implemented as if there is no Adjudicator.

## 6.2 Arbitration

### 6.2.1 If

- (a) the Purchaser or the Supplier is dissatisfied with the Adjudicator's decision and acts before this decision has become final and binding pursuant to GCC Clause 6.1.2, or
- (b) the Adjudicator fails to give a decision within the allotted time from referral of the dispute pursuant to GCC Clause 6.1.2, and the Purchaser or the Supplier acts within the following fourteen (14) days, or
- (c) in the absence of an Adjudicator named in Appendix 2 of the Agreement, the mutual consultation pursuant to GCC Clause 6.1.1 expires without resolution of the dispute and the Purchaser or the Supplier acts within the following fourteen (14) days,

then either the Purchaser or the Supplier may act to give notice to the other party, with a copy for information to the Adjudicator in case an Adjudicator had been involved, of its intention to commence arbitration, as provided below, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

6.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Clause 6.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after Installation of the Information System.

6.2.3 Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the PCC**.

6.3 Notwithstanding any reference to the Adjudicator or arbitration in this clause,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree;
- (b) the Purchaser shall pay the Supplier any monies due the Supplier.

## **B. SUBJECT MATTER OF CONTRACT**

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| <b>7. Scope of the System</b>                              | <p>7.1 Unless otherwise expressly <b>limited in the PCC</b> or Purchaser's Requirements, the Supplier's obligations cover the provision of all Information Technologies, Materials and other Goods as well as the performance of all Services required for the design, development, and implementation (including procurement, quality assurance, assembly, associated site preparation, Delivery, Pre-commissioning, Installation, Testing, and Commissioning) of the System, in accordance with the plans, procedures, specifications, drawings, codes, and any other documents specified in the Contract and the Agreed and Finalized Project Plan.</p> <p>7.2 The Supplier shall, unless specifically excluded in the Contract, perform all such work and / or supply all such items and Materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Operational Acceptance of the System as if such work and / or items and Materials were expressly mentioned in the Contract.</p> <p>7.3 The Supplier's obligations (if any) to provide Goods and Services as implied by the Recurrent Price tables of the Supplier's bid, such as consumables, spare parts, and technical services (e.g., maintenance, technical assistance, and operational support), are as <b>specified in the PCC</b>, including the relevant terms, characteristics, and timings.</p> |
| <b>8. Time for Commencement and Operational Acceptance</b> | <p>8.1 The Supplier shall commence work on the System within the period <b>specified in the PCC</b>, and without prejudice to GCC Clause 28.2, the Supplier shall thereafter proceed with the System in accordance with the time schedule specified in the Implementation Schedule in the Purchaser's Requirements and any refinements made in the Agreed and Finalized Project Plan.</p> <p>8.2 The Supplier shall achieve Operational Acceptance of the System (or Subsystem(s) where a separate time for Operational Acceptance of such Subsystem(s) is specified in</p>   |

the Contract) within the time **specified in the PCC** and in accordance with the time schedule specified in the Implementation Schedule in the Purchaser's Requirements and any refinements made in the Agreed and Finalized Project Plan, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

**9. Supplier's Responsibilities**

- 9.1 The Supplier shall conduct all activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of information technologies, information systems, support, maintenance, training, and other related services, or in accordance with best industry practices. In particular, the Supplier shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.
- 9.2 The Supplier confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the System provided by the Purchaser and on the basis of information that the Supplier could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the Supplier relating to the System as at the date twenty-eight (28) days prior to bid submission. The Supplier acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Contract.
- 9.3 The Supplier shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach a mutually Agreed and Finalized Project Plan (pursuant to GCC Clause 19.2) within the time schedule specified in the Implementation Schedule in the Purchaser's Requirements. Failure to provide such resources, information, and decision -making may constitute grounds for termination pursuant to GCC Clause 41.2.
- 9.4 The Supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in the Purchaser's Country that are necessary for the performance of the Contract, including, without limitation, visas for the Supplier's personnel and Subcontractor's personnel and entry permits for all imported Supplier's Equipment. The Supplier shall acquire all other permits, approvals, and/or licenses that

are not the responsibility of the Purchaser under GCC Clause 10.4 and that are necessary for the performance of the Contract.

- 9.5 The Supplier shall comply, and will cause all of its personnel and Subcontractors to comply, with all Applicable Law. The Supplier shall indemnify and hold harmless the Purchaser Indemnitees, on demand, from and against any Losses incurred by any of them, and shall defend in accordance with GCC Clause 32.7 the Purchaser Indemnitees against all Claims, arising from or in connection with the violation of such laws by the Supplier or its personnel, including the Subcontractors and their personnel. The Supplier shall not indemnify the Purchaser to the extent that such Losses were caused or contributed to by a fault of the Purchaser, unless the Supplier knew or reasonably should have known that Purchaser's fault would result in a Claim and did not object.
- 9.6 The Supplier shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs, and all local laws and regulations pertaining to the employment of labor.
- 9.7 Any Information Technologies or other Goods and Services that will be incorporated in or be required for the System and other supplies shall have their Origin, as defined in GCC Clause 3.13, in a country that shall be an Eligible Country, as defined in GCC Clause 1.1 (v).
- 9.8 The Supplier shall permit MCC and/or persons appointed by MCC to inspect the Site and/or the accounts and records of the Supplier and any subcontractors relating to the performance of this Contract, and to have such accounts and records audited by auditors appointed by MCC, if so required by MCC in accordance with the provisions of the Annex to this Contract entitled "Additional Provisions."
- 9.9 Other Supplier responsibilities, if any, are as **stated in the PCC.**

## **10. Purchaser's Responsibilities**

- 10.1 The Purchaser shall ensure the accuracy of all information and/or data to be supplied by the Purchaser to the Supplier, except when otherwise expressly stated in the Contract.
- 10.2 The Purchaser shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach an Agreed and Finalized Project

Plan (pursuant to GCC Clause 19.2) within the time schedule specified in the Implementation Schedule in the Purchaser's Requirements. Failure to provide such resources, information, and decision-making may constitute grounds for Termination pursuant to GCC Clause 41.3.1.

- 10.3 The Purchaser shall be responsible for acquiring and providing legal and physical possession of the site and access to it, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract.
- 10.4 If requested by the Supplier, the Purchaser shall use its best endeavors to assist the Supplier in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of the Contract from all local, state, or national government authorities or public service undertakings that such authorities or undertakings require the Supplier or Subcontractors or the personnel of the Supplier or Subcontractors, as the case may be, to obtain.
- 10.5 In such cases where the responsibilities of specifying and acquiring or upgrading telecommunications and/or electric power services falls to the Supplier, as specified in the Purchaser's Requirements, PCC, Agreed and Finalized Project Plan, or other parts of the Contract, the Purchaser shall use its best endeavors to assist the Supplier in obtaining such services in a timely and expeditious manner.
- 10.6 The Purchaser shall be responsible for timely provision of all resources, access, and information necessary for the Installation and Operational Acceptance of the System (including, but not limited to, any required telecommunications or electric power services), as identified in the Agreed and Finalized Project Plan, except where provision of such items is explicitly identified in the Contract as being the responsibility of the Supplier. Delay by the Purchaser may result in an appropriate extension of the Time for Operational Acceptance, at the Supplier's discretion.
- 10.7 Unless otherwise specified in the Contract or agreed upon by the Purchaser and the Supplier, the Purchaser shall provide sufficient, properly qualified operating and technical personnel, as required by the Supplier to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Implementation Schedule in the Purchaser's Requirements and the Agreed and Finalized Project Plan.

- 10.8 The Purchaser will designate appropriate staff for the training courses to be given by the Supplier and shall make all appropriate logistical arrangements for such training as specified in the Purchaser's Requirements, PCC, the Agreed and Finalized Project Plan, or other parts of the Contract.
- 10.9 The Purchaser assumes primary responsibility for the Operational Acceptance Test(s) for the System, in accordance with GCC Clause 27.2, and shall be responsible for the continued operation of the System after Operational Acceptance. However, this shall not limit in any way the Supplier's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.
- 10.10 The Purchaser is responsible for performing and safely storing timely and regular backups of its data and Software in accordance with accepted data management principles, except where such responsibility is clearly assigned to the Supplier elsewhere in the Contract.
- 10.11 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Purchaser, save those to be incurred by the Supplier with respect to the performance of the Operational Acceptance Test(s), in accordance with GCC Clause 27.2.
- 10.12 Other Purchaser responsibilities, if any, are **as stated in the PCC**.

### **C. PAYMENT**

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#### **11. Contract Price**

- 11.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.
- 11.2 The Contract Price shall be a firm lump sum not subject to any alteration, except:
- (a) in the event of a Change in the System pursuant to GCC Clause 39 or to other clauses in the Contract;
  - (b) in accordance with the price adjustment formula (if any) **specified in the PCC**.
- 11.3 The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall,



except as otherwise provided for in the Contract, cover all its obligations under the Contract.

## **12. Terms and Schedule of Payment**

12.1 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the System or Subsystem(s), Delivered, Pre-commissioned, Installed, and Operationally Accepted, and by documents submitted pursuant to GCC Clause 22.5 and upon fulfillment of other obligations stipulated in the Contract.

The Contract Price shall be paid according to the payment schedule as **specified in the PCC**.

12.2 No payment made by the Purchaser herein shall be deemed to constitute acceptance by the Purchaser of the System or any Subsystem(s).

12.3 Payments shall be made promptly by the Purchaser, but in no case later than thirty (30) days after the submission of a valid invoice by the Supplier with a certificate of acceptance of delivery of a deliverable or deliverables. In the event that the Purchaser fails to make any payment by its respective due date or within the period set forth in the Contract, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate(s) **specified in the PCC** for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.

12.4 All payments shall be made in the currency(ies) specified in the Contract, pursuant to GCC Clause 11. For Goods and Services supplied locally, payments shall be made in the currency of the Purchaser's Country, unless otherwise **specified in the PCC**.

12.5 Unless otherwise **specified in the PCC**, payment of the foreign currency portion of the Contract Price for Goods supplied from outside the Purchaser's Country shall be made to the Supplier through an irrevocable letter of credit opened by an authorized bank in the Supplier's Country and will be payable on presentation of the appropriate documents. It is agreed that the letter of credit will be subject to Article 10 of the latest revision of Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, Paris.

## **13. Securities**

13.1 Issuance of Securities

The Supplier shall provide the securities specified below in

favor of the Purchaser at the times and in the amount, manner, and form specified below.

### 13.2 Advance Payment Security

13.2.1 As **specified in the PCC**, the Supplier shall provide a security equal in amount and currency to the advance payment, and valid until the System is Operationally Accepted.

13.2.2 The security shall be in the form provided in the Bidding Documents or in another form acceptable to the Purchaser. The amount of the security shall be reduced in proportion to the value of the System executed by and paid to the Supplier from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the Purchaser. The way the value of the security is deemed to become reduced and, eventually, voided is as **specified in the PCC**. The security shall be returned to the Supplier immediately after its expiration.

### 13.3 Performance Security

13.3.1 The Supplier shall, within twenty-eight (28) days of the notification of Contract award, provide a security for the due performance of the Contract in the amount and currency **specified in the PCC**.

13.3.2 The security shall be a bank guarantee in the form provided in the Bidding Forms Section of the Bidding Documents, or it shall be in another form acceptable to the Purchaser.

13.3.3 The security shall automatically become null and void once all the obligations of the Supplier under the Contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the Supplier no later than twenty-eight (28) days after its expiration.

13.3.4 Upon Operational Acceptance of the entire System, the security shall be reduced to the amount **specified in the PCC**, on the date of such Operational Acceptance, so that the reduced security would only cover the remaining warranty obligations of the Supplier.

**14. Taxes and Duties**

14.1 As provided for under the terms of the Agreement, most services performed under and activities undertaken in furtherance of the Contract, including in connection with the Supply and Installation of Information Systems, are exempt from taxes, duties, levies, contributions or other charges imposed under Laws currently or hereafter in effect in the Purchaser's Country (separately "tax" and collectively "taxes") during the effective term of the Agreement, including, without limitation:

- (a) income taxes, withholding taxes, and other profit or business taxes imposed on individuals, organizations, or enterprises (other than nationals or permanent residents of the Purchaser's Country);
- (b) customs duties, tariffs, import and export taxes or other taxes imposed on import, usage and re-export of goods, (including Supplier's Equipment and spare parts thereof, Plant, Materials and supplies imported into the Purchaser's Country for purposes of the Contract), services or personal items (including personal automobiles) to be used in connection with the execution of the Works or for usage by the Supplier's personnel (or their family members) who are not nationals or permanent residents of the Purchaser's Country and are in the Purchaser's Country for the purpose of the execution of the Works; and
- (c) sales tax, valued added tax, excise tax, property (real or personal) transfer tax, taxes on the ownership, possession or use of property (real or personal), and other similar charges on any transactions involving goods, works or services.

14.2 In the case of imports of goods for personal usage, the written information shall indicate that the goods shall be used for personal usage by Supplier's personnel (or their family members) who are neither nationals nor permanent residents of the Purchaser's Country and who are in the Purchaser's Country for the purpose of executing the Works.

14.3 The Purchaser shall use reasonable efforts to ensure that the Government provides the Supplier, any subcontractor and any Supplier's personnel the exemptions from taxation applicable

to such persons or entities, in accordance with the terms of the Agreement.

- 14.4 As provided for under the terms of the Agreement, the Supplier's local staff and labor (nationals or permanent residents of the Purchaser's Country) will be liable to pay personal income taxes in the Purchaser's Country in respect of such of their salaries and wages as are chargeable under the Laws for the time being in force, and the Supplier shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.
- 14.5 The Supplier, each subcontractor and their respective personnel shall pay all taxes levied under Applicable Laws. In no event shall the Purchaser be responsible for the payment of any taxes.
- 14.6 If the Supplier, any subcontractor or Supplier's personnel is required to pay taxes that are exempt under the Agreement, the Supplier shall promptly notify the Purchaser of any such taxes paid, and shall cooperate with, and take such actions as may be requested by the Purchaser, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such taxes.

## **D. INTELLECTUAL PROPERTY**

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### **15. Intellectual Property Rights**

- 15.1 The Intellectual Property Rights in all Standard Software and Standard Materials shall remain vested in the owner of such rights.
- 15.2 The Purchaser agrees to restrict use, copying, or duplication of the Standard Software and Standard Materials in accordance with GCC Clause 16, except that additional copies of Standard Materials may be made by the Purchaser for use within the scope of the project of which the System is a part, in the event that the Supplier does not deliver copies within thirty (30) days from receipt of a request for such Standard Materials.
- 15.3 The Purchaser's rights to use the Standard Software or elements of the Standard Software may not be assigned, licensed, or otherwise transferred voluntarily except in accordance with a permitted assignment of the Contract or as may be otherwise **specified in the PCC**.

- 15.4 As applicable, the Purchaser's and Supplier's rights and obligations with respect to Custom Software or elements of the Custom Software, including any license agreements, and with respect to Custom Materials or elements of the Custom Materials, are specified in the PCC. **Subject to the PCC**, the Intellectual Property Rights in all Custom Software and Custom Materials specified in Appendices 4 and 5 of the Agreement (if any) shall, at the date of this Contract or on creation of the rights (if later than the date of this Contract), vest in the Purchaser. The Supplier shall do and execute or arrange for the doing and executing of each necessary act, document, and thing that the Purchaser may consider necessary or desirable to perfect the right, title, and interest of the Purchaser in and to those rights, including those acts **specified in the PCC**. In respect of such Custom Software and Custom Materials, the Supplier shall ensure that the holder of a moral right in such an item does not assert it, and the Supplier shall, if requested to do so by the Purchaser and where permitted by Applicable Law, ensure that the holder of such a moral right waives it. Supplier shall place proprietary rights notices in favor of Purchaser on the Custom Software and Custom Materials.
- 15.5 The parties shall enter into such (if any) escrow arrangements in relation to the Source Code to some or all of the Software as are **specified in the PCC** and in **accordance with the PCC**.

**16. License to  
Software and  
Materials**

- 16.1 Except to the extent that the Intellectual Property Rights in the Software and Materials vest in the Purchaser, the Supplier hereby grants to the Purchaser and its Affiliates a license to access and use, install, load, host, access, use, execute, reproduce, display, perform, create derivative works of, modify and maintain, including the right to allow the Purchaser's and its Affiliates' agents, contractors, service providers, suppliers and their subcontractors to exercise such rights on Purchaser's or an Affiliate's behalf to the extent reasonably required for them to perform their work under their agreements with the Purchaser or its Affiliates, the Software and Materials, including all Intellectual Property Rights embodied in the Software and Materials.

Such license to the Software and Materials shall:

- (a) be:
  - (i) perpetual;

- (ii) nonexclusive;
  - (iii) fully paid up;
  - (iv) valid throughout the territory of the Purchaser's Country (or such other territory as **specified in the PCC**); and
  - (v) subject to additional restrictions (if any) as **specified in the PCC**.
- (b) permit the Software (and Materials, as applicable) to be:
- (i) used or copied for use on or with the computer(s) for which it was acquired (if specified in the Purchaser's Requirements and/or the Supplier's Bid), plus a backup computer(s) of the same or similar capacity, if the primary is(are) inoperative, and during a reasonable transitional period when use is being transferred between primary and backup;
  - (ii) as **specified in the PCC**, used or copied for use on or transferred to a replacement computer(s), (and use on the original and replacement computer(s) may be simultaneous during a reasonable transitional period) provided that, if the Purchaser's Requirements and/or the Supplier's Bid specifies a class of computer to which the license is restricted and unless the Supplier agrees otherwise in writing, the replacement computer(s) is (are) within that class;
  - (iii) if the nature of the System is such as to permit such access, accessed from other computers connected to the primary and/or backup computer(s) by means of a local or wide-area network or similar arrangement, and used on or copied for use on those other computers to the extent necessary to that access;
  - (iv) reproduced for safekeeping or backup purposes;
  - (v) customized, adapted, or combined with other computer software for use by the Purchaser, provided that derivative software incorporating any substantial part of the delivered, restricted

Software shall be subject to same restrictions as are set forth in this Contract;

- (vi) as **specified in the PCC**, disclosed to, and reproduced for use by, support service suppliers and their subcontractors, (and the Purchaser may sublicense such persons to use and copy for use the Software) to the extent reasonably necessary to the performance of their support service contracts, subject to the same restrictions as are set forth in this Contract; and
- (vii) disclosed to, and reproduced for use by, the Purchaser and by such other persons as are **specified in the PCC** (and the Purchaser may sublicense such persons to use and copy for use the Software), subject to the same restrictions as are set forth in this Contract.

16.2 Except if otherwise **specified in the PCC**, on Supplier's written request, but not more than once per year, the Purchaser shall furnish to the Supplier with a signed certification verifying that the Purchaser's use of the Standard Software is consistent with the terms, conditions and restrictions of GCC Clause 16.

**17. Confidential Information and Data Security**

17.1 Except if otherwise **specified in the PCC** and in GCC Clause 17.3 below, the "Receiving Party" (either the Purchaser or the Supplier) shall not, without the written consent of the other party to this Contract ("the Disclosing Party"), divulge to any third party any documents, data, or other information of a confidential or proprietary nature, in any form, of the Disclosing Party that is (i) marked as confidential or proprietary or otherwise identified as confidential or proprietary by the Disclosing Party, or (ii) disclosed orally or visually, or in written or other form of tangible information or materials without an appropriate letter, proprietary stamp or legend, if it would be apparent to a reasonable person, familiar with the Disclosing Party's business and industry, that such documents, data or information are of a confidential or proprietary nature (collectively, "Confidential Information"), which is furnished directly or indirectly by the Disclosing Party prior to or during performance, or following termination, of the Contract. Purchaser Data is the Purchaser's Confidential Information. The Receiving Party shall hold as confidential through use of the same level of care (including both facility physical security and electronic security) to prevent unauthorized access by, storage,

disclosure, publication, dissemination to and/or use by third parties of, the Confidential Information of the Disclosing Party as it employs to avoid unauthorized access, storage, disclosure, publication, dissemination or use of its own Confidential Information, but in no event less than a reasonable standard of care.

17.2 For the purposes of GCC Clause 17.1, the Supplier is also deemed to be the Receiving Party of Confidential Information generated by the Supplier itself in the course of the performance of its obligations under the Contract and relating to the businesses, finances, suppliers, employees, or other contacts of the Purchaser or the Purchaser's use of the System or Services.

17.3 Notwithstanding GCC Clauses 17.1 and 17.2:

- (a) the Supplier may furnish to its Subcontractor(s) Confidential Information of the Purchaser to the extent reasonably required for the Subcontractor to perform its work under the Contract; and
- (b) the Purchaser may furnish Confidential Information of the Supplier: (i) to its agents, contractors, service providers, advisors, suppliers and their subcontractors to the extent reasonably required for them to perform their work under their agreements with Purchaser; and (ii) to its Affiliates.

in which event the Receiving Party shall ensure that (A) the person to whom it furnishes Confidential Information of the Disclosing Party is bound by obligations of confidentiality, non-disclosure and the other restrictive covenants at least as restrictive and extensive in scope as those set forth in this GCC Clause 17; and (B) the Disclosing Party assumes full responsibility for the acts or omissions of the persons to which it makes such disclosures no less than if the acts or omissions were those of the Receiving Party.

17.4 The Purchaser shall not, without the Supplier's prior written consent, use any Confidential Information received from or on behalf of the Supplier for any purpose other than those that are required to receive and utilize the System and Services and to exercise its rights under the Contract, including without limitation the operation, maintenance and further development of the System. Similarly, the Supplier shall not, without the Purchaser's prior written consent, use any Confidential Information received from or on behalf of the



Purchaser for any purpose other than those that are required for the performance of the Contract.

17.5 Except for Personal Information, the obligation of a party under GCC Clauses 17.1 through 17.4 above, however, shall not apply to that information which:

- (a) now or hereafter enters the public domain through no fault of the Receiving Party;
- (b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;
- (c) otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality to the Disclosing Party.

In the event of disclosure pursuant to an order of court or governmental agency, and subject to compliance with law, the Receiving Party shall give the Disclosing Party prompt notice to permit the Disclosing Party an opportunity, if available, to obtain a protective order or otherwise protect the confidentiality of such Confidential Information of the Disclosing Party, all at the Disclosing Party's cost and expense.

17.6 All Confidential Information of the Disclosing Party, whether in existence at the date of the Contract or compiled thereafter in the course of providing the System or Services, shall be treated by the Receiving Party as the exclusive property of the Disclosing Party and the furnishing of such Confidential Information, or access to such Confidential Information, by the Disclosing Party shall not grant any express or implied interest in the Receiving Party to such Confidential Information. Furthermore, except as set forth in the Contract, the Receiving Party will not acquire any right in or assert any lien against the Disclosing Party's Confidential Information. Upon request at any time and from time to time and without regard to the default status of the parties under the Contract, the Receiving Party shall promptly deliver to the Disclosing Party the Confidential Information of the Disclosing Party in such format as may be reasonably requested by the Disclosing Party and in such hard copy as exists on the date of the request; provided, however, that Supplier may only request the return of its Confidential Information if the return will not adversely affect the provision of the System or Services, Purchaser's full

enjoyment of the System or Services as permitted in the Contract, or the full exercise by Purchaser of the rights granted to Purchaser under the Contract.

17.7 In addition to any specific requirements set forth in the Contract, Supplier shall establish an information security program with respect to the Confidential Information of the Purchaser and its Affiliates which: (i) ensures the security and confidentiality of such Confidential Information; (ii) protects against any anticipated threats or hazards to the security or integrity of such Confidential Information, and (iii) protects against any unauthorized use of or access to such Confidential Information. Supplier shall also establish and maintain network and internet security procedures, protocols, security gateways and firewalls with respect to the Confidential Information of the Purchaser and its Affiliates. All of the foregoing shall be consistent with the Contract and no less rigorous than those maintained by Supplier for its own data and information of a similar nature, but in no event shall such safeguards and procedures be less than what is standard in the industry. Without limiting the generality of the foregoing, the Supplier's information security program shall also address: (1) regular assessment and re-assessment of the risks to the security of Confidential Information of the Purchaser and its Affiliates and systems acquired or maintained by the Supplier and its Subcontractors, including (A) identification of internal and external threats that could result in a Security Breach, (B) assessment of the likelihood and potential damage of such threats, taking into account the sensitivity of such data and systems, and (C) assessment of the sufficiency of policies, procedures, and information systems of Supplier and its Subcontractors, and other arrangements in place, to control risks; and (2) protection against such risks.

17.8 Supplier shall remove all of the Confidential Information of the Purchaser and its Affiliates from any media taken out of service and shall destroy or securely erase such media in a manner designed to protect against unauthorized access to or use of any such Confidential Information in connection with such destruction or erasure.

17.9 In the event Supplier becomes aware of any Security Breach, Supplier shall (i) as promptly as practicable (and, in any event, within 24 hours) notify Purchaser of such Security Breach, (ii) perform a root cause analysis thereon; (iii) investigate such Security Breach and report its findings to Purchaser; (iv) provide Purchaser with a remediation plan for its approval to

address the Security Breach and prevent any further incidents; (v) once approved, remediate such Security Breach in accordance with such approved plan; (vi) conduct a forensic investigation to determine what systems, data and information have been affected by such Security Breach and provide all of the results and related reporting to Purchaser for its review; and (vii) cooperate with Purchaser and, at Purchaser's request, any law enforcement or regulatory officials, credit reporting companies, and credit card associations investigating such Security Breach. If Supplier does not provide to Purchaser the results and related reporting associated with its forensic investigation or Purchaser determines that such information is not sufficient, then Supplier shall allow Purchaser and its designees to conduct a forensic investigation of the Security Breach. Supplier shall use commercially reasonable efforts to preserve all evidence relating to the Security Breach until Purchaser and its designees have completed such forensic investigation or confirmed to Supplier that it waives its right to conduct such an investigation. To the extent Supplier is unable to preserve any evidence relating to the Security Breach, Supplier shall create and maintain forensic copies of all such evidence and supporting documentation reasonably necessary for the investigation and prosecution of claims relating to such Security Breach. Supplier will be responsible for the costs and expenses associated with the performance of its obligations in this GCC Clause 17.9 and Supplier shall reimburse Purchaser on demand for all Notification Related Costs incurred by Purchaser arising out of or in connection with any such Security Breach, except to the extent the Security Breach is caused by the acts or omissions of Purchaser. Without limiting the foregoing and notwithstanding anything herein to the contrary, Purchaser shall make the final decision on notifying any third party of the Security Breach, and the implementation of any other remedies, including the remediation plan.

17.10 Supplier acknowledges that its violation of this GCC Clause 17 may cause irreparable harm, the amount of which would be impossible to estimate, thus making any remedy at law or in damages inadequate. Supplier therefore agrees that Purchaser shall have the right to apply to any court or administrative body of competent jurisdiction for and be granted an injunction or similar order compelling specific performance by Supplier of its obligations under the Contract. Purchaser shall not be required to post any bond or other security in connection with any such injunction.

17.11 The above provisions of this GCC Clause 17 shall not in any way modify any undertaking of confidentiality given by either of the parties to this Contract prior to the date of the Contract in respect of the System or Services, or any part thereof.

17.12 The provisions of this GCC Clause 17: (i) will apply after the date of the Contract to any Confidential Information disclosed or made available to the Receiving Party before and after the date of the Contract and (ii) will continue and must be maintained from the date of the Contract through the expiration or earlier termination of the Contract and (a) with respect to trade secrets, until such trade secrets no longer qualify as trade secrets under Applicable Law; (b) with respect to Personal Information disclosed by the Disclosing Party, in perpetuity; and (c) with respect to all other Confidential Information, for a period equal to three (3) years after termination of the parties' relationship under the Contract or such longer period as may be **specified in the PCC**.

## **E. SUPPLY, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM**

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### **18. Representatives** 18.1 Project Manager

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Purchaser shall appoint and notify the Supplier in writing of the name of the Project Manager. The Purchaser may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the Supplier without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the System. Such appointment shall take effect only upon receipt of such notice by the Supplier. Subject to the extensions and/or limitations **specified in the PCC** (if any), the Project Manager shall have the authority to represent the Purchaser on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Purchaser pursuant to GCC Clause 4.

### 18.2 Supplier's Representative

18.2.1 If the Supplier's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Supplier shall appoint the

Supplier's Representative and shall request the Purchaser in writing to approve the person so appointed. The request must be accompanied by a detailed curriculum vitae for the nominee, as well as a description of any other System or non-System responsibilities the nominee would retain while performing the duties of the Supplier's Representative. If the Purchaser does not object to the appointment within fourteen (14) days, the Supplier's Representative shall be deemed to have been approved. If the Purchaser objects to the appointment within fourteen (14) days giving the reason therefore, then the Supplier shall appoint a replacement within fourteen (14) days of such objection in accordance with this GCC Clause 18.2.1.

- 18.2.2 Subject to the extensions and/or limitations **specified in the PCC** (if any), the Supplier's Representative shall have the authority to represent the Supplier on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Supplier pursuant to GCC Clause 4.
- 18.2.3 The Supplier shall not revoke the appointment of the Supplier's Representative without the Purchaser's prior written consent, which shall not be unreasonably withheld. If the Purchaser consents to such an action, the Supplier shall appoint another person of equal or superior qualifications as the Supplier's Representative, pursuant to the procedure set out in GCC Clause 18.2.1.
- 18.2.4 The Supplier's Representative and staff are obliged to work closely with the Purchaser's Project Manager and staff, act within their own authority, and abide by directives issued by the Purchaser that are consistent with the terms of the Contract. The Supplier's Representative is responsible for managing the activities of the Supplier's personnel and any subcontracted personnel.
- 18.2.5 The Supplier's Representative may, subject to the approval of the Purchaser, at any time delegate to any person any of the powers, functions, and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or

revocation shall be subject to a prior notice signed by the Supplier's Representative and shall specify the powers, functions, and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until the notice of it has been delivered.

18.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with GCC Clause 18.2.5 shall be deemed to be an act or exercise by the Supplier's Representative.

### 18.3 Objections and Removals

18.3.1 If the Purchaser finds that any of the Supplier's personnel has committed serious misconduct or has been charged with having committed a criminal action, then the Supplier shall remove such person from work on the Purchaser's account.

18.3.2 If the Purchaser has reasonable cause to be dissatisfied with the performance of any of the Supplier's personnel, the Purchaser may by notice to the Supplier request the replacement of any representative or person employed by the Supplier in the execution of the Contract who, in the reasonable opinion of the Purchaser and for reasons that are not unlawful are not in the best interests of the Purchaser. After receipt of such notice, the Supplier will immediately suspend such person's assignment to the Purchaser's account and promptly investigate the matter. If the Supplier is not able to address the matter to the Purchaser's reasonable satisfaction within five (5) days, then Supplier shall remove such person from work on the Purchaser's account.

18.3.3 If any representative or person employed by the Supplier is removed in accordance with GCC Clause 18.3.1 or 18.3.2, the Supplier shall, where required, promptly appoint a replacement.

## **19. Project Plan**

19.1 In close cooperation with the Purchaser and based on the Preliminary Project Plan included in the Supplier's bid, the Supplier shall develop a Project Plan encompassing the activities specified in the Contract. The contents of the Project

Plan shall be as **specified in the PCC** and/or Purchaser's Requirements.

19.2 The Supplier shall formally present to the Purchaser the Project Plan in accordance with the procedure **specified in the PCC**.

19.3 If required, the impact on the Implementation Schedule of modifications agreed during finalization of the Agreed and Finalized Project Plan shall be incorporated in the Contract by amendment, in accordance with GCC Clauses 39 and 40.

19.4 The Supplier shall undertake to supply, install, test, and commission the System in accordance with the Agreed and Finalized Project Plan and the Contract.

19.5 The Progress and other reports **specified in the PCC** shall be prepared by the Supplier and submitted to the Purchaser in the format and frequency specified in the Purchaser's Requirements.

## **20. Subcontracting**

20.1 Appendix 3 (List of Approved Subcontractors) to the Contract specifies critical items of supply or services and a list of Subcontractors for each item that are considered acceptable by the Purchaser. If no Subcontractors are listed for an item in Appendix 3, then, except as provided in GCC Clause 20.3, Supplier may not subcontract such item. Approval by the Purchaser of a Subcontractor(s) shall not relieve the Supplier from any of its obligations, duties, or responsibilities under the Contract.

20.2 The Supplier may, at its discretion, select and employ Subcontractors for such critical items from those Subcontractors listed pursuant to GCC Clause 20.1. If the Supplier wishes to employ a Subcontractor not so listed, or subcontract an item not so listed, it must seek the Purchaser's prior approval under GCC Clause 20.3.

20.3 For items for which pre-approved Subcontractor lists have not been specified in Appendix 3 to the Contract, the Supplier may employ such Subcontractors as it may select, provided: (i) the Supplier notifies the Purchaser in writing at least twenty-eight (28) days prior to the proposed mobilization date for such Subcontractor; and (ii) by the end of this period either the Purchaser has granted its approval in writing or fails to respond. The Supplier shall not engage any Subcontractor to which the Purchaser has objected in writing prior to the end of the notice period. The absence of a written objection by the

Purchaser during the above specified period shall constitute formal acceptance of the proposed Subcontractor. Except to the extent that it permits the deemed approval of the Purchaser of Subcontractors not listed in the relevant Appendix of the Agreement, nothing in this Clause, however, shall limit the rights and obligations of either the Purchaser or Supplier as they are specified in GCC Clauses 20.1 and 20.2, in the PCC, or in Appendix 3 of the Contract.

## 21. Design and Engineering

### 21.1 Technical Specifications and Drawings

21.1.1 The Supplier shall execute the basic and detailed design and the implementation activities necessary for successful Installation of the System in compliance with the provisions of the Contract or, where not so specified, in accordance with good industry practice.

The Supplier shall be responsible for any discrepancies, errors or omissions in the specifications, drawings, and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of inaccurate information furnished in writing to the Supplier by or on behalf of the Purchaser.

21.1.2 The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification, or other document, or any modification of such design, drawings, specification, or other documents provided or designated by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Project Manager.

### 21.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise **specified in the PCC**. During Contract execution, any changes in such codes and standards shall be applied after approval by the Purchaser and shall be treated in accordance with GCC Clause 39.3.



### 21.3 Approval/Review of Technical Documents by the Project Manager

21.3.1 The Supplier shall prepare and furnish to the Project Manager the documents as **specified in the PCC** for the Project Manager's approval or review.

Any part of the System covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval of these documents.

GCC Clauses 21.3.2 through 21.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

21.3.2 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Clause 21.3.1, the Project Manager shall either return one copy of the document to the Supplier with its approval endorsed on the document or shall notify the Supplier in writing of its disapproval of the document and the reasons for disapproval and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the fourteen (14) days, then the document shall be deemed to have been approved by the Project Manager.

21.3.3 The Project Manager shall not disapprove any document except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good industry practice.

21.3.4 If the Project Manager disapproves the document, the Supplier shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Clause 21.3.2. If the Project Manager approves the document subject to modification(s), the Supplier shall make the required modification(s), and the document shall then be deemed to have been approved, subject to GCC Clause 21.3.5. The procedure set out in GCC Clauses 21.3.2 through 21.3.4 shall be repeated, as appropriate, until the Project Manager approves such documents.

21.3.5 If any dispute occurs between the Purchaser and the Supplier in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) to a document that cannot be settled between the parties within a reasonable period, then, in case Appendix 2 of the Agreement names an Adjudicator, such dispute may be referred to the Adjudicator for determination in accordance with GCC Clause 6.1 (Adjudicator). If such dispute is referred to an Adjudicator, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Supplier shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Adjudicator upholds the Supplier's view on the dispute and if the Purchaser has not given notice under GCC Clause 6.1.2, then the Supplier shall be reimbursed by the Purchaser for any additional, reasonable costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Achieving Operational Acceptance shall be extended in accordance with GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

21.3.6 The Project Manager's approval, with or without modification of the document furnished by the Supplier, shall not relieve the Supplier of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager or inaccurate information furnished in writing to the Supplier by or on behalf of the Purchaser.

21.3.7 The Supplier shall not depart from any approved document unless the Supplier has first submitted to the Project Manager an amended document and obtained the Project Manager's approval of the document, pursuant to the provisions of this GCC Clause 21.3.7. If the Project Manager requests any change in any already approved document and/or in any document based on such an approved document, the provisions of

GCC Clause 39 (Changes to the System) shall apply to such request.

**22. Procurement, Delivery, and Transport**

22.1 Subject to related Purchaser's responsibilities pursuant to GCC Clauses 10 and 14, the Supplier shall manufacture or procure and transport all the Information Technologies, Materials, and other Goods in an expeditious and orderly manner to the Project Site.

22.2 Delivery of the Information Technologies, Materials, and other Goods shall be made by the Supplier in accordance with the Purchaser's Requirements.

22.3 Early or partial deliveries require the explicit written consent of the Purchaser, which consent shall not be unreasonably withheld.

22.4 Transportation

22.4.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during shipment. The packing, marking, and documentation within and outside the packages shall comply strictly with the Purchaser's instructions to the Supplier.

22.4.2 The Supplier will bear responsibility for and cost of transport to the Project Sites in accordance with the terms and conditions used in the specification of prices in the Price Schedules, including the terms and conditions of the associated Incoterms.

22.4.3 Unless otherwise **specified in the PCC**, the Supplier shall be free to use transportation through carriers registered in any eligible country and to obtain insurance from any eligible source country.

22.5 Unless otherwise **specified in the PCC**, the Supplier will provide the Purchaser with shipping and other documents, as specified below:

22.5.1 For Goods supplied from outside the Purchaser's Country:

Upon shipment, the Supplier shall notify the Purchaser and the insurance company contracted by the Supplier to provide cargo insurance by telex, cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Supplier shall promptly send the

following documents to the Purchaser by mail or courier, as appropriate, with a copy to the cargo insurance company:

- (a) two copies of the Supplier's invoice showing the description of the Goods, quantity, unit price, and total amount;
- (b) usual transportation documents;
- (c) insurance certificate;
- (d) certificate(s) of origin; and
- (e) estimated time and point of arrival in the Purchaser's Country and at the site.

22.5.2 For Goods supplied locally (i.e., from within the Purchaser's country):

Upon shipment, the Supplier shall notify the Purchaser by telex, cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Supplier shall promptly send the following documents to the Purchaser by mail or courier, as appropriate:

- (a) two copies of the Supplier's invoice showing the Goods' description, quantity, unit price, and total amount;
- (b) delivery note, railway receipt, or truck receipt;
- (c) certificate of insurance;
- (d) certificate(s) of origin; and
- (e) estimated time of arrival at the site.

## 22.6 Customs Clearance

- (a) The Purchaser will bear responsibility for, and cost of, customs clearance into the Purchaser's country in accordance the particular Incoterm(s) used for Goods supplied from outside the Purchaser's country in the Price Schedules referred to by Article 2 of the Contract Agreement.
- (b) At the request of the Purchaser, the Supplier will make available a representative or agent during the process of customs clearance in the Purchaser's country for Goods

supplied from outside the Purchaser's country. In the event of delays in customs clearance that are the fault of the Purchaser:

- (i) the Supplier shall be entitled to an extension in the Time for Achieving Operational Acceptance, pursuant to GCC Clause 40;
- (ii) the Contract Price shall be adjusted to compensate the Supplier for any additional, reasonable storage charges that the Supplier incurs as a result of the delay.

### 23. Product Upgrades

23.1 At any point during performance of the Contract, should technological advances be introduced by the Supplier for Information Technologies originally offered by the Supplier in its bid and still to be delivered, the Supplier shall be obligated to offer to the Purchaser the latest versions of the available Information Technologies having equal or better performance or functionality at the same or lesser unit prices, pursuant to GCC Clause 39 (Changes to the System).

23.2 At any point during performance of the Contract, for Information Technologies still to be delivered, the Supplier will also pass on to the Purchaser any cost reductions and additional and/or improved support and facilities that it offers to other clients of the Supplier in the Purchaser's Country, pursuant to GCC Clause 39 (Changes to the System).

23.3 During performance of the Contract, the Supplier shall provide to the Purchaser all new versions, releases, and updates of Standard Software, as well as related documentation and technical support services, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in the Purchaser's Country, and no later than twelve (12) months after they are released in the country of origin. In no case will the prices for these Software exceed those quoted by the Supplier in the Recurrent Costs tables in its Bid.

23.4 During the Warranty Period, unless otherwise **specified in the PCC**, the Supplier will provide at no additional cost to the Purchaser all new versions, releases, and updates for all Standard Software that are used in the System, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in the Purchaser's country, and no later than

twelve (12) months after they are released in the country of origin of the Software.

23.5 The Purchaser shall use commercially reasonable efforts to introduce all new versions, releases or updates of the Software within eighteen (18) months of receipt of a production-ready copy of the new version, release, or update, provided that the new version, release, or update does not adversely affect System operation or performance, require extensive reworking of the System or require the purchase of new or updated Information Technologies. In cases where the new version, release, or update adversely affects System operation or performance, requires extensive reworking of the System, or requires the purchase of new or updated Information Technologies, the Supplier shall continue to support and maintain, or arrange for the support and maintenance of, the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update. In no case shall the Supplier stop supporting or maintaining a version or release of the Software less than twenty-four (24) months after the Purchaser receives a production-ready copy of a subsequent version, release, or update.

**24. Implementation, Installation, and Other Services**

24.1 The Supplier shall provide all Services specified in the Contract and Agreed and Finalized Project Plan in accordance with the highest standards of professional competence and integrity.

24.2 Prices charged by the Supplier for Services, if not included in the Contract, shall be agreed upon in advance by the parties (including, but not restricted to, any prices submitted by the Supplier in the Recurrent Cost Schedules of its Bid) and shall not exceed the prevailing rates charged by the Supplier to other purchasers in the Purchaser's Country for similar services.

**25. Inspections and Tests**

25.1 The Purchaser or its representative shall have the right to inspect and/or test any components of the System, as specified in the Purchaser's Requirements, to confirm their good working order and/or conformity to the Contract at the point of delivery and/or at the Project Site.

25.2 The Purchaser or its representative shall be entitled to attend any such inspections and/or tests of the components, provided that the Purchaser shall bear all costs and expenses incurred in

connection with such attendance, including but not limited to all inspection agent fees, travel, and related expenses.

25.3 Should the inspected or tested components fail to conform to the Contract, the Purchaser may reject the component(s), and the Supplier shall either replace the rejected component(s), or make alterations as necessary so that it meets the Contract requirements free of cost to the Purchaser.

25.4 The Project Manager may require the Supplier to carry out any inspection and/or test not specified in the Contract, provided that the Supplier's commercially reasonable costs and expenses incurred in the carrying out of such inspection and/or test shall be added to the Contract Price. Further, if such inspection and/or test impedes the progress of work on the System and/or the Supplier's performance of its other obligations under the Contract, the Time for Achieving Operational Acceptance and the other obligations so affected shall be extended in accordance with GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

25.5 If any dispute shall arise between the parties in connection with or caused by an inspection and/or with regard to any component to be incorporated in the System that cannot be settled amicably between the parties within a reasonable period of time, either party may invoke the process pursuant to GCC Clause 6 (Settlement of Disputes), starting with referral of the matter to the Adjudicator in case an Adjudicator is named in Appendix 2 of the Agreement.

**26. Installation of the System**

26.1 As soon as the System, or any Subsystem, has, in the opinion of the Supplier, been delivered, Pre-commissioned, and made ready for Commissioning and Operational Acceptance Testing in accordance with the Purchaser's Requirements, the PCC and the Agreed and Finalized Project Plan, the Supplier shall so notify the Purchaser in writing.

26.2 The Project Manager shall, within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1, either issue an Installation Certificate in the form specified in the Bidding Forms Section in the Bidding Documents, stating that the System, or major component or Subsystem (if Acceptance by major component or Subsystem is specified pursuant to the PCC GCC Clause 27.2.1), has achieved Installation by the date of the Supplier's notice under GCC Clause 26.1, or notify the Supplier in writing of any defects and/or deficiencies, including, but not limited to, defects or deficiencies in the interoperability or integration of the various components

and/or Subsystems making up the System. The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies that the Project Manager has notified the Supplier of. The Supplier shall then promptly carry out retesting of the System or Subsystem and, when in the Supplier's opinion the System or Subsystem is ready for Commissioning and Operational Acceptance Testing, notify the Purchaser in writing, in accordance with GCC Clause 26.1. The procedure set out in this GCC Clause 26.2 shall be repeated, as necessary, until an Installation Certificate is issued.

26.3 If the Project Manager fails to issue the Installation Certificate and fails to inform the Supplier of any defects and/or deficiencies within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1, or if the Purchaser puts the System or a Subsystem into production operation, then the System (or Subsystem) shall be deemed to have achieved successful Installation as of the date of the Supplier's notice or repeated notice, or when the Purchaser put the System into production operation, as the case may be.

**27. Commissioning  
and Operational  
Acceptance**

27.1 Commissioning

27.1.1 Commissioning of the System (or Subsystem if specified pursuant to the PCC GCC Clause 27.2.1) shall be commenced by the Supplier:

- (a) immediately after the Installation Certificate is issued by the Project Manager, pursuant to GCC Clause 26.2; or
- (b) as otherwise specified in the Purchaser's Requirements or the Agreed and Finalized Project Plan; or
- (c) immediately after Installation is deemed to have occurred, under GCC Clause 26.3.

27.1.2 The Purchaser shall supply the operating and technical personnel and all materials and information reasonably required to enable the Supplier to carry out its obligations with respect to Commissioning.

Production use of the System or Subsystem(s) shall not commence prior to the start of formal Operational Acceptance Testing.



## 27.2 Operational Acceptance Tests

27.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the Purchaser (in accordance with GCC Clause 10.9), but shall be conducted with the full cooperation of the Supplier during Commissioning of the System (or major components or Subsystem[s] if **specified in the PCC** and supported by the Purchaser's Requirements), to ascertain whether the System (or major component or Subsystem[s]) conforms to the Purchaser's Requirements and meets the standard of performance quoted in the Supplier's bid, including, but not restricted to, the functional and technical performance requirements. The Operational Acceptance Tests during Commissioning will be conducted as **specified in the PCC**, the Purchaser's Requirements and/or the Agreed and Finalized Project Plan.

At the Purchaser's discretion, Operational Acceptance Tests may also be performed on replacement Goods, upgrades and new version releases, and Goods that are added or field-modified after Operational Acceptance of the System.

27.2.2 If for reasons solely attributable to the Purchaser, the Operational Acceptance Test of the System (or Subsystem[s] or major components, pursuant to the PCC GCC Clause 27.2.1) cannot be successfully completed within the period **specified in the PCC**, from the date of Installation or any other period agreed upon in writing by the Purchaser and the Supplier, the Supplier shall be deemed to have fulfilled its obligations with respect to the technical and functional aspects of the Technical Specifications, PCC and/or the Agreed and Finalized Project Plan, and GCC Clause 28.2 and 28.3 shall not apply.

## 27.3 Operational Acceptance

27.3.1 Subject to GCC Clause 27.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the System, when

- (a) the Operational Acceptance Tests, as specified in the Purchaser's Requirements, and/or PCC and/or

the Agreed and Finalized Project Plan have been successfully completed; or

- (b) the Operational Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the Purchaser within the period from the date of Installation or any other agreed-upon period as specified in GCC Clause 27.2.2 above; or
- (c) the Purchaser has put the System into production or use for sixty (60) consecutive days. If the System is put into production or use in this manner, the Supplier shall notify the Purchaser and document such use.

27.3.2 At any time after any of the events set out in GCC Clause 27.3.1 have occurred, the Supplier may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate.

27.3.3 After consultation with the Purchaser, and within fourteen (14) days after receipt of the Supplier's notice, the Project Manager shall:

- (a) issue an Operational Acceptance Certificate; or
- (b) notify the Supplier in writing of any defect or deficiencies or other reason for the failure of the Operational Acceptance Tests; or
- (c) issue the Operational Acceptance Certificate, if the situation covered by GCC Clause 27.3.1 (b) arises.

27.3.4 The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Operational Acceptance Test that the Project Manager has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Purchaser, and the Purchaser, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the System or Subsystem. Upon the successful conclusion of the Operational Acceptance Tests, the Supplier shall notify the Purchaser of its request for Operational Acceptance Certification, in accordance with GCC Clause 27.3.3. The Purchaser shall then issue to the Supplier the

Operational Acceptance Certification in accordance with GCC Clause 27.3.3 (a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause 27.3.4 shall be repeated, as necessary, until an Operational Acceptance Certificate is issued.

27.3.5 If the System or Subsystem fails to pass the Operational Acceptance Test(s) in accordance with GCC Clause 27.2, then either:

(a) the Purchaser may terminate the Contract, pursuant to GCC Clause 41.2.2 (c);

or

(b) if the failure to achieve Operational Acceptance within the specified time period is a result of the failure of the Purchaser to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract, and GCC Clause 30.3 shall not apply.

27.3.6 If within fourteen (14) days after receipt of the Supplier's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Supplier shall send a notification to the Project Manager informing that the fourteen (14) day period has expired. If the Project Manager fails to take action as set forth above in this GCC Clause 27.3.6 within three (3) days from the receipt of such notice, the System or Subsystem shall be deemed to have been accepted as of the date of the Supplier's said notice.

#### 27.4 Partial Acceptance

27.4.1 If so specified in the PCC GCC Clause 27.2.1, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem(s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Operational Acceptance Test, shall apply to each such

major component or Subsystem individually, and Operational Acceptance Certificate(s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in GCC Clause 27.4.2.

27.4.2 The issuance of Operational Acceptance Certificates for individual major components or Subsystems pursuant to GCC Clause 27.4.1 shall not relieve the Supplier of its obligation to obtain an Operational Acceptance Certificate for the System as an integrated whole (if so specified in the PCC GCC Clauses 12.1 and 27.2.1) once all major components and Subsystems have been supplied, installed, tested, and commissioned.

27.4.3 In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue an Operational Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The Supplier shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the Purchaser or Supplier.

## **F. GUARANTEES AND LIABILITIES**

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### **28. Operational Acceptance Time Guarantee**

28.1 The Supplier guarantees that it shall complete the Supply, Installation, Commissioning, and achieve Operational Acceptance of the System (or Subsystems, pursuant to the PCC GCC Clause 27.2.1) within the time periods specified in the Implementation Schedule in the Purchaser's Requirements and/or the Agreed and Finalized Project Plan pursuant to GCC Clause 8.2, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

28.2 If the Supplier fails to supply, install, commission, and achieve Operational Acceptance of the System (or Subsystems pursuant to the PCC GCC Clause 27.2.1) within the time for achieving Operational Acceptance specified in the Implementation Schedule in the Purchaser's Requirements or the Agreed and Finalized Project Plan, or any extension of the time for achieving Operational Acceptance previously granted under GCC Clause

40 (Extension of Time for Achieving Operational Acceptance), the Supplier shall pay to the Purchaser liquidated damages at the rate **specified in the PCC** as a percentage of the Contract Price, or the relevant part of the Contract Price if a Subsystem has not achieved Operational Acceptance. The aggregate amount of such liquidated damages shall in no event exceed the amount specified in the PCC (“the Maximum”). Once the Maximum is reached, the Purchaser may terminate the Contract, pursuant to GCC Clause 41.2.2.

28.3 Unless otherwise **specified in the PCC**, liquidated damages payable under GCC Clause 28.2 shall apply only to the failure to achieve Operational Acceptance of the System (and Subsystems) as specified in the Implementation Schedule in the Purchaser’s Requirements and/or Agreed and Finalized Project Plan. This GCC Clause 28.3 shall not limit, however, any other rights or remedies the Purchaser may have under the Contract for other delays.

28.4 If liquidated damages are claimed by the Purchaser for the System (or Subsystem), the Supplier shall have no further liability whatsoever to the Purchaser in respect to the Operational Acceptance time guarantee for the System (or Subsystem). However, the payment of liquidated damages shall not in any way relieve the Supplier from any of its obligations to complete the System or from any other of its obligations and liabilities under the Contract.

## **29. Representations and Warranties**

29.1 The Supplier represents and warrants that the System, including all Information Technologies, Materials, and other Goods supplied and Services provided, shall be free from defects in the design, engineering, Materials, and workmanship, including any defects that prevent the System and/or any of its components from fulfilling the Purchaser’s Requirements or that limit the performance, reliability, or extensibility of the System and/or Subsystems. Exceptions and/or limitations, if any, to this warranty with respect to Software (or categories of Software), shall be as **specified in the PCC**. In addition to the representations and warranties set forth in the Contract, the Supplier shall pass-through or assign to the Purchaser the rights Supplier obtains from the manufacturers and/or vendors of any Information Technologies, Materials, and other Goods supplied and Services provided hereunder (including warranty and indemnification rights).

- 29.2 The Supplier represents and warrants that the Information Technologies, Materials, and other Goods supplied under the Contract (i) are new, unused, and incorporate all recent improvements in design that materially affect the System's or Subsystem's ability to fulfill the Purchaser's Requirements, and (ii) shall be free and clear of all liens, restrictions, claims, charges, security interests, or other encumbrances of any nature whatsoever.
- 29.3 The Supplier represents and warrants that: (i) all Goods components to be incorporated into the System form part of the Supplier's and/or Subcontractor's current product lines, (ii) they have been previously released to the market, and (iii) those specific items **identified in the PCC** (if any) have been in the market for at least the minimum periods **specified in the PCC**.
- 29.4 Reserved.
- 29.5 The Supplier represents and warrants that it does and shall at all times comply with all Applicable Laws.
- 29.6 The Supplier represents and warrants that no Malware or similar items are coded into or will be introduced into the System or Services and that the System and Services do not and will not contain any Malware. If Malware is found to have been introduced into System or Services, Supplier shall diligently work to eliminate the effects of the Malware at Supplier's expense, unless otherwise directed by Purchaser.
- 29.7 The Supplier represents and warrants that it has the skill and experience necessary to fully perform its obligations under the Contract and that the System and Services will be rendered by competent professionals who possess the degree of skill and care that is required by current good and sound professional procedures and practices in accordance with industry standards and will conform to requirements under the Contract.
- 29.8 Supplier represents and warrants that (i) it is a corporation, partnership or limited liability company (as applicable) duly organized, validly subsisting or existing and in good standing under the laws of the jurisdiction of its organization, (ii) it is duly qualified or licensed to conduct business and is in good standing under the laws of each jurisdiction where such qualification is required, (iii) has the full right, power and authority, including all necessary licenses, visas, work permits or other governmental approvals, to enter into and perform its

obligations under the Contract, provide the System and Services hereunder, and to conduct its business as now conducted and hereafter contemplated to be conducted and is in compliance with its articles of incorporation and bylaws, partnership agreement or limited liability company agreement (as applicable), (iv) the Contract has been duly executed and delivered by Supplier and constitutes a legal, valid and binding obligation of Supplier, which is enforceable against Supplier in accordance with its terms, and (v) it is not under any obligation of a contractual or other nature to any person or entity which is inconsistent or in conflict with the Contract or which would prevent, limit or impair in any way the performance by Supplier of its obligations under the Contract.

- 29.9 Supplier represents and warrants that it will promptly pay all of Supplier's personnel and Subcontractors. If any of Supplier's personnel or Subcontractors files a lien or threatens to file a lien against Purchaser's or any of its Affiliates' property for the System or Services provided or otherwise in connection with the transactions contemplated by the Contract, Supplier shall immediately obtain a release of any such lien and post a bond indemnifying Purchaser and its Affiliates, as applicable, against all loss by reason of such lien.
- 29.10 The Warranty Period shall commence from the date of Operational Acceptance of the System (or of any major component or Subsystem for which separate Operational Acceptance is provided for in the Contract) and shall extend for the length of time **specified in the PCC**, and, for the avoidance of doubt, such time period shall survive termination of the Contract unless expiration of the Warranty Period occurs prior to Contract termination.
- 29.11 If during the Warranty Period any defect as described in GCC Clause 29.1 should be found in the design, engineering, Materials, and workmanship of the Information Technologies and other Goods supplied or of the Services provided by the Supplier, the Supplier shall promptly, at its sole cost, and at Purchaser's direction, either repair, replace, or otherwise make good (as the Supplier shall, at its discretion, determine) such defect as well as any damage to the System caused by such defect. Any defective Information Technologies or other Goods that have been replaced by the Supplier shall remain the property of the Supplier.
- 29.12 The Supplier shall not be responsible for the repair, replacement, or making good of any defect, or of any damage

to the System, to the extent arising out of or resulting from any of the following causes:

- (a) operation or maintenance of the System by the Purchaser in a manner not permitted in the Contract;
- (b) normal wear and tear;
- (c) use of the System with items not supplied by the Supplier, unless otherwise identified in the Purchaser's Requirements or such items were recommended or approved by the Supplier or were necessary for the System to achieve its commercial function); or
- (d) material modifications made to the System by the Purchaser, or a third party, not recommended or approved by the Supplier.

29.13 The Supplier's obligations under GCC Clause 29.1 shall not apply to:

- (a) any materials that are normally consumed in operation or have a normal life shorter than the Warranty Period; or
- (b) any designs, specifications, or other data designed, supplied, or specified by or on behalf of the Purchaser or any matters for which the Supplier has disclaimed responsibility, in accordance with GCC Clause 21.1.2.

29.14 The Purchaser shall give the Supplier a notice promptly following the discovery of such defect, stating the nature of any such defect. The Purchaser shall afford the Supplier with a reasonable opportunity for the Supplier to inspect any such defect. Upon Supplier's reasonable request, the Purchaser shall afford the Supplier with access to the System and the site solely as required to enable the Supplier to perform its obligations under this GCC Clause 29.

29.15 The Supplier may, with the consent of the Purchaser, remove from the site any Information Technologies and other Goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the System, the Purchaser may give the Supplier notice requiring that tests of the defective part be made by the Supplier immediately upon completion of such



remedial work, whereupon the Supplier shall carry out such tests.

If such part fails the tests, the Supplier shall carry out further repair, replacement, or making good (as the case may be) until that part of the System passes such tests. The tests shall be agreed upon by the Purchaser and the Supplier.

29.16 If the Supplier fails to commence the work necessary to remedy such defect or any damage to the System caused by such defect within the time period **specified in the PCC**, the Purchaser may, following notice to the Supplier, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the Purchaser in connection with such work shall be paid to the Purchaser by the Supplier or may be deducted by the Purchaser from any monies due the Supplier or claimed under the Performance Security.

29.17 If the System or Subsystem cannot be used by reason of such defect and/or making good of such defect, the Warranty Period for the System shall be extended by a period equal to the period during which the System or Subsystem could not be used by the Purchaser because of such defect and/or making good of such defect.

29.18 Items substituted for defective parts of the System during the Warranty Period shall be covered by the Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater.

29.19 At the request of the Purchaser and without prejudice to any other rights and remedies that the Purchaser may have against the Supplier under the Contract, the Supplier will pass-through or assign to Purchaser (to the extent such rights and remedies are capable of being passed-through or assigned) and offer all possible assistance to the Purchaser to seek warranty services or remedial action from any subcontracted third-party producers or licensor of Goods included in the System, including without limitation assignment or transfer in favor of the Purchaser of the benefit of any warranties given by such producers or licensors to the Supplier.

### **30. Functional Guarantees**

30.1 The Supplier guarantees that, once the Operational Acceptance Certificate(s) has been issued, the System represents a complete, integrated solution to the requirements set forth in the Purchaser's Requirements and it conforms to all other aspects of the Contract. The Supplier acknowledges

that GCC Clause 27 regarding Commissioning and Operational Acceptance governs how technical conformance of the System to the Contract requirements will be determined.

30.2 If, for reasons attributable to the Supplier, the System does not conform to the Purchaser's Requirements or does not conform to all other aspects of the Contract, the Supplier shall at its cost and expense make such changes, modifications, and/or additions to the System as may be necessary to conform to the Purchaser's Requirements and meet all functional and performance standards. The Supplier shall notify the Purchaser upon completion of the necessary changes, modifications, and/or additions and shall request the Purchaser to repeat the Operational Acceptance Tests until the System achieves Operational Acceptance.

30.3 If the System (or Subsystem[s]) fails to achieve Operational Acceptance, the Purchaser may terminate the Contract, pursuant to GCC Clause 41.2.2 (c), and require the Supplier to forfeit the Supplier's Performance Security in accordance with GCC Clause 13.3 in partial compensation for the extra costs and delays likely to result from this failure.

**31. Intellectual  
Property Rights  
Warranty**

31.1 The Supplier hereby represents and warrants that:

- (a) the System as supplied, installed, tested, and accepted;
- (b) use of the System in accordance with the Contract; and
- (c) copying of the Software and Materials provided to the Purchaser in accordance with the Contract

do not and will not infringe, misappropriate or violate any Intellectual Property Rights held by any third party and that it has all necessary rights or at its sole expense shall have secured in writing all transfers of rights and other consents necessary to make the assignments, licenses, and other transfers of Intellectual Property Rights and the warranties set forth in the Contract, and for the Purchaser to own or exercise all Intellectual Property Rights as provided in the Contract. Without limitation, the Supplier shall secure all necessary written agreements, consents, and transfers of rights from its employees and other persons or entities whose services are used for development of the System, including the Custom Software and Custom Materials.

**32. Intellectual  
Property Rights  
Indemnity**

32.1 The Supplier shall indemnify and hold harmless the Purchaser Indemnitees, on demand, from and against any and all Losses incurred by any of them, and shall defend in accordance with GCC Clause 32.7 the Purchaser Indemnitees against all Claims, arising from or in connection with any infringement, misappropriation or violation, or alleged infringement, misappropriation or violation, of any Intellectual Property Rights by reason of:

- (a) Installation of the System by the Supplier or the use of the System, including the Software and Materials, in the country where the site is located;
- (b) copying of the Software and Materials provided the Supplier in accordance with the Contract; and
- (c) sale of the products produced by the System in any country, except to the extent that such Losses arise as a result of the Purchaser's breach of GCC Clause 32.2.

32.2 Such indemnity shall not cover any use of the System, including the Materials, to the extent such use is other than for the purpose indicated by or to be reasonably inferred from the Contract, or to the extent any infringement, misappropriation or violation results from the use of the System, or any products of the System produced thereby in association or combination with any other goods or services not supplied, recommended or authorized by the Supplier (unless such association or combination was necessary for the System to achieve its commercial function), where the infringement, misappropriation or violation arises because of such association or combination and not because of use of the System in its own right.

32.3 Such indemnity shall also not apply to the extent any Claim of infringement, misappropriation or violation:

- (a) is asserted by a parent, subsidiary, or Affiliate of the Purchaser's organization;
- (b) is a direct result of a design mandated by the Purchaser's Requirements and the possibility of such infringement, misappropriation or violation was duly noted in the Supplier's Bid; or
- (c) is a direct result of the alteration of the System, including the Materials, in a manner not permitted under the

Contract by the Purchaser or any persons other than the Supplier or a person authorized by the Supplier.

32.4 The Purchaser shall indemnify and hold harmless the Supplier Indemnitees, on demand, from and against any and all Losses incurred by any of them, and shall defend in accordance with GCC Clause 32.7 the Supplier Indemnitees against all Claims, arising from or in connection with any infringement, misappropriation or violation, or alleged infringement, misappropriation or violation, of any Intellectual Property Rights arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided to the Supplier in connection with this Contract by the Purchaser or any persons (other than the Supplier) contracted by the Purchaser, except to the extent that such Losses arise as a result of the Supplier's breach of GCC Clause 32.5.

32.5 Such indemnity shall not cover

- (a) any use of the design, data, drawing, specification, or other documents or materials, other than for the purpose indicated by or to be reasonably inferred from the Contract;
- (b) any infringement, misappropriation or violation resulting from the use of the design, data, drawing, specification, or other documents or materials, or any products produced thereby, in association or combination with any other Goods or Services not provided by the Purchaser or any other person (other than the Supplier) contracted by the Purchaser, where the infringement, misappropriation or violation arises because of such association or combination and not because of the use of the design, data, drawing, specification, or other documents or materials in its own right.

32.6 Such indemnities shall also not apply to the extent any Claim of infringement, misappropriation or violation:

- (a) is asserted by a parent, subsidiary, or Affiliate of the Supplier's organization;
- (b) is caused by the alteration, by the Supplier, or any persons contracted by the Supplier, of the design, data, drawing, specification, or other documents or materials

provided to the Supplier by the Purchaser or any persons contracted by the Purchaser.

32.7 If any Claim is made against an indemnified party arising out of the matters referred to in GCC Clause 9.5, GCC Clause 32.1, GCC Clause 32.4, GCC Clause 36.2 or GCC Clause 36.3, the indemnified party shall promptly give the indemnifying party notice of such Claim (but the failure to timely notify will only relieve the indemnifying party of its obligation to the extent that the defense of such Claim is prejudiced by such failure), and the indemnifying party shall at its own expense and in the indemnified party's name defend such Claim and conduct any negotiations for the settlement of any such Claim. If the indemnifying party fails to promptly notify the indemnified party after receipt of such notice that it intends to defend any such Claim, then the indemnified party shall be free to conduct the same on its own behalf, at the expense of the indemnifying party. Unless the indemnifying party has so failed to notify the Supplier, the indemnified party shall make no admission that may be prejudicial to the defense of any such Claim. The indemnified party shall, at the indemnifying party's request, afford all available assistance to the indemnifying party in defending such Claim and shall be reimbursed by the indemnifying party for all reasonable expenses incurred in so doing. In any such Claim, the indemnified party shall have the right to retain its own counsel, but the fees and expense of such counsel shall be at the expense of such indemnified party unless (a) the indemnifying party and the indemnified party shall have mutually agreed otherwise, or (b) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential conflicting interests between them. The indemnifying party shall not, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding (i) if such settlement: (A) involves any form of relief other than the payment of money, (B) involves any finding or admission of any violation of any law or any of the rights of any person or entity, or (C) has any adverse effect on any other Claims that have been or may be made against the indemnified party, or (ii) if such settlement involves only the payment of money, unless it includes an unconditional release of such indemnified party of all liability on all indemnified Claims that are the subject of such proceeding.

**33. Limitation of Liability**

33.1 Provided the following does not exclude or limit any liabilities of either party in ways not permitted by Applicable Law, and except as provided in GCC Clause 33.2:

- (a) neither party shall not be liable to the other party, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, including loss of use, loss of production or loss of profits; even if such party has been advised of the possibility of such losses or damages; provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
- (b) the aggregate liability of each party arising under or relating to the Contract, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price.

33.2 The limitations on the types and amounts of damages in GCC Clause 33.1 shall not apply to:

- (a) damages covered under the party's indemnification obligations;
- (b) damages caused by or arising out of intentional misconduct, gross negligence, theft or fraud;
- (c) damages caused by Supplier's abandonment or repudiation of the Contract;
- (d) damages arising from a violation by either party of the provisions of GCC Clause 17 (Confidential Information and Data Security), including Notification Related Costs; and
- (e) damages arising from the failure to comply with Applicable Law.

**G. RISK DISTRIBUTION**

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**34. Transfer of Ownership**

34.1 With the exception of Software and Materials, the ownership of the Information Technologies and other Goods shall be transferred to the Purchaser at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract.

34.2 Ownership and the terms of usage of the Software and Materials supplied under the Contract shall be governed by

GCC Clause 15 (Intellectual Property Rights) and any elaboration in the Purchaser's Requirements.

34.3 Ownership of the Supplier's Equipment used by the Supplier and its Subcontractors in connection with the Contract shall remain with the Supplier or its Subcontractors.

**35. Care of the System**

35.1 The Purchaser shall become responsible for the care and custody of the System or Subsystems upon their Delivery. The Purchaser shall make good at its own cost any loss or damage that may occur to the System or Subsystems from any cause from the date of Delivery until the date of Operational Acceptance of the System or Subsystems, pursuant to GCC Clause 27 (Commissioning and Operational Acceptance), excepting such loss or damage arising from acts or omissions of the Supplier, its employees, or subcontractors.

35.2 If any loss or damage occurs to the System or any part of the System by reason of:

- (a) (insofar as they relate to the country where the Project Site is located) nuclear reaction, nuclear radiation, radioactive contamination, a pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance taken out under GCC Clause 37;
- (b) any use not in accordance with the Contract, by the Purchaser or any third party;
- (c) any use of or reliance upon any design, data, or specification provided or designated by or on behalf of the Purchaser, or any such matter for which the Supplier has disclaimed responsibility in accordance with GCC Clause 21.1.2,

the Purchaser shall pay to the Supplier all sums payable in respect of the System or Subsystems that have achieved Operational Acceptance, notwithstanding that the same be lost, destroyed, or damaged. If the Purchaser requests the Supplier in writing to make good any loss or damage to the System thereby occasioned, the Supplier shall make good the same at the cost of the Purchaser in accordance with GCC Clause 39. If the Purchaser does not request the Supplier in

writing to make good any loss or damage to the System thereby occasioned, the Purchaser shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the System thereby lost, destroyed, or damaged, or, where the loss or damage affects a substantial part of the System, the Purchaser shall terminate the Contract pursuant to GCC Clause 41.1.

- 36. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification**
- 35.3 The Purchaser shall be liable for any loss of or damage to any Supplier's Equipment which the Purchaser has authorized to locate within the Purchaser's premises for use in fulfillment of Supplier's obligations under the Contract, except where such loss or damage arises from acts or omissions of the Supplier, its employees, or subcontractors.
- 36.1 The Supplier and each and every Subcontractor shall abide by the job safety, insurance, customs, and immigration measures prevalent, and laws in force, in the Purchaser's Country.
- 36.2 The Supplier shall indemnify and hold harmless the Purchaser Indemnitees, on demand, from and against any and all Losses incurred by any of them, and shall defend in accordance with GCC Clause 32.7 the Purchaser Indemnitees against all Claims, arising from or in connection with the death or injury of any person or loss of or damage to any property arising from or in connection with the negligence of the Supplier or its Subcontractors, or their employees, officers, Affiliates or agents, except to the extent any injury, death, or property damage is caused by the negligence of the Purchaser, its contractors, employees, officers, or agents.
- 36.3 The Purchaser shall indemnify and hold harmless the Supplier Indemnitees from any Losses incurred by any of them, and shall defend in accordance with GCC Clause 32.7 the Supplier Indemnitees against all Claims, arising from or in connection with the death or personal injury of any person or loss of or damage to property of the Purchaser, other than the System not yet achieving Operational Acceptance, that is caused by fire, explosion, or any other perils, arising from or in connection with the negligence of the Purchaser, or its employees, officers, Affiliates or agents, and in excess of the amount recoverable from insurances procured under GCC Clause 37 (Insurances), except to the extent any injury, death, or property damage arising from such fire, explosion, or other perils is caused by the negligence of the Supplier, its Subcontractors, employees, officers, Affiliates or agents.



36.4 The party entitled to the benefit of an indemnity under this GCC Clause 36 shall take all commercially reasonable measures to mitigate any loss or damage that has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

### 37. Insurances

37.1 The Supplier shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurance set forth below. The identity of the insurers and the form of the policies shall be subject to the approval of the Purchaser, who should not unreasonably withhold such approval.

(a) Cargo Insurance During Transport

as applicable, 110 percent of the price of the Information Technologies and other Goods in a freely convertible currency, covering the Goods from physical loss or damage during shipment through receipt at the Project Site.

(b) Installation "All Risks" Insurance

as applicable, 110 percent of the price of the Information Technologies and other Goods covering the Goods at the site from all risks of physical loss or damage (excluding only perils commonly excluded under "all risks" insurance policies of this type by reputable insurers) occurring prior to Operational Acceptance of the System.

(c) Third-Party Liability Insurance

On terms as **specified in the PCC**, covering bodily injury or death suffered by third parties (including the Purchaser's personnel) and loss of or damage to property (including the Purchaser's property and any Subsystems that have been accepted by the Purchaser) occurring in connection with the supply and Installation of the Information System.

(d) Automobile Liability Insurance

In accordance with the statutory requirements prevailing in the Purchaser's Country, covering use of all vehicles used by the Supplier or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.

(e) Other Insurance (if any), as **specified in the PCC.**

37.2 The Purchaser shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1, except for the Third-Party Liability, and the Supplier's Subcontractors shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1 except for Cargo Insurance During Transport. All insurer's rights of subrogation against such co-insured for losses or claims arising out of the performance of the Contract shall be waived under such policies.

37.3 The Supplier shall deliver to the Purchaser certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect.

37.4 The Supplier shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Supplier.

37.5 If the Supplier fails to take out and/or maintain in effect the insurance referred to in GCC Clause 37.1, the Purchaser may take out and maintain in effect any such insurance and may from time to time deduct from any amount due the Supplier under the Contract any premium that the Purchaser shall have paid to the insurer or may otherwise recover such amount as a debt due from the Supplier.

37.6 Unless otherwise provided in the Contract, the Supplier shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 37, and all monies payable by any insurers shall be paid to the Supplier. The Purchaser shall give to the Supplier all such reasonable assistance as may be required by the Supplier in connection with any claim under the relevant insurance policies. With respect to insurance claims in which the Purchaser's interest is involved, the Supplier shall not give any release or make any compromise with the insurer without the prior written consent of the Purchaser. With respect to insurance claims in which the Supplier's interest is involved, the Purchaser shall not give any release or make any compromise with the insurer without the prior written consent of the Supplier.

### **38. Force Majeure**

38.1 "Force Majeure" shall mean any event beyond the reasonable control of the Purchaser or of the Supplier, as the case may be,

and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following:

- (a) war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;
- (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts;
- (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler, or any other act or failure to act of any local state or national government authority;
- (d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;
- (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;
- (f) failure, by the Supplier, to obtain the necessary export permit(s) from the governments of the Country(s) of Origin of the Information Technologies or other Goods, or Supplier's Equipment provided that the Supplier has made all reasonable efforts to obtain the required export permit(s), including the exercise of due diligence in determining the eligibility of the System and all of its components for receipt of the necessary export permits.

38.2 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.

38.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations

under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance with GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

38.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Clause 38.6.

38.5 No delay or nonperformance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:

- (a) constitute a default or breach of the Contract;
- (b) (subject to GCC Clauses 35.2, 38.3, and 38.4) give rise to any claim for damages or additional cost or expense occasioned by the delay or nonperformance,

if, and to the extent that, such delay or nonperformance is caused by the occurrence of an event of Force Majeure.

38.6 If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the time period covered by the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.

38.7 In the event of termination pursuant to GCC Clause 38.6, the rights and obligations of the Purchaser and the Supplier shall be as specified in GCC Clauses 41.1.2 and 41.1.3.

38.8 Notwithstanding GCC Clause 38.5, Force Majeure shall not apply to any obligation of the Purchaser to make payments to the Supplier under this Contract.

## **H. CHANGE IN CONTRACT ELEMENTS**

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### **39. Changes to the System**

#### **39.1 Introducing a Change**

39.1.1 Subject to GCC Clauses 39.2.5 and 39.2.7, the Purchaser shall have the right to propose, and subsequently require, the Project Manager to order the Supplier from time to time during the performance of the Contract to make any change, modification, addition, or deletion to, in, or from the System (interchangeably called “Change”), provided that such Change falls within the general scope of the System, does not constitute unrelated work, and is technically practicable, taking into account both the state of advancement of the System and the technical compatibility of the Change envisaged with the nature of the System as originally specified in the Contract.

A Change may involve, but is not restricted to, the substitution of updated Information Technologies and related Services in accordance with GCC Clause 23 (Product Upgrades).

39.1.2 The Supplier may from time to time during its performance of the Contract propose to the Purchaser (with a copy to the Project Manager) any Change that the Supplier considers necessary or desirable to improve the quality or efficiency of the System. The Purchaser may at its discretion approve or reject any Change proposed by the Supplier.

39.1.3 Notwithstanding GCC Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Supplier in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Achieving Operational Acceptance.

39.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Clauses 39.2 and 39.3, and further details and Bidding Forms are provided in the Bidding Forms Section in the Bidding Documents.

39.1.5 Moreover, the Purchaser and Supplier will agree, during development of the Project Plan, to a date prior to the scheduled date for Operational Acceptance, after which the Purchaser’s Requirements for the System shall be “frozen.” Any Change initiated after

this time will be dealt with after Operational Acceptance.

### 39.2 Changes Originating from Purchaser

39.2.1 If the Purchaser proposes a Change pursuant to GCC Clauses 39.1.1, it shall send to the Supplier a "Request for Change Proposal," requiring the Supplier to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

- (a) brief description of the Change;
- (b) impact on the Time for Achieving Operational Acceptance;
- (c) detailed estimated cost of the Change;
- (d) effect on Functional Guarantees pursuant to GCC Clause 30 (if any);
- (e) effect on any other provisions of the Contract.

39.2.2 Prior to preparing and submitting the "Change Proposal," the Supplier shall submit to the Project Manager a "Change Estimate Proposal," which shall be an estimate of the cost of preparing the Change Proposal, plus a first approximation of the suggested approach and cost for implementing the changes. Upon receipt of the Supplier's Change Estimate Proposal, the Purchaser shall do one of the following:

- (a) accept the Supplier's estimate with instructions to the Supplier to proceed with the preparation of the Change Proposal;
- (b) advise the Supplier of any part of its Change Estimate Proposal that is unacceptable and request the Supplier to review its estimate;
- (c) advise the Supplier that the Purchaser does not intend to proceed with the Change.

39.2.3 Upon receipt of the Purchaser's instruction to proceed under GCC Clause 39.2.2 (a), the Supplier shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Clause 39.2.1. The Supplier, at its discretion, may specify a validity period for the Change Proposal,

after which if the Purchaser and Supplier has not reached agreement in accordance with GCC Clause 39.2.6, then GCC Clause 39.2.7 shall apply.

39.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the nature of the Change is such that the Contract rates and prices are inequitable, the parties to the Contract shall agree on other specific rates to be used for valuing the Change.

39.2.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate impact of compliance with the Request for Change Proposal and with all other Change Orders that have already become binding upon the Supplier under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement by more than fifteen (15) percent, the Supplier may give a written notice of objection to this Request for Change Proposal prior to furnishing the Change Proposal. If the Purchaser accepts the Supplier's objection, the Purchaser shall withdraw the proposed Change and shall notify the Supplier in writing of its acceptance.

The Supplier's failure to object to a Request for Change Proposal shall neither affect its right to object to any subsequent requested Changes or Change Orders, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Supplier represents.

39.2.6 Upon receipt of the Change Proposal, the Purchaser and the Supplier shall mutually agree upon all matters contained in the Change Proposal. Within fourteen (14) days after such agreement, the Purchaser shall, if it intends to proceed with the Change, issue the Supplier a Change Order. If the Purchaser is unable to reach a decision within fourteen (14) days, it shall notify the Supplier with details of when the Supplier can expect a decision. If the Purchaser decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Supplier accordingly. Under such circumstances, the

Supplier shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Supplier in its Change Estimate Proposal submitted in accordance with GCC Clause 39.2.2.

39.2.7 If the Purchaser and the Supplier cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Achieving Operational Acceptance, or any other matters identified in the Change Proposal, the Change will not be implemented. However, this provision does not limit the rights of either party under GCC Clause 6 (Settlement of Disputes).

### 39.3 Changes Originating from Supplier

If the Supplier proposes a Change pursuant to GCC Clause 39.1.2, the Supplier shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Clause 39.2.1. Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Clauses 39.2.6 and 39.2.7. However, should the Purchaser choose not to proceed or the Purchaser and the Supplier cannot come to agreement on the change during any validity period that the Supplier may specify in its Application for Change Proposal, the Supplier shall not be entitled to recover the costs of preparing the Application for Change Proposal, unless subject to an agreement between the Purchaser and the Supplier to the contrary.

### **40. Extension of Time for Achieving Operational Acceptance**

40.1 The time(s) for achieving Operational Acceptance specified in the Schedule of Implementation shall be extended if the Supplier is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- (a) any Change in the System as provided in GCC Clause 39 (Changes to the System);
- (b) any occurrence of Force Majeure as provided in GCC Clause 38 (Force Majeure);
- (c) default of the Purchaser; or



(d) any other matter specifically mentioned in the Contract;

by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Supplier.

40.2 Except where otherwise specifically provided in the Contract, the Supplier shall submit to the Project Manager a notice of a claim for an extension of the time for achieving Operational Acceptance, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Purchaser and the Supplier shall agree upon the period of such extension. In the event that the Supplier does not accept the Purchaser's estimate of a fair and reasonable time extension, the Supplier shall be entitled to refer the matter to the provisions for the Settlement of Disputes pursuant to GCC Clause 6.

40.3 The Supplier shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

## **41. Termination**

### **41.1 Termination for Purchaser's Convenience**

41.1.1 The Purchaser may at any time terminate the Contract for any reason (including the expiration, suspension, or termination of the Agreement in whole or in part in accordance with the terms of the Agreement) by giving the Supplier a notice of termination that refers to this GCC Clause 41.1.

41.1.2 Upon receipt of the notice of termination under GCC Clause 41.1.1, the Supplier shall either as soon as reasonably practical or upon the date specified in the notice of termination:

- (a) cease all further work, except for such work as the Purchaser may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;

- (b) terminate all subcontracts, except those to be assigned to the Purchaser pursuant to GCC Clause 41.1.2 (d) (ii) below;
- (c) remove all Supplier's Equipment from the site, repatriate the Supplier's and its Subcontractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;
- (d) in addition, the Supplier, subject to the payment specified in GCC Clause 41.1.3, shall
  - (i) deliver to the Purchaser the parts of the System executed by the Supplier up to the date of termination;
  - (ii) to the extent legally possible, assign to the Purchaser all right, title, and benefit of the Supplier to the System, or Subsystem, as at the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded between the Supplier and its Subcontractors;
  - (iii) deliver to the Purchaser all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.1.3 In the event of termination of the Contract under GCC Clause 41.1.1 or when the Contract otherwise refers to this Clause 41.1.3, the Purchaser shall pay to the Supplier, as Supplier's sole and exclusive remedy, the following amounts (if any):

- (a) the portion of the Contract Price that is properly attributable to the parts of the System executed by the Supplier as of the date of termination, as mutually agreed by the parties;
- (b) the costs reasonably incurred by the Supplier in the removal of the Supplier's Equipment from the site and in the repatriation of the Supplier's and its Subcontractors' personnel;
- (c) the reasonable amounts to be paid by the Supplier to its Subcontractors in connection with the

termination of any subcontracts, including any cancellation charges;

- (d) costs reasonably incurred by the Supplier in protecting the System and leaving the site in a clean and safe condition pursuant to GCC Clause 41.1.2 (a).

#### 41.2 Termination for Supplier's Default

41.2.1 The Purchaser, without prejudice to any other rights or remedies it may possess, may terminate the Contract for the following reasons by giving a notice of termination and its reasons therefore to the Supplier, referring to this GCC Clause 41.2:

- (a) if the Supplier becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Supplier is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Supplier takes or suffers any other analogous action in consequence of debt;
- (b) if the Supplier assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 42 (Assignment); or
- (c) if the Supplier, in the judgment of the Purchaser, has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, including but not limited to willful misrepresentation of facts concerning ownership of Intellectual Property Rights in, or proper authorization and/or licenses from the owner to offer, the hardware, software, or materials provided under this Contract.

41.2.2 If the Supplier:

- (a) has abandoned or repudiated the Contract;
- (b) has without valid reason failed to commence work on the System promptly;

- (c) has materially breached any term, condition, obligation or duty set forth in the Contract;
- (d) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause; or
- (e) refuses or is unable to provide sufficient Materials, Services, or labor to execute and complete the System in the manner specified in the Agreed and Finalized Project Plan furnished under GCC Clause 19 at rates of progress that give reasonable assurance to the Purchaser that the Supplier can attain Operational Acceptance of the System by the Time for Achieving Operational Acceptance as extended;

then the Purchaser may, without prejudice to any other rights it may possess under the Contract, give a notice to the Supplier stating the nature of the default and requiring the Supplier to remedy the same. If the Supplier fails to remedy the same within fourteen (14) days of its receipt of such notice, then the Purchaser may terminate the Contract forthwith by giving a notice of termination to the Supplier that refers to this GCC Clause 41.2.

41.2.3 Upon receipt of the notice of termination under GCC Clauses 41.2.1 or 41.2.2, the Supplier shall, either immediately or upon such date as is specified in the notice of termination:

- (a) cease all further work, except for such work as the Purchaser may specify in the notice of termination for the sole purpose of protecting that part of the System already executed or any work required to leave the site in a clean and safe condition;
- (b) terminate all subcontracts, except those to be assigned to the Purchaser pursuant to GCC Clause 41.2.3 (d) below;
- (c) deliver to the Purchaser the parts of the System executed by the Supplier up to the date of termination;

(d) to the extent legally possible, assign to the Purchaser all right, title and benefit of the Supplier to the System or Subsystems as at the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded between the Supplier and its Subcontractors;

(e) deliver to the Purchaser all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as at the date of termination in connection with the System.

41.2.4 Upon a Supplier's default under GCC Clause 41.2.1 or 41.2.2, the Purchaser may enter upon the site, expel the Supplier, and complete the System itself or by employing any third party. Upon completion of the System or at such earlier date as the Purchaser thinks appropriate, the Purchaser shall give notice to the Supplier that such Supplier's Equipment will be returned to the Supplier at or near the site and shall return such Supplier's Equipment to the Supplier in accordance with such notice. The Supplier shall thereafter without delay and at its cost remove or arrange removal of the same from the site.

41.2.5 Subject to GCC Clause 41.2.6, the Supplier shall be entitled to be paid the Contract Price attributable to the portion of the System executed as at the date of termination, as mutually agreed by the parties, and the reasonable costs, if any, incurred in protecting the System and in leaving the site in a clean and safe condition pursuant to GCC Clause 41.2.3 (a). Any sums due the Purchaser from the Supplier accruing prior to the date of termination shall be deducted from such amount.

41.2.6 If the Purchaser completes the System, the cost of completing the System by the Purchaser shall be factored into the sum that the Supplier is entitled to be paid, pursuant to GCC Clause 41.2.5. If the sum that the Supplier is entitled to be paid, pursuant to GCC Clause 41.2.5, plus the reasonable costs incurred by the Purchaser in completing the System, exceeds the Contract Price, the Supplier shall be liable for such excess, which shall be paid within thirty (30) days of the Purchaser's request. If such excess is greater than the sums due the Supplier under

GCC Clause 41.2.5, the Supplier shall pay the balance to the Purchaser within thirty (30) days of the Purchaser's request, and if such excess is less than the sums due the Supplier under GCC Clause 41.2.5, the Purchaser shall pay the balance to the Supplier.

#### 41.3 Termination by Supplier

41.3.1 If the Purchaser has failed to pay the Supplier any material and undisputed sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause **pursuant to the PCC**, or commits a material breach of the Contract, the Supplier may give a notice to the Purchaser that: requires payment of such sum, with interest on this sum as stipulated in GCC Clause 12.3; requires approval of such invoice or supporting documents, or specifies the breach; and requires the Purchaser to remedy the same, as the case may be. If the Purchaser fails to pay such sum together with such interest, fails to approve such invoice or supporting documents, or give its reasons for withholding such approval, or fails to remedy the breach within fourteen (14) days after receipt of the Supplier's notice, then the Supplier may terminate the Contract forthwith by giving a notice of termination to the Purchaser that refers to this GCC Clause 41.3.1. For these purposes, "material" sums means a percentage of the Contract Price as **specified in the PCC**.

41.3.2 The Supplier may terminate the Contract immediately by giving a notice to the Purchaser to that effect, referring to this GCC Clause 41.3.2, if the Purchaser becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Purchaser takes or suffers any other analogous action in consequence of debt.

41.3.3 If the Contract is terminated under GCC Clauses 41.3.1 or 41.3.2, then the Supplier shall immediately:

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
- (b) terminate all subcontracts, except those to be assigned to the Purchaser pursuant to Clause 41.3.3 (d) (ii);
- (c) remove all Supplier's Equipment from the site and repatriate the Supplier's and its Subcontractors' personnel from the site.
- (d) In addition, the Supplier, subject to the payment specified in GCC Clause 41.3.4, shall:
  - (i) deliver to the Purchaser the parts of the System executed by the Supplier up to the date of termination;
  - (ii) to the extent legally possible, assign to the Purchaser all right, title, and benefit of the Supplier to the System, or Subsystems, as of the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded between the Supplier and its Subcontractors;
  - (iii) deliver to the Purchaser all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.3.4 If the Contract is terminated under GCC Clauses 41.3.1 or 41.3.2, the Purchaser shall pay to the Supplier all payments specified in GCC Clause 41.1.3. The Supplier acknowledges and agrees that the Purchaser shall not be liable for loss of profit or any damages sustained by the Supplier arising out of, in connection with, or in consequence of such termination.

41.3.5 Termination by the Supplier pursuant to this GCC Clause 41.3 is without prejudice to any other rights or remedies of the Supplier that may be exercised in lieu

of or in addition to rights conferred by GCC Clause 41.3.

41.4 In this GCC Clause 41, the expression “portion of the System executed” shall include all work executed, Services provided, and all Information Technologies, or other Goods acquired (or subject to a legally binding obligation to purchase) by the Supplier and used or intended to be used for the purpose of the System, up to and including the date of termination.

41.5 In this GCC Clause 41, in calculating any monies due from the Purchaser to the Supplier, account shall be taken of any sum previously paid by the Purchaser to the Supplier under the Contract, including any advance payment paid pursuant to the PCC GCC Clause 12.1.

## **42. Assignment**

42.1 Neither party shall assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, without the consent of the other party; provided that, the Purchaser may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of the Government (or another entity designated by the Government) without the consent of the Supplier. The Purchaser shall use commercially reasonable efforts to notify the Supplier as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Clause 42.1 shall be null and void.

42.2 In the event of any assignment of the Contract by the Purchaser in accordance with GCC Clause 42.1:

- (a) the Supplier shall obtain a replacement Performance Security according to the terms of GCC Clause 13.3 in an amount equal to that of the then currently issued Performance Security naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement Performance Security to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original Performance Security to the Supplier;
- (b) in the event any advance payment guarantee is outstanding at the time of assignment, the Supplier shall obtain a replacement advance payment guarantee according to the terms of GCC Clause 13.2 in an amount equal to that of the then currently issued advance payment guarantee naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement advance payment guarantee to the



Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original advance payment guarantee to the Supplier.

**43. MCC Required Provisions; Flow Through Provisions**

43.1 The provisions set forth in Annex A (Additional Provisions) form an integral part of this Contract. For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex A reflect certain requirements of the Government and the Purchaser under the terms of the Agreement that are required to be transferred onto any supplier or subcontractor who partakes in procurement or subsequent contracts in which MCC Funding is involved and that, as with the other clauses under this Contract, the provisions of Annex A are binding obligations under this Contract.

43.2 In any sub-contract or sub-award entered into by the Supplier, as permitted by the terms of this Contract, the Supplier shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such sub-contract or sub-award.

**44. Corrupt or Fraudulent Practices**

44.1 MCC requires that the MCA Entity and any other beneficiaries of MCC Funding, including any bidders, Suppliers, Subcontractors under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.

MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations ("MCC's AFC Policy") is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC's AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC's AFC Policy and certify that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices.

Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over \$500,000 will be required to certify that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of \$500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:

<http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>;

<http://cctrends.cipe.org/anti-corruption-compliance-guide/>

- (a) For purposes of the Contract, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as “Fraud and Corruption”:
- (i) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract;
  - (ii) **“collusive practice”** means a tacit or explicit agreement between two or more parties to perform a coercive, corrupt, fraudulent, obstructive or prohibited practice, including any such agreement designed to fix, stabilize, or maintain prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;
  - (iii) **“corrupt practice”** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, MCA Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process, or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;
  - (iv) **“fraudulent practice”** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) a selection

- process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;
- (v) **“obstructive practice”** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding:
- (aa) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of a coercive, collusive, corrupt, fraudulent or prohibited practice;
  - (bb) that threatens, harasses or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; and/or
  - (cc) intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or an authorized Inspector General of MCC provided for in the Contract and under the Agreement; and
- (vi) **“prohibited practice”** means any action that violates Section E (Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes and Other Restrictions) of Annex A (Additional Provisions) of the Contract.
- (b) MCC may cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of the MCA Entity, the Supplier or any other beneficiary of the MCC Funding were engaged in any coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices during the selection process or the performance of the Contract, or another MCC-funded contract, without the MCA Entity, the Supplier or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.
- (c) MCC and the MCA Entity may pursue sanction of the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period

of time, to be awarded any MCC-funded contract if at any time either MCC or the MCA Entity determines that the Supplier has, directly or through an agent, engaged in any coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for, or in performance of, the Contract or another MCC-funded contract.

- (d) If the MCA Entity or MCC determines that the Supplier, any Subcontractor, any of the Supplier's personnel, or any agent or Affiliate of any of them has, directly or indirectly, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices, in competing for or in the performance of the Contract, then the MCA Entity or MCC may, by notice, immediately terminate the Contract, and the provisions of GCC Clause 41.1 shall apply.
- (e) Should any of the Supplier's personnel be determined to have engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices during the competition for or execution of the Contract, but the MCA Entity or MCC determines not to terminate the Contract in accordance with the immediately preceding subparagraph, then the relevant Supplier's personnel shall be removed in accordance with GCC Clause 18.3.1.

**45. Combatting of  
Trafficking in  
Persons**

45.1 MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to Trafficking in Persons ("TIP") through its Counter-Trafficking in Persons Policy. In pursuance of this policy:

- (a) Defined Terms. For purposes of the application and interpretation of this Clause:
  - (i) The terms "coercion," "commercial sex act," "debt bondage," "employee," "forced labor," "fraud," "involuntary servitude," and "sex trafficking" have the meanings given such terms in the MCC Counter-Trafficking in Persons Policy ("MCC C-TIP Policy") and such definitions are incorporated by reference into this Clause; and
  - (ii) "Trafficking in Persons" means (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not

attained 18 years of age; (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

- (b) Prohibition. Suppliers, Subcontractors, or any agent or Affiliate of any of them, and any of their respective personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC Funding and must also comply with those prohibitions described in U.S. laws and Executive Orders regarding TIP, including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents.
- (c) Supplier Requirements.
  - (i) Each Supplier, Subcontractor, or any agent or Affiliate of any of them shall:
    - a. notify its employees of the MCC C-TIP Policy and of the actions that will be taken against their respective personnel for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
    - b. take appropriate action, up to and including termination, against its respective personnel that violate the prohibitions set out in this policy.
  - (ii) Each Supplier shall:
    - a. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under this policy, for the duration of the Contract;
    - b. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under this policy, will not be tolerated on the part of its personnel, Subcontractors or any agent or Affiliate of any

of them (as the case may be), or their respective employees; and

c. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.

(iii) A bidder, Supplier, Subcontractor, or any agent or Affiliate of any of them shall inform the MCA Entity immediately of:

a. any information it receives from any source (including law enforcement) that alleges its personnel, subcontractor, sub-consultant, or the employee of a subcontractor or sub-consultant, has engaged in conduct that violates this policy; and

b. any actions taken against any of their respective personnel, pursuant to these requirements.

(d) Remedies. Once the incident has been confirmed and depending on the severity of each case, the MCA Entity will apply remedies, which could include:

(i) the MCA Entity requiring the Supplier to remove the involved personnel, Subcontractor or any of its involved personnel, or any involved agent or Affiliate;

(ii) the MCA Entity requiring the termination of a subcontract or sub-award;

(iii) suspension of Contract payments until the breach is remedied to the satisfaction of the MCA Entity;

(iv) loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the MCA Entity determined non-compliance;

(v) the MCA Entity pursuing sanctions against the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and

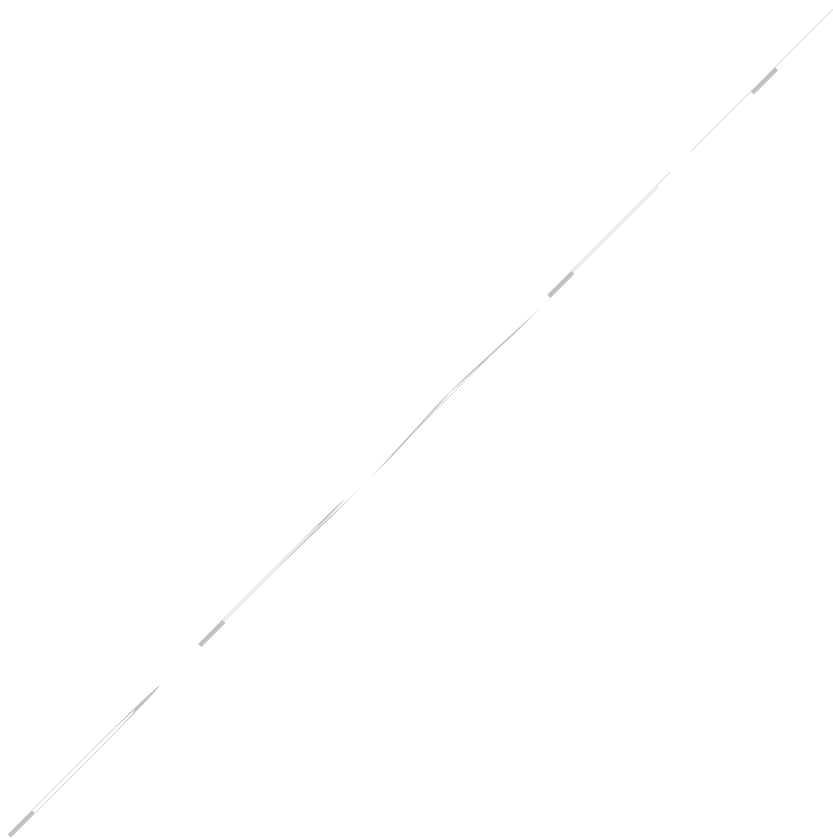
(vi) termination of the Contract by the MCA Entity for default or cause in accordance with the termination clause of the Contract.

- 46. Gender and Social Inclusion**      46.1 The Supplier shall ensure that its activities under the Contract comply with the MCC Gender Policy<sup>1</sup> and the MCA Entity’s Social and Gender Integration Plan, as relevant to the activities performed under this Contract. The MCC Gender Policy requires that activities funded by MCC specifically address social and gender inequalities to ensure opportunities for the participation and benefit of women and vulnerable groups, as well as to ensure that its activities do not cause significant negative social and gender impacts.
- 47. Prohibition of Harmful Child labor**      47.1 The Supplier shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. The Supplier will identify the presence of all persons under the age of eighteen (18). Where national laws have provisions for the employment of minors, the consultant will follow Applicable Law. Children under the age of eighteen (18) will not be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work
- 48. Prohibition of Sexual Harassment**      48.1 The Supplier shall prohibit sexual harassment behaviors and ensure that incidents are fully and fairly investigated and resolved. Sexual harassment can be defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature or offensive remarks about a person’s sex.
- 49. Non-Discrimination and Equal Opportunity**      49.1 The Supplier shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The Supplier shall base the employment relationship on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. In countries where the relevant labor laws provide for non-discrimination in employment, the Supplier shall comply with such laws. When the relevant labor laws are silent on non-discrimination in

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<sup>1</sup> Available at: <https://assets.mcc.gov/guidance/mcc-policy-gender.pdf>

employment, the Supplier shall ensure compliance with this Clause's requirements by implementing a policy in form and substance satisfactory to the MCA Entity and MCC. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.





**SECTION VI. PARTICULAR CONDITIONS OF CONTRACT  
("PCC")**

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## Particular Conditions of Contract

The following Particular Conditions of Contract (“PCC”) shall supplement or amend the General Conditions of Contract (“GCC”). Whenever there is a conflict, the provisions of the PCC shall prevail over those in the General Conditions of Contract. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the PCC.

### A. CONTRACT AND INTERPRETATION

#### 1. Definitions (GCC Clause 1)

GCC 1.1 (i)	“Agreement” means the Millennium Challenge agreement between the United States of America, acting through the Millennium Challenge Corporation, and the Government of Honduras, entered into on August 2013, that sets forth the general terms and conditions on which MCC will provide funding of up to <b>USD 15,650,000.00</b> to the Government for a Millennium Challenge Account program to advance economic growth and reduce poverty in Honduras.
GCC 1.1 (n)	<b>The Contract Period is from effective date of the contract until 6 months after Go-Live date.</b>
GCC 1.1 (y)	“Government” means the Government of Honduras
GCC 1.1 (kk)	The applicable edition of the Procurement Guidelines is:  MCC Program Procurement Guidelines as amended on August 12, 2015, which is provided on the MCC website: <a href="http://www.mcc.gov/ppg">http://www.mcc.gov/ppg</a> .
GCC 1.1 (tt)	The Post-Warranty Services Period is <b>twelve (12) months</b> starting with the completion of the Warranty Period.
GCC 1.1 (ww)	The Project Manager is: <b>To be appointed by ONCAE within 15 days of contract effectiveness.</b>
GCC 1.1 (xx)	The Project Site(s) is/are: ONCAE Office  <b>Centro Cívico Gubernamental, Bulevar Fuerzas Armadas, contiguo a Chiminike, Tegucigalpa, Honduras, Centroamérica</b>

GCC 1.1 (yy)	The Purchaser is: <b>Millennium Challenge Account – Honduras (MCA-Honduras)</b>
GCC 1.1 (bbb)	The Purchaser's Country is: <b>The Republic of Honduras.</b>

## 2. Contract Documents (GCC Clause 2)

GCC 2	There are no Particular Conditions of Contract applicable to GCC Clause 2.
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## 3. Interpretation (GCC Clause 3)

GCC 3.1.1	The Contract's governing language is <b>English.</b>
GCC 3.5	The Incoterms edition is <b>Incoterms 2010</b>

## 4. Notices (GCC Clause 4)

GCC 4.3	Address of the Project Manager: <b>To Be Determined after contract is signed</b>  Fallback address of the Purchaser: <b>To Be Determined after contract is signed</b>
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## 5. Governing Law (GCC Clause 5)

GCC 5.1	The Contract shall be interpreted in accordance with the laws of <b>Republic of Honduras</b>
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## 6. Settlement of Disputes (GCC Clause 6)

GCC 6.1.4	The Appointing Authority for the Adjudicator is: <b>An Adjudicator shall be appointed within 28 days of contract award.</b>
GCC 6.2.3	Arbitration proceedings shall be conducted in accordance with the rules of arbitration of <b>UNCITRAL</b> . These rules, in the version in force at the time of the request for arbitration, will be deemed to form part of this Contract.

## B. SUBJECT MATTER OF CONTRACT

### 7. Scope of the System (GCC Clause 7)

GCC 7.1	<p><b>The Supplier’s obligations are:</b></p> <ul style="list-style-type: none"> <li>- Deliver Licenses of Standard Software for all purchased modules, to an unlimited number of users on perpetuity basis.</li> <li>- Prepare system requirement documents (FRS and SRS).</li> <li>- Provide DEV and TEST environments including IT infrastructure, licenses and connectivity during the Contract Period.</li> <li>- Carry out the certification of the IT Infrastructure provided by the Government of Honduras for PROD and TRAIN.</li> <li>- Implement Standard Software on-premises in PROD and TRAIN environments.</li> <li>- Configure and customize the Standard Software to meet the Functional Requirements in accordance with FRS and SRS.</li> <li>- Provide necessary support for acceptance testing, integration and launch of the e-GP Information System.</li> <li>- Train ONCAE team, up to five (5) buyer agencies and 200 suppliers in usage of the e-GP Information System.</li> <li>- Support the operation of the e-GP Information System after Go-Live during the Contract Period.</li> <li>- Monitor the SLAs and overall health of the e-GP Information System during the Contract Period.</li> </ul> <p><b>The entire e-GP Information System must be implemented in ten (10) months by the time of Go-Live.</b></p> <p><b>The Supplier’s obligations are in accordance with Section VII.</b></p>
GCC 7.3	<p>The Supplier’s obligations under the Contract will include the following recurrent cost items, as identified in the Recurrent Price tables in the Supplier’s Bid:</p> <p><b>Supply and Installation costs are inclusive of all recurrent cost items for the duration of contract.</b></p>

### 8. Time for Commencement and Operational Acceptance (GCC Clause 8)

GCC 8.1	<p>The Supplier shall commence work on the System within: <b>15 days from the Effective Date of the Contract.</b></p>
GCC 8.2	<p>Operational Acceptance will occur on or before the <b>Operational Acceptance date consistent with the Implementation Schedule in the Purchaser’s Requirements Section.</b></p>

**9. Supplier’s Responsibilities (GCC Clause 9)**

GCC 9.9	<p>The Supplier shall have the following additional responsibilities:</p> <p><b>In working in Government of Honduras premises, the Contractor is expected to comply with the administrative policies and rules and regulations of Government of Honduras, such as but not limited to, use of identification cards, working time, other security procedures.</b></p>
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**10. Purchaser’s Responsibilities (GCC Clause 10)**

GCC 10.12	The Purchaser shall have the following additional responsibilities: <b>none</b>
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**C. PAYMENT**

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**11. Contract Price (GCC Clause 11)**

GCC 11.2 (b)	Adjustments to the Contract Price shall be as follows: <b>none</b>
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**12. Terms and Schedule of Payment (GCC Clause 12)**

GCC 12.1	<p>Subject to the provisions of GCC Clause 12 (Terms and Schedule of Payment), the Purchaser shall pay the Contract Price to the Supplier in the manner specified below. Except as otherwise noted, all payments shall be made for the portion of the Contract Price corresponding to the goods or services actually Delivered, Installed, or Operationally Accepted, per the Contract Implementation Schedule, at unit prices and in the currencies specified in the Price Schedules of the Contract.</p> <p><b>PAYMENT SCHEDULE:</b></p> <p>(a) <b>Standard Software.</b> Fees for Standard Software License shall be paid by the Purchaser to the Supplier as follows:</p> <ul style="list-style-type: none"> <li>- 50% on delivery of Standard Software License.</li> <li>- 50% on issuance of Go Live Certificate.</li> </ul> <p>(b) <b>Implementation Services.</b> Fees for Implementation Services shall be paid by the Purchaser to the Supplier as follows:</p> <ul style="list-style-type: none"> <li>- 25% on acceptance of the Project Plan.</li> <li>- 25% on acceptance of the FRS and SRS documents.</li> <li>- 25% on issuance of the UAT Certificate.</li> <li>- 25% on issuance of Go Live Certificate.</li> </ul>
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	<p>(c) <b>Training Services.</b> Fees for Training Services shall be paid by the Purchaser to the Supplier as follows:</p> <ul style="list-style-type: none"> <li>- 50% on acceptance of the training plan</li> <li>- 50% at the end of the full training program</li> </ul> <p>(d) <b>Operational Services.</b> Fees for Operational Services shall be paid by the Purchaser to the Supplier as follows:</p> <ul style="list-style-type: none"> <li>- 100% on issuance of the Operational Acceptance Certificate</li> </ul>
GCC 12.3	The Purchaser shall pay to the Supplier interest on the delayed payments at a rate of <b>LIBOR + 1%</b> .
GCC 12.4	For Goods and Services supplied locally, the Purchaser will pay the Supplier in <b>in the currency stated in the Contract Agreement and the Price Schedules it refers to.</b>
GCC 12.5	Payment for Goods supplied from outside the Purchaser's Country shall be in the form of <b>alternative method of payment.</b>

### 13. Securities (GCC Clause 13)

GCC 13.2.1	There is no Advance Payment in this contract.
GCC 13.2.2	There is no Advance Payment Security.
GCC 13.3.1	The Performance Security shall be denominated in the currency of the contract for an amount equal to <b>ten (10%) percent</b> of the Contract Price excluding any Recurrent Costs.
GCC 13.3.4	During the Warranty Period (i.e., after Operational Acceptance of the System), the Performance Security shall be reduced to <b>two (2%) percent</b> of the Contract Price, excluding any Recurrent Costs.

### 14. Taxes and Duties (GCC Clause 14)

GCC 14	There are no Particular Conditions of Contract applicable to GCC Clause 14.
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## D. INTELLECTUAL PROPERTY

### 15. Intellectual Property Rights (GCC Clause 15)

GCC 15.3	<p>The Purchaser may assign, license, or otherwise voluntarily transfer its contractual rights to use the Standard Software or modules of the Standard Software, without the Supplier’s prior written consent, under the following circumstances:</p> <p><b>(a) In case of Agreement closure with transfer to ONCAE.</b>  <b>(b) In case of ONCAE restructuring or renaming with transfer to appropriate resulting entities.</b></p>
GCC 15.4	<p>The Purchaser’s and Supplier’s rights and obligations with respect to Custom Software or elements of the Custom Software are as follows: <b>items, rights, obligations, restrictions, exceptions, and provisos.</b></p> <p><b>The Purchaser shall have unrestricted and perpetual use, duplication and transfer rights over the custom elements and configuration of the Standard Software and over custom software that may be developed under this contract.</b></p>
GCC 15.5	<p><b>No software escrow contract is required for the execution of the Contract.</b></p>

### 16. License to Software and Materials (GCC Clause 16)

GCC 16.1 (a) (iv)	<p>The Standard Software license shall be valid <b>throughout the territory of the Purchaser’s Country.</b></p>
GCC 16.1 (a) (v)	<p>License to the Software and Materials shall be subject to the following additional restrictions: <b>none.</b></p>
GCC 16.1 (b) (ii)	<p>The Software (and Materials, as applicable) <b>are</b> permitted to be used or copied for use on or transferred to a replacement computer(s).</p>
GCC 16.1 (b) (vi)	<p>The Software (and Materials, as applicable) <b>are</b> permitted to be disclosed to, and reproduced for use by, support service suppliers and their contractors.</p>
GCC 16.1 (b) (vii)	<p>The Software (and Materials, as applicable) are permitted to be disclosed to, and reproduced for use by the Purchaser and the following persons: <b>authorized MCC and ONCAE staff and the Project Manager.</b></p>

GCC 16.2	<p><b>The Standard Software is subject to an audit by the Supplier paid for by the Supplier, subject to the following terms to verify compliance with its license agreements.</b></p> <p>The Purchaser will make available to the Supplier within <b>twenty (20)</b> days of a written request accurate and up-to-date records of the number and location of copies, the number of authorized users, or any other relevant data required to demonstrate use of the Standard Software as per the license agreement.</p>
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**17. Confidential Information and Data Security (GCC Clause 17)**

GCC 17.1	There are no modifications to the confidentiality terms expressed in GCC 17.1.
GCC 17.12	The provisions of this GCC Clause 17 shall survive the termination, for whatever reason, of the Contract for <b>ten (10) years</b> .

**E. SUPPLY, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM**

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**18. Representatives (GCC Clause 18)**

GCC 18.1	The Purchaser’s Project Manager shall have the following additional powers and/or limitations to his or her authority to represent the Purchaser in matters relating to the Contract: <b>no additional powers or limitations.</b>
GCC 18.2.2	The Supplier’s Representative shall have the following additional powers and / or limitations to his or her authority to represent the Supplier in matters relating to the Contract: <b>no additional powers or limitations.</b>

**19. Project Plan (GCC Clause 19)**

GCC 19.1	<p>Chapters in the Project Plan shall address the following subjects:</p> <ul style="list-style-type: none"> <li><b>(a) Project Organization and Management Plan</b></li> <li><b>(b) Quality Assurance Plan</b></li> <li><b>(c) System customization Plan</b></li> <li><b>(e) Delivery and Installation Plan</b></li> <li><b>(f) Training Plan</b></li> <li><b>(g) User Acceptance Testing Plan</b></li> <li><b>(h) Operational Plan</b></li> <li><b>(i) Final Acceptance Testing Plan</b></li> </ul>
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	<p><b>(j) Warranty Service Plan</b>  <b>(k) Technical Support Plan</b>  <b>(l) Risk Management Procedures</b>  <b>(m) Change Control Procedures</b>  <b>(n) Configuration Management Plan</b>  <b>(o) Detailed Gantt Chart/Project Schedule</b></p> <p><b>Further details regarding the required contents of each of the above chapters are contained in the Purchaser’s Requirements, Section E.</b></p>
<p>GCC 19.2</p>	<p>Within <b>twenty (20)</b> days from the Effective Date of the Contract, the Supplier shall present a Project Plan to the Purchaser. The Purchaser shall, within <b>ten (10)</b> days of receipt of the Project Plan, notify the Supplier of any respects in which it considers that the Project Plan does not adequately ensure that the proposed program of work, proposed methods, and/or proposed Information Technologies will satisfy the Purchaser’s Requirements and/or the PCC (in this PCC GCC Clause 19.2 called “non-conformities” below). The Supplier shall, within <b>five (5)</b> days of receipt of such notification, correct the Project Plan and resubmit to the Purchaser. The Purchaser shall, within <b>five (5)</b> days of resubmission of the Project Plan, notify the Supplier of any remaining non-conformities. This procedure shall be repeated as necessary until the Project Plan is free from non-conformities. When the Project Plan is free from non-conformities, the Purchaser shall provide confirmation in writing to the Supplier. This approved Project Plan (“the Agreed and Finalized Project Plan”) shall be contractually binding on the Purchaser and the Supplier.</p>
<p>GCC 19.5</p>	<p>The Supplier shall submit to the Purchaser the following reports:</p> <p><b>(a) Monthly progress reports, summarizing:</b></p> <ul style="list-style-type: none"> <li>- <b>Results accomplished during the prior period.</b></li> <li>- <b>Cumulative deviations to date from schedule of progress milestones as specified in the Agreed and Finalized Project Plan.</b></li> <li>- <b>Corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule.</b></li> <li>- <b>Issues and outstanding problems, proposed actions to be taken.</b></li> <li>- <b>Resources that the Supplier expects to be provided by the Purchaser and/or actions to be taken by the Purchaser in the next reporting period.</b></li> <li>- <b>Issues or potential problems the Supplier foresees that could impact on project progress and/or effectiveness.</b></li> </ul> <p><b>(b) Inspection and quality assurance reports</b>  <b>(c) Training participants test results</b>  <b>(d) Monthly log of service calls and problem resolutions</b>  <b>(e) All other and any reports indicated or required in Section VII</b></p>

**20. Subcontracting (GCC Clause 20)**

GCC 20	<b>The participation of a Subcontractor (or all Subcontractors combined) shall not exceed 30% of the total assignment and work effort.</b>
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**21. Design and Engineering (GCC Clause 21)**

GCC 21.2	The Contract shall be executed in accordance with the edition or the revised version of all referenced codes and standards current at the date <b>as specified in the GCC.</b>
GCC 21.3.1	<p>The Supplier shall prepare and furnish to the Project Manager the following documents for which the Supplier must obtain the Project Manager's approval before proceeding with work on the System or any Subsystem covered by the documents:</p> <p><b>(a) Project Plan</b></p> <ul style="list-style-type: none"> <li>- <b>Resource plan</b></li> <li>- <b>Project schedule</b></li> <li>- <b>Risk plan</b></li> </ul> <p><b>(b) Implementation Plan</b></p> <ul style="list-style-type: none"> <li>- <b>Sizing document</b></li> <li>- <b>FRS and SRS documents</b></li> <li>- <b>Software development plan</b></li> <li>- <b>System integration plan</b></li> <li>- <b>Acceptance testing plan</b></li> <li>- <b>Go-live plan</b></li> </ul> <p><b>(c) Training Plan</b></p> <ul style="list-style-type: none"> <li>- <b>Capacity building plan</b></li> <li>- <b>Operations training materials</b></li> <li>- <b>End user training and support materials</b></li> </ul> <p><b>(d) Operational Plan</b></p>

**22. Procurement, Delivery, and Transport (GCC Clause 22)**

GCC 22.4.3	The Supplier <b>shall</b> be free to use transportation through carriers registered in any eligible country and <b>shall</b> obtain insurance from any eligible source country.
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GCC 22.5	The Supplier shall provide the Purchaser with shipping and other documents <b>as specified in the GCC.</b>
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**23. Product Upgrades (GCC Clause 23)**

GCC 23.4	The Supplier shall provide the Purchaser: <b>with all new versions, releases, and updates to all Standard Software during the Warranty Period, for free, as specified in the GCC.</b>
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**24. Implementation, Installation, and Other Services (GCC Clause 24)**

GCC 24	There are no Particular Conditions of Contract applicable to GCC Clause 24.
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**25. Inspections and Tests (GCC Clause 25)**

GCC 25	There are no Particular Conditions of Contract applicable to GCC Clause 25.
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**26. Installation of the System (GCC Clause 26)**

GCC 26	There are no Particular Conditions of Contract applicable to GCC Clause 26.
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**27. Commissioning and Operational Acceptance (GCC Clause 27)**

GCC 27.2.1	Operational Acceptance Testing shall be conducted in accordance with <b>Testing and Quality Assurance Requirements as mentioned in Section VII - D.</b>
GCC 27.2.2	If the Operational Acceptance Test of the System, or Subsystem(s), cannot be successfully completed within <b>sixty (60)</b> days from the day of Go-Live, then GCC 27.3.5 (a) or (b) shall apply, as the circumstances may dictate.

## F. GUARANTEES AND LIABILITIES

### 28. Operational Acceptance Time Guarantee (GCC Clause 28)

GCC 28.2	At Purchaser's option, liquidated damages may be assessed at <b>one half of one percent (0.5%) of the Contract Price per week of delay</b> . The maximum liquidated damages are <b>ten percent (10%) of the Contract Price</b> , or relevant part of the Contract Price if the liquidated damages apply to a Subsystem. For clarity, a week of delay consists of seven (7) calendar days.
GCC 28.3	Liquidated damages shall be assessed <b>only with respect to achieving Operational Acceptance</b> .

### 29. Representations and Warranties (GCC Clause 29)

GCC 29.1	For Software, exceptions or limitations to the Supplier's warranty obligations shall be as follows: <b>None</b> .
GCC 29.3 (iii)	The Supplier warrants that the following items have been released to the market for the following specific minimum time periods: <b>All Standard Software must have been commercially available in the market for at least three months</b> .
GCC 29.10	The Warranty Period (N) shall begin from the date of Operational Acceptance of the System or Subsystem and extend for: <b>12 months</b> .
GCC 29.16	During the Warranty Period the Supplier must commence the work necessary to remedy defects or damage within <b>the limits defined in the Support SLAs, Section VII - G</b> .

### 30. Functional Guarantees (GCC Clause 30)

GCC 30	<b>If, for reasons attributable to the Supplier, the System does not conform to the Technical Requirements or does not conform to all other aspects of the Contract, including meeting the Minimum Performance Requirements, the Supplier shall at its cost and expense and as promptly as possible make changes, modifications, and/or additions to the System as may be necessary to conform to the Technical Requirement and meet all functional and performance standards.</b>
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**31. Intellectual Property Rights Warranty (GCC Clause 31)**

GCC 31	There are no Particular Conditions of Contract applicable to GCC Clause 31.
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**32. Intellectual Property Rights Indemnity (GCC Clause 32)**

GCC 32	There are no Particular Conditions of Contract applicable to GCC Clause 32.
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**33. Limitation of Liability (GCC Clause 33)**

GCC 33	There are no Particular Conditions of Contract applicable to GCC Clause 33.
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**G. RISK DISTRIBUTION**

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**34. Transfer of Ownership (GCC Clause 34)**

GCC 34	<b>Ownership of the Information System shall remain with the Supplier until Operation Acceptance by the Purchaser at which time it shall transfer to ONCAE.</b>
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**35. Care of the System (GCC Clause 35)**

GCC 35	There are no Particular Conditions of Contract applicable to GCC Clause 35.
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**36. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification (GCC Clause 36)**

GCC 36	There are no Particular Conditions of Contract applicable to GCC Clause 36.
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**37. Insurances (GCC Clause 37)**

GCC 37.1 (c)	The Supplier shall obtain Third-Party Liability Insurance in the amount of <b>US\$ 100,000</b> with deductible limits of no more than <b>10%</b> . The insured Parties shall be The Supplier's personnel in Honduras, where applicable.
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	The Insurance shall cover the period from Contract Effectiveness until expiration date, in terms of the date of expiration of contract.
GCC 37.1 (e)	<p>The Supplier shall obtain Worker’s Compensation Insurance in accordance with the statutory requirements of Honduras. The Insurance shall cover the period from beginning date, in terms of the date of Contract Effectiveness until expiration date, in terms of the date of Completion.</p> <p>The Supplier shall obtain Purchaser’s Liability Insurance in accordance with the statutory requirements of Honduras. The Insurance shall cover the period from beginning date, in terms of the date of Contract Effectiveness until the expiration date, in terms of the date of Completion.</p>

**38. Force Majeure (GCC Clause 38)**

GCC 38	There are no Particular Conditions of Contract applicable to GCC Clause 38.
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**H. CHANGE IN CONTRACT ELEMENTS**

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**39. Changes to the System (GCC Clause 39)**

GCC 39	There are no Particular Conditions of Contract applicable to GCC Clause 39.
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**40. Extension of Time for Achieving Operational Acceptance (GCC Clause 40)**

GCC 40	There are no Particular Conditions of Contract applicable to GCC Clause 40.
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**41. Termination (GCC Clause 41)**

GCC 41.3.1	For these purposes, “material” sums means a <b>0%</b> of the Contract Price.
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**42. Assignment (GCC Clause 42)**

GCC 42	There are no Particular Conditions of Contract applicable to GCC Clause 42.
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## **ANNEX A: ADDITIONAL PROVISIONS**

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### **General Provisions**

Capitalized terms that are used but not defined in this Annex shall have the meaning given to them in the GCC, the PCCs, or in the Agreement.

The Purchaser is responsible for the oversight and management of the implementation of the Agreement on behalf of the Government and intends to apply a portion of the proceeds of the Agreement to eligible payments under the Contract, provided that (a) such payments will only be made at the request of and on behalf of the Purchaser and as authorized by the Fiscal Agent, (b) MCC shall have no obligations to the Supplier under the Agreement or the Contract, (c) such payments will be subject, in all respects, to the terms and conditions of the Agreement, and (d) no party other than the Government and the Purchaser shall derive any rights from the Agreement or have any claim to MCC Funding.

#### **A. MCC Status; Reserved Rights; Third-Party Beneficiary**

1. MCC Status. MCC is a United States Government corporation acting on behalf of the United States Government in the implementation of the Agreement. As such, MCC has no liability under the Contract and is immune from any action or proceeding arising under or relating to the Contract. In matters arising under or relating to the Contract, MCC is not subject to the jurisdiction of the courts or any other juridical or other body of any jurisdiction.

2. MCC Reserved Rights.

(a) Certain rights are expressly reserved to MCC under the Contract, the Agreement and other related Agreement documents, including the right to approve the terms and conditions of the Contract, as well as any amendments or modifications hereto, and the right to suspend or terminate the Contract.

(b) MCC, in reserving such rights under the Contract, the Agreement or other related Agreement documents, has acted solely as a funding entity to assure the proper use of United States Government funds, and any decision by MCC to exercise or refrain from exercising these rights shall be made as a funding entity in the course of funding the activity and shall not be construed as making MCC a party to the Contract.

(c) MCC may, from time to time, exercise its rights, or discuss matters related to the Contract with the Parties or the Government, as appropriate, jointly or separately, without thereby incurring any responsibility or liability to any party.

(d) Any approval (or failure to approve) or exercise of (or failure to exercise) any rights by MCC shall not bar the Government, the Purchaser, MCC or any other person or entity from asserting any right against the Supplier, or relieve the Supplier of any liability which the Supplier might otherwise have to the Government, the Purchaser, MCC, or any other person or entity. For the purposes of this clause (d), MCC shall be deemed to include any MCC officer, director, employee, affiliate, supplier, agent or representative.

3. Third-Party Beneficiary. MCC shall be deemed to be a third-party beneficiary under the Contract.

**B. Limitations on the Use or Treatment of MCC Funding**

The use and treatment of MCC Funding in connection with the Contract does not, and shall not, violate any limitations or requirements specified in the Agreement or any other relevant agreement or Implementation Letter or applicable laws or United States Government policy. No MCC Funding shall be used for military purposes, for any activity likely to cause a substantial loss of United States jobs or a substantial displacement of United States production, to support any activity likely to cause a significant environmental, health or safety hazard, or to fund abortions or involuntary sterilizations as a method of family planning. MCC Funding shall be free from the payment or imposition of all Taxes as set forth in the Agreement.

**C. Procurement**

The Supplier shall ensure that all procurements of goods, works or services under, related to or in furtherance of the Contract shall be consistent with the general principles set forth in the Agreement and in the MCC Program Procurement Guidelines from time to time in effect as posted on the MCC website at [www.mcc.gov](http://www.mcc.gov). The Supplier shall comply with the eligibility requirements related to prohibited source or restricted party provisions in accordance with U.S. Laws, regulations and policy, applicable World Bank policies or guidelines and in accordance with other eligibility requirements as may be specified by MCC or the Purchaser.

**D. Reports and Information; Access; Audits; Reviews**

Reports and Information. The Supplier shall maintain such books and records and provide such reports, documents, data or other information to the Purchaser in the manner and to the extent required by the Agreement or related documents, and as may be reasonably requested by the Purchaser from time to time in order to comply with its reporting requirements arising under the Agreement or related documents. MCC may freely use any information it receives in any report or document provided to it in any way that MCC sees fit. The provisions of the Agreement and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Supplier as if the Supplier were the Government under the Agreement.

Access; Audits and Reviews. Upon MCC's request, the Supplier shall permit authorized representatives of MCC, an authorized Inspector General of MCC, the United States Government Accountability Office, any auditor responsible for an audit contemplated by the Agreement or conducted in furtherance of the Agreement, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect activities funded by MCC Funding. The provisions of the Agreement and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Supplier as if the Supplier were the Government under the Agreement.

Application to Providers. The Supplier shall ensure the inclusion of the applicable audit, access and reporting requirements from the Agreement in its contracts or agreements with other providers in connection with the Contract.

**E. Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes, and Other Restrictions**

1. The Supplier shall ensure that no payments have been or will be made by the Supplier to any official of the Government, the Purchaser, or any third party (including any other government official) in connection with the Contract in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a et seq.) (the “FCPA”) or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to the Contract, including any local Laws. The Supplier affirms that no payments have been or will be received by any official, employee, agent or representative of the Supplier in connection with the Contract in violation of the FCPA or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to the Contract, including any local Laws.

2. The Supplier shall not provide material support or resources directly or indirectly to, or knowingly permit MCC Funding to be transferred to, any individual, corporation or other entity that the Supplier knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (i) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control, which list is available at [www.treas.gov/offices/enforcement/ofac](http://www.treas.gov/offices/enforcement/ofac), (ii) on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council, (iii) on the list maintained on [www.sam.gov](http://www.sam.gov), or (iv) on such other list as the Purchaser may request from time to time. For purposes of this provision, “material support and resources” includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

3. The Supplier shall ensure that its activities under the Contract comply with all applicable U.S. Laws, regulations, executive orders, and policies regarding money laundering, terrorist financing, trafficking in persons, U.S. sanctions Laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. § 1956, 18 U.S.C. § 1957, 18 U.S.C. § 2339A, 18 U.S.C. § 2339B, 18 U.S.C. § 2339C, 18 U.S.C. § 981, 18 U.S.C. § 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under the Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the Purchaser, the Fiscal Agent, or the Bank, as may be applicable. The Supplier shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at [www.mcc.gov](http://www.mcc.gov). The Supplier shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other

reasonable period as the Purchaser or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the Purchaser with a copy to MCC.

4. Other restrictions on the Supplier shall apply as set forth in the Agreement or related documents with respect to any activities in violation of other applicable United States Laws, regulations, executive orders, or policies, any misconduct injurious to MCC or the Purchaser, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Agreement or any related document or that materially and adversely affects the Program assets or any Permitted Account.

#### **F. Publicity, Information, and Marking**

1. The Supplier shall cooperate with the Purchaser and the Government to provide the appropriate publicity to the goods, works and services provided under the Contract, including identifying Program activity sites and marking Program assets as goods, works and services funded by the United States Government, acting through MCC, all in accordance with the MCC Standards for Global Marking available on the MCC website at <http://www.mcc.gov>; provided, however, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, shall be subject to MCC's prior written approval and must be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters.

2. Upon the termination or expiration of the Agreement, the Supplier shall, upon MCC's request, cause the removal of any such markings and any references to MCC in any publicity materials.

#### **G. Insurance**

The Supplier shall obtain insurance, performance bonds, guarantees or other protections appropriate to cover against risks or liabilities associated with performance of the Contract. The Supplier shall be named as payee on any such insurance and the beneficiary of any such performance bonds and guarantees. The Purchaser, and at MCC's request MCC, shall be named as additional insureds on any such insurance or other guarantee, to the extent permissible under applicable laws. The Supplier shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss or to pursue the procurement of the covered goods, works and services; provided, however, that, at MCC's election, such proceeds shall be deposited in an account as designated by the Purchaser and acceptable to MCC or as otherwise directed by MCC.

#### **H. Conflict of Interest**

The Supplier shall ensure that no officer, director, employee, Affiliate, contractor, Subcontractor, agent, advisor, or representative of the Supplier participates in the selection, award, administration or oversight of a contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with the Contract, in which (i) the entity, the person, members of the person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a financial or other interest or (ii) the person or entity is negotiating or

has any arrangement concerning prospective employment, unless such person or entity has first disclosed in writing to the parties under the Contract and MCC the conflict of interest and, following such disclosure, the parties to the Contract agree in writing to proceed notwithstanding such conflict. The Supplier shall ensure that none of its officers, directors, employees, Affiliates, suppliers, Subcontractors, agents, advisors, or representatives involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with the Contract shall solicit or accept from or offer to a third party or seek or be promised (directly or indirectly) for itself or for another person or entity any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time. The Supplier shall ensure that none of its officers, directors, employees, Affiliates, suppliers, Subcontractors, agents, advisors or representatives engage in any activity which is, or gives the appearance of being, a conflict of interest in connection with the Contract. Without limiting the foregoing, the Supplier shall comply, and ensure compliance, with the applicable conflicts of interest and ethics policies of the Purchaser as provided by the Purchaser to the Supplier.

**I. Inconsistencies**

In the event of any conflict between the Contract and the Agreement and/or the Program Implementation Agreement, Procurement Agreement, or Disbursement Agreement, as applicable, the term(s) of the Agreement and/or the Program Implementation Agreement, Procurement Agreement, or Disbursement Agreement, as applicable, shall prevail.

**J. Other Provisions**

The Supplier shall abide by such other terms or conditions as may be specified by the Purchaser or MCC in connection with the Contract.

**K. Flow-Through Provisions**

In any subcontract or sub-award entered into by the Supplier, as permitted by the Contract, the Supplier shall ensure the inclusion of all the provisions contained in paragraphs (A) through (J) above.

**ANNEX TO THE PARTICULAR CONDITIONS - CONTRACT  
FORMS**

---

## FORM OF CONTRACT AGREEMENT

---

### CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT is made

the *[insert: ordinal]* day of *[insert: month]*, *[insert: year]*.

BETWEEN

- (1) *[insert: Name of Purchaser]*, a *[insert: description of type of legal entity, for example, an agency of the Ministry of . . .]* of the Government of *[insert: country of Purchaser]*, or corporation incorporated under the laws of *[insert: country of Purchaser]* and having its principal place of business at *[insert: address of Purchaser]* (hereinafter called “the Purchaser”), and
- (2) *[insert: name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at *[insert: address of Supplier]* (hereinafter called “the Supplier”).

WHEREAS the Purchaser desires to engage the Supplier to supply, install, achieve Operational Acceptance of, and support the following Information System and other works *[insert: brief description of the Information System]* (“the System”), and the Supplier has agreed to such engagement upon and subject to the terms and conditions appearing below in this Contract Agreement.

NOW IT IS HEREBY AGREED as follows:

**Article 1.**

1.1 Contract Documents (Reference GCC Clause 1.1 (m))

**Contract Documents**

The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:

- (a) This Contract Agreement and the Appendices attached to the Contract Agreement
- (b) Particular Conditions of Contract
- (c) General Conditions of Contract
- (d) Purchaser’s Requirements (including Implementation Schedule)
- (e) The Supplier’s bid and original Price Schedules

(f) *[Add here: any other documents]*

1.2 Order of Precedence (Reference GCC Clause 2)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above, provided that Appendix 7 shall prevail over all provisions of the Contract Agreement and the other Appendices attached to the Contract Agreement and all the other Contract Documents listed in Article 1.1 above.

1.3 Definitions (Reference GCC Clause 1)

Capitalized words and phrases used in this Contract Agreement shall have the same meanings as are ascribed to them in the General Conditions of Contract.

**Article 2.**

**Contract Price  
and Terms of  
Payment**

2.1 Contract Price (Reference GCC Clause 1.1(o) and GCC Clause 11)

The Purchaser hereby agrees to pay to the Supplier the Contract Price in consideration of the performance by the Supplier of its obligations under the Contract. The Contract Price shall be the aggregate of: *[insert: amount of foreign currency A in words]*, *[insert: amount in figures]*, plus *[insert: amount of foreign currency B in words]*, *[insert: amount in figures]*, plus *[insert: amount of foreign currency C in words]*, *[insert: amount in figures]*, *[insert: amount of local currency in words]*, *[insert: amount in figures]*, as specified in the Grand Summary Price Schedule.

The Contract Price shall be understood to reflect the terms and conditions used in the specification of prices in the detailed price schedules, including the terms and conditions of the associated Incoterms, and the taxes, duties and related levies if and as identified.

**Article 3.**

**Effective Date  
for  
Determining  
Time for  
Operational  
Acceptance**

3.1 Effective Date (Reference GCC Clause 1.1 (u))

The time allowed for supply, installation, and achieving Operational Acceptance of the System shall be determined from the date when all of the following conditions have been fulfilled:

- (a) This Contract Agreement has been duly executed for and on behalf of the Purchaser and the Supplier;
- (b) The Supplier has submitted to the Purchaser the performance security and the advance payment security, in accordance with GCC Clause 13.2 and GCC Clause 13.3;
- (c) The Purchaser has paid the Supplier the advance payment, in accordance with GCC Clause 12;



- (d) *[specify here: any other conditions, for example, opening/confirmation of letter of credit].*

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

- 3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract Agreement because of reasons not attributable to the Supplier, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Achieving Operational Acceptance and/or other relevant conditions of the Contract.

**Article 4.**

**Appendixes**

- 4.1 The Appendixes listed below shall be deemed to form an integral part of this Contract Agreement.
- 4.2 Reference in the Contract to any Appendix shall mean the Appendixes listed below and attached to this Contract Agreement, and the Contract shall be read and construed accordingly.

**APPENDIXES**

- Appendix 1. Supplier's Representative
- Appendix 2. Adjudicator *[if there is no Adjudicator, state "not applicable"]*
- Appendix 3. List of Approved Subcontractors
- Appendix 4. Categories of Software
- Appendix 5. Custom Materials
- Appendix 6. Revised Price Schedules (if any)
- Appendix 7. Minutes of Contract Finalization Discussions and Agreed-to Contract Amendments

## **APPENDIX 1. SUPPLIER'S REPRESENTATIVE**

---

In accordance with GCC Clause 1.1(ppp), the Supplier's Representative is:

Name: *[insert: **name** and provide title and address further below, or state “to be nominated within fourteen (14) days of the Effective Date”]*

Title: *[if appropriate, insert: **title**]*

In accordance with GCC Clause 4.3, the Supplier's addresses for notices under the Contract are:

Address of the Supplier's Representative: *[as appropriate, insert: **personal delivery, postal, cable, telegraph, telex, facsimile, electronic mail, and/or EDI addresses.**]*

Fallback address of the Supplier: *[as appropriate, insert: **personal delivery, postal, cable, telegraph, telex, facsimile, electronic mail, and/or EDI addresses.**]*

## APPENDIX 2. ADJUDICATOR

---

In accordance with GCC Clause 1.1 (a), the agreed-upon Adjudicator is:

Name: *insert: name*

Title: *[insert: title]*

Address: *[insert: postal address]*

Telephone: *[insert: telephone]*

In accordance with GCC Clause 6.1.3, the agreed-upon fees and reimbursable expenses are:

Hourly Fees: *[insert: hourly fees]*

Reimbursable Expenses: *[list: reimbursables]*

Pursuant to GCC Clause 6.1.4, if at the time of Contract signing, agreement has not been reached between the Purchaser and the Supplier, an Adjudicator will be appointed by the Appointing Authority named in the PCC.





## **APPENDIX 5. REVISED PRICE SCHEDULES**

---

The attached Revised Price Schedules (if any) shall form part of this Contract Agreement and, where differences exist, shall supersede the Price Schedules contained in the Supplier's Bid. These Revised Price Schedules reflect any corrections or adjustments to the Supplier's bid price, pursuant to the ITB Clauses 18.3, 26.2, and 33.1.

**APPENDIX 6. MINUTES OF CONTRACT FINALIZATION  
DISCUSSIONS AND CONTRACT AMENDMENTS**

---

The attached Contract amendments (if any) shall form part of this Contract Agreement and, where differences exist, shall supersede the relevant clauses in the GCC, PCC, Purchaser's Requirements, or other parts of this Contract as defined in GCC Clause 1.1(l).

## PERFORMANCE SECURITY FORM (BANK GUARANTEE)

---

\_\_\_\_\_  
*[insert: **Bank's Name, and Address of Issuing Branch or Office**]*

**Beneficiary:** *[insert: **Name and Address of Purchaser**]*

**Date:** *[insert: **date**]*

**PERFORMANCE GUARANTEE No.:** *[insert: **Performance Guarantee Number**]*

We have been informed that on *[insert: **date of award**]* you awarded Contract No. *[insert: **Contract number**]* for *[insert: **title and/or brief description of the Contract**]* (hereinafter called "the Contract") to *[insert: **complete name of Supplier**]* (hereinafter called "the Supplier"). Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert: **amount(s) in figures and words**]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

On the date of your issuing, to the Supplier, the Operational Acceptance Certificate for the System, the value of this guarantee will be reduced to any sum(s) not exceeding *[insert: **amount(s) in figures and words**]*. This remaining guarantee shall expire no later than *[insert: **number and select: of months/of years (of the Warranty Period that needs to be covered by the remaining guarantee)**]* from the date of the Operational Acceptance Certificate for the System,<sup>2</sup> and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20 (a) is hereby excluded.

\_\_\_\_\_  
*[Signature(s)]*

\_\_\_\_\_  
<sup>2</sup> *In this bidder form, the formulation of this paragraph reflects the usual PCC provisions for GCC Clause 13.3. However, if the PCC GCC Clauses 13.3.1 and 13.3.4 varies from the usual provisions, the paragraph, and possibly the previous paragraph, need to be adjusted to precisely reflect the provisions specified in the PCC.*



**ADVANCE PAYMENT SECURITY FORM (BANK GUARANTEE)**

---

Does not apply.

---

## INSTALLATION CERTIFICATE

---

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

To: *[insert: name and address of Supplier]*

Dear Sir or Madam:

Pursuant to GCC Clause 26 (Installation of the System) of the Contract entered into between yourselves and the *[insert: name of Purchaser]* (hereinafter the “Purchaser”) dated *[insert: date of Contract]*, relating to the *[insert: brief description of the Information System]*, we hereby notify you that the System (or a Subsystem or major component thereof) was deemed to have been correctly installed on the date specified below.

1. Description of the System (or relevant Subsystem or major component: *[insert: description]*)

2. Date of Installation: *[insert: date]*

Notwithstanding the above, you are required to complete the outstanding items listed in the attachment to this certificate as soon as practicable. This letter shall not relieve you of your obligation to achieve Operational Acceptance of the System in accordance with the Contract nor of your obligations during the Warranty Period.

For and on behalf of the Purchaser

Signed:

Date:

in the capacity of: *[state: “Project Manager” or state the title of a higher level authority in the Purchaser’s organization]*

## OPERATIONAL ACCEPTANCE CERTIFICATE

---

Date: *[insert: date]*  
CB No: *[insert: CB number]*  
IFB: *[insert: title and number of IFB]*  
Contract: *[insert: name of System or Subsystem and number of Contract]*

To: *[insert: name and address of Supplier]*

Dear Sir or Madam:

Pursuant to GCC Clause 27 (Commissioning and Operational Acceptance) of the Contract entered into between yourselves and the *[insert: name of Purchaser]* (hereinafter the “Purchaser”) dated *[insert: date of Contract]*, relating to the *[insert: brief description of the Information System]*, we hereby notify you the System (or the Subsystem or major component identified below) successfully completed the Operational Acceptance Tests specified in the Contract. In accordance with the terms of the Contract, the Purchaser hereby takes over the System (or the Subsystem or major component identified below), together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the System (or Subsystem or major component): *[insert: description]*
2. Date of Operational Acceptance: *[insert: date]*

This letter shall not relieve you of your remaining performance obligations under the Contract nor of your obligations during the Warranty Period.

For and on behalf of the Purchaser

Signed:

Date:

in the capacity of: *[state: “Project Manager” or higher level authority in the Purchaser’s organization]*

## **CHANGE ORDER PROCEDURES AND FORMS**

---

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name or System or Subsystem and number of Contract]*

### **General**

This section provides samples of procedures and forms for carrying out changes to the System during the performance of the Contract in accordance with GCC Clause 39 (Changes to the System) of the Contract.

### **Change Order Log**

The Supplier shall keep an up-to-date Change Order Log to show the current status of Requests for Change and Change Orders authorized or pending. Changes shall be entered regularly in the Change Order Log to ensure that the log is kept up-to-date. The Supplier shall attach a copy of the current Change Order Log in the monthly progress report to be submitted to the Purchaser.

### **References to Changes**

- (1) Request for Change Proposals (including Application for Change Proposals) shall be serially numbered CR-nnn.
- (2) Change Estimate Proposals shall be numbered CN-nnn.
- (3) Estimate Acceptances shall be numbered CA-nnn.
- (4) Change Proposals shall be numbered CP-nnn.
- (5) Change Orders shall be numbered CO-nnn.

On all forms, the numbering shall be determined by the original CR-nnn.

### **Annexes**

- 8.1 Request for Change Proposal Form
- 8.2 Change Estimate Proposal Form
- 8.3 Estimate Acceptance Form
- 8.4 Change Proposal Form
- 8.5 Change Order Form
- 8.6 Application for Change Proposal Form

## REQUEST FOR CHANGE PROPOSAL FORM

---

(Purchaser's Letterhead)

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

To: *[insert: name of Supplier and address]*

Attention: *[insert: name and title]*

Dear Sir or Madam:

With reference to the above-referenced Contract, you are requested to prepare and submit a Change Proposal for the Change noted below in accordance with the following instructions within *[insert: number]* days of the date of this letter.

1. Title of Change: *[insert: title]*
2. Request for Change No. /Rev.: *[insert: number]*
3. Originator of Change: *[select Purchaser / Supplier (by Application for Change Proposal), and add: name of originator]*
4. Brief Description of Change: *[insert: description]*
5. System (or Subsystem or major component affected by requested Change): *[insert: description]*
6. Technical documents and/or drawings for the request of Change:

Document or Drawing No.	Description
-------------------------	-------------

7. Detailed conditions or special requirements of the requested Change: *[insert: description]*
  
8. Procedures to be followed:
  - (a) Your Change Proposal will have to show what effect the requested Change will have on the Contract Price.
  - (b) Your Change Proposal shall explain the time it will take to complete the requested Change and the impact, if any, it will have on the date when Operational Acceptance of the entire System agreed in the Contract.
  - (c) If you believe implementation of the requested Change will have a negative impact on the quality, operability, or integrity of the System, please provide a detailed explanation, including other approaches that might achieve the same impact as the requested Change.
  - (d) You should also indicate what impact the Change will have on the number and mix of staff needed by the Supplier to perform the Contract.
  - (e) You shall not proceed with the execution of work related to the requested Change until we have accepted and confirmed the impact it will have on the Contract Price and the Implementation Schedule in writing.
  
9. As next step, please respond using the Change Estimate Proposal form, indicating how much it will cost you to prepare a concrete Change Proposal that will describe the proposed approach for implementing the Change, all its elements, and will also address the points in paragraph 8 above pursuant to GCC Clause 39.2.1. Your Change Estimate Proposal should contain a first approximation of the proposed approach, and implications for schedule and cost, of the Change.

For and on behalf of the Purchaser

Signed:

Date:

in the capacity of: *[state: "Project Manager" or higher level authority in the Purchaser's organization]*

## CHANGE ESTIMATE PROPOSAL FORM

---

(Supplier's Letterhead)

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

To: *[insert: name of Purchaser and address]*

Attention: *[insert: name and title]*

Dear Sir or Madam:

With reference to your Request for Change Proposal, we are pleased to notify you of the approximate cost of preparing the below-referenced Change in accordance with GCC Clause 39.2.1 of the Contract. We acknowledge that your agreement to the cost of preparing the Change Proposal, in accordance with GCC Clause 39.2.2, is required before we proceed to prepare the actual Change Proposal including a detailed estimate of the cost of implementing the Change itself.

1. Title of Change: *[insert: title]*
2. Request for Change No. /Rev.: *[insert: number]*
3. Brief Description of Change (including proposed implementation approach): *[insert: description]*
4. Schedule Impact of Change (initial estimate): *[insert: description]*
5. Initial Cost Estimate for Implementing the Change: *[insert: initial cost estimate]*
6. Cost for Preparation of Change Proposal: *[insert: cost in the currencies of the Contract]*, as detailed below in the breakdown of prices, rates, and quantities.

For and on behalf of the Supplier

Signed:

Date:

in the capacity of: *[state: “Supplier’s Representative” or other higher level authority in the Supplier’s organization]*



## ESTIMATE ACCEPTANCE FORM

---

(Purchaser's Letterhead)

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

To: *[insert: name of Supplier and address]*

Attention: *[insert: name and title]*

Dear Sir or Madam:

We hereby accept your Change Estimate and agree that you should proceed with the preparation of a formal Change Proposal.

1. Title of Change: *[insert: title]*
2. Request for Change No. /Rev.: *[insert: request number / revision]*
3. Change Estimate Proposal No. /Rev.: *[insert: proposal number / revision]*
4. Estimate Acceptance No. /Rev.: *[insert: estimate number / revision]*
5. Brief Description of Change: *[insert: description]*
6. Other Terms and Conditions:

In the event that we decide not to order the Change referenced above, you shall be entitled to compensation for the cost of preparing the Change Proposal up to the amount estimated

for this purpose in the Change Estimate Proposal, in accordance with GCC Clause 39 of the General Conditions of Contract.

For and on behalf of the Purchaser

Signed:

Date:

in the capacity of: *[state: “Project Manager” or higher level authority in the Purchaser’s organization]*

## CHANGE PROPOSAL FORM

---

(Supplier's Letterhead)

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

]

To: *[insert: name of Purchaser and address]*

Attention: *[insert: name and title]*

Dear Sir or Madam:

In response to your Request for Change Proposal No. *[Insert: number]*, we hereby submit our proposal as follows:

1. Title of Change: *[insert: name]*
2. Change Proposal No. /Rev.: *[insert: proposal number/revision]*
3. Originator of Change: *[select: Purchaser / Supplier; and add: name]*
4. Brief Description of Change: *[insert: description]*
5. Reasons for Change: *[insert: reason]*
6. The System Subsystem, major component, or equipment that will be affected by the requested Change: *[insert: description]*
7. Technical documents and/or drawings for the requested Change:

- | Document or Drawing No. | Description   |
|-------------------------|---|
| 8.                      | Estimate of the increase/decrease to the Contract Price resulting from the proposed Change: [ <i>insert: amount in currencies of Contract</i> ], as detailed below in the breakdown of prices, rates, and quantities.<br>Total lump sum cost of the Change:<br>Cost to prepare this Change Proposal (i.e., the amount payable if the Change is not accepted, limited as provided by GCC Clause 39.2.6): |
| 9.                      | Additional Time for Achieving Operational Acceptance required due to the Change: [ <i>insert: amount in days / weeks</i> ]  |
| 10.                     | Effect on the Functional Guarantees: [ <i>insert: description</i> ]   |
| 11.                     | Effect on the other terms and conditions of the Contract: [ <i>insert: description</i> ]  |
| 12.                     | Validity of this Proposal: for a period of [ <i>insert: number</i> ] days after receipt of this Proposal by the Purchaser   |
| 13.                     | Procedures to be followed:<br>(a) You are requested to notify us of your acceptance, comments, or rejection of this detailed Change Proposal within [ <i>insert: number</i> ] days from your receipt of this Proposal.<br>(b) The amount of any increase and/or decrease shall be taken into account in the adjustment of the Contract Price.   |

For and on behalf of the Supplier

Signed:

Date:

in the capacity of: [*state: "Supplier's Representative" or other higher level authority in the Supplier's organization*]

## CHANGE ORDER FORM

---

(Purchaser's Letterhead)

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

To: *[insert: name of Supplier and address]*

Attention: *[insert: name and title]*

Dear Sir or Madam:

We hereby approve the Change Order for the work specified in Change Proposal No. *[insert: number]*, and agree to adjust the Contract Price, Time for Completion, and/or other conditions of the Contract in accordance with GCC Clause 39 of the Contract.

1. Title of Change: *[insert: name]*
2. Request for Change No./Rev.: *[insert: request number / revision]*
3. Change Order No./Rev.: *[insert: order number / revision]*
4. Originator of Change: *[select: Purchaser / Supplier; and add: name]*
5. Authorized Price for the Change:  
Ref. No.: *[insert: number]*      Date: *[insert: date]*

*[insert: amount in foreign currency A]* plus *[insert: amount in foreign currency B]* plus *[insert: amount in foreign currency C]* plus *[insert: amount in local currency]*

6. Adjustment of Time for Achieving Operational Acceptance: *[insert: amount and description of adjustment]*
  
7. Other effects, if any: *[state: "none" or insert description]*

For and on behalf of the Purchaser

Signed:

Date:

in the capacity of: *[state: "Project Manager" or higher level authority in the Purchaser's organization]*

For and on behalf of the Supplier

Signed:

Date:

in the capacity of: *[state "Supplier's Representative" or higher level authority in the Supplier's organization]*

## APPLICATION FOR CHANGE PROPOSAL FORM

---

(Supplier's Letterhead)

Date: *[insert: date]*

CB No: *[insert: CB number]*

IFB: *[insert: title and number of IFB]*

Contract: *[insert: name of Information Systems]*

To: *[insert: name of Purchaser and address]*

Attention: *[insert: name and title]*

Dear Sir or Madam:

We hereby propose that the below-mentioned work be treated as a Change to the System.

1. Title of Change: *[insert: name]*
2. Application for Change Proposal No. /Rev.: *[insert: number / revision]* dated: *[insert: date]*
3. Brief Description of Change: *[insert: description]*
4. Reasons for Change: *[insert: description]*
5. Order of Magnitude Estimation: *[insert: amount in currencies of the Contract]*
6. Schedule Impact of Change: *[insert: description]*
7. Effect on Functional Guarantees, if any: *[insert: description]*

8. Appendix: *[insert: **titles** (if any); otherwise state “none”]*

For and on behalf of the Supplier

Signed:

Date:

in the capacity of: *[state: “**Supplier’s Representative**” or **higher level authority in the Supplier’s organization**]*



## **SECTION VII. PURCHASER'S REQUIREMENTS**

---

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# Purchaser's Requirements

## A. BACKGROUND

---

### 0.0 Summary

As part of the Honduras Threshold Program, the Millennium Challenge Corporation (MCC) aims to support the National Procurement Office (ONCAE) with the acquisition and implementation of an e-GP Information System to update HonduCompras. ONCAE seeks to replace its multiple non-integrated HonduCompras systems and manual processes with an integrated and transactional e-GP next generation system to improve the efficiency and effectiveness of the Honduras procurement system.

New HonduCompras must integrate all the procurement processes into a single information system for management and transparency, and ensure that the agency's procurement processes are well-aligned to Honduras' regulatory framework.

The objective of the Purchaser's Requirements is to establish the minimum requirements to undertake the Supply, Implementation, Training, Support and Maintenance of the e-GP Information System to update HonduCompras.

### 0.1 The Millennium Challenge Corporation

The Millennium Challenge Corporation (MCC) is an innovative and independent U.S. foreign aid agency that is helping lead the fight against global poverty. MCC was created by the U.S. Congress in January 2004 with strong bipartisan support, MCC is changing the conversation on how best to deliver smart U.S. foreign assistance by focusing on good policies, country ownership, and results. For additional information on MCC, please visit <http://www.mcc.gov>.

### 0.2 Honduras Threshold Program

The \$15.6 million Honduras Threshold Program aims to improve public financial management and create more effective and transparent public-private partnerships in Honduras. The program will help the Government of Honduras save money in the provision of public services, improve delivery of public services and reduce opportunities for corruption—ultimately improving governance in Honduras. The Threshold Program includes two projects, The Public Financial Management Project and the Public-Private Partnerships Project.

The Public Financial Management Project aims to make the management of government finances more efficient and transparent. The project will accomplish this by supporting activities to improve budget formulation and execution, planning, payments, procurement, auditing, and civil society oversight. As part of this project, MCC aims to support ONCAE with the acquisition and implementation of a e-GP Information System to update HonduCompras.

### 0.3 ONCAE and its current business challenges

<http://www.oncae.gob.hn/2014-10-07-17-40-53/plan-estrategico-oncae-2016-2018>

**0.4 Key project success factors**

The following are the key project success factors:

- 0.4.1 Implementation of a next generation e-GP Information System into one platform to allow ONCAE a unified view across all the systems.
- 0.4.2 Increasing electronic availability of all procurement documents, allow electronic communications at all stages of process, allow electronic submission of bids and visibility of all procurement activity in real time.
- 0.4.3 Implementation of an e-GP Information System that allows interfacing and/or integration with SIAFI.
- 0.4.4 Capturing the highest possible proportion of the overall procurement spend of the Government of Honduras.
- 0.4.5 Training and capacitating ONCAE to independently operate the e-GP Information System and train the end users.
- 0.4.6 Implementation of a system that generates data structured according to the OCDS to improve the disclosure of public contracting data and information.

**0.5 Key performance indicators**

The following are the key performance indicators for this implementation:

- 0.5.1 All infrastructure required for the e-GP Information System in PROD is installed and tested at least 3 months before the go live date.
- 0.5.2 All purchased modules of the e-GP Information System are implemented and integrated into one platform prior to acceptance testing.
- 0.5.3 All identified testing and design issues are closed prior to go live.
- 0.5.4 The supplier has undertaken master data and other key data into the System.
- 0.5.5 Training and capacity building activities have been carried out and ONCAE System administration staff can demonstrate ability to manage the System.
- 0.5.6 The e-GP system generates data structured according to the OCDS.

**0.6 Acronyms used in these Purchaser's Requirements**

<b>Term</b>	<b>Description</b>
API	Application Programming Interface
BC	Business Continuity
CUBS	Unique Products and Services Code
DC	Data Center
DEV	Development Environment
DR	Disaster Recovery
FA	Framework Agreement
FRS	Functional Requirement Specification

ISO	International Organization for Standardization
IT	Information Technology
Kbps	Kilo Bits Per Second
Mbps	Mega Bits Per Second
MCC	Millennium Challenge Corporation
MFR	Mandatory Functional Requirement
OCDS	Open Contracting Data Standard
ONCAE	National Procurement Office
OS	Operating System
PO	Purchase Order
PROD	Production Environment
REST	Representational State Transfer
RTN	National Tax-Id Registration Number
SIAFI	Integrated Financial Management System
SLA	Service Level Agreements
SOA	Service Oriented Architecture
SOAP	Simple Object Access Protocol
SRS	Software Requirement Specification
SSL	Secure Sockets Layer
TEST	Test Environment
TRAIN	Training Environment
UAT	User Acceptance Tests
UTC	Coordinated Universal Time
WEB	World Wide Web
XML	Extensible Markup Language

## **B. FUNCTIONAL REQUIREMENTS**

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The Functional Requirements for the e-GP Information System (hereafter called “The System”) are organized into five sections as follows:

- 1.0 General system requirements
- 1.1 Supplier management module
- 1.2 Electronic sourcing module
- 1.3 Electronic catalog module
- 1.4 Contract management module

Individual functionality requirements are grouped under these modules for convenience. Where the System has a different modular design, Bidders should highlight any area where the functionality is provided by another module than is suggested.

The Functional Requirements below statements should be read as preceded by “The System should”.

### **1.0 General system requirements**

General system requirements are grouped under these categories:

- 1.0.1 User access
- 1.0.2 User interface
- 1.0.3 User management
- 1.0.4 Agency management
- 1.0.5 Transactional features
- 1.0.6 Document and content management
- 1.0.7 Business processes
- 1.0.8 Alerts and notifications
- 1.0.9 Audit logs
- 1.0.10 Reports

#### **1.0.1 User access**

- 1.0.1.1 Include a publicly log-in screen accessible from different commercial browsers: Internet Explorer, Chrome, Mozilla, Safari, etc.
- 1.0.1.2 The log-in screen must incorporate the means for existing users (buyers, suppliers and other users) to log in.
- 1.0.1.3 The log-in screen must incorporate the means for potential users to register or seek access to the System.
- 1.0.1.4 The log-in screen must incorporate the means for to obtain a new password (or otherwise obtain assistance) in the event of a forgotten password.
- 1.0.1.5 The log-in screen must allow users select the language of the user interface.
- 1.0.1.6 The log-in screen must allow authorized users incorporate the following information: notices, terms and conditions, multimedia content and access support information.

## **1.0.2 User interface**

- 1.0.2.1 Facilitate a responsive web-based user interface that are intuitive and easy to navigate from different devices.
- 1.0.2.2 Allow authorized users to configure the format currently in use within ONCAE, this include organizational logo, menu, toolbars, header, footer and fonts.
- 1.0.2.3 Allow administrators to configure different languages for user interface and rename menus and tags.
- 1.0.2.4 The user interface must allow users quick access to frequently used functions.
- 1.0.2.5 Facilitate a customized dashboard to view snapshot of information within the System.
- 1.0.2.6 Limit users to a single concurrent session on all systems.
- 1.0.2.7 Automatically terminate users' sessions if the session is not active for a predefined time interval.

## **1.0.3 User management**

- 1.0.3.1 Allow creation of an administrator user at agency level and one administrator user for ONCAE.
- 1.0.3.2 Allow the creation of profiles, privileges and resources which may be defined for each user or applied to groups of users.
- 1.0.3.3 Allow users to complete their registration via an activation link sent via email or a temporary password.
- 1.0.3.4 Provide the ability to search for users' information. ONCAE should be able to search by user name, user profile, agency and by keywords.
- 1.0.3.5 Allow restriction of users by agency, procurement procedure, user profile and other criteria.
- 1.0.3.6 Allow the creation of a delegate user account when a user is on vacation. Delegate user account should permit access across all the modules where the user have access rights.
- 1.0.3.7 Allow users to be disabled so that their activity is stored in the System even though these users cannot longer login.

## **1.0.4 Agency management**

- 1.0.4.1 Allow ONCAE to configure a form with the information required to register the public procurement agency (hereinafter called "the agency") in the System.
- 1.0.4.2 Allow the maintenance of the agency's information by its own administrator.
- 1.0.4.3 Allow agency administrator to create and maintain agency users and assign the allowed profiles.
- 1.0.4.4 Allow creation of agencies that dependent hierarchically of another agency.

## **1.0.5 Transactional features**

- 1.0.5.1 All modules of the System must make use of forms to capture data. The forms must support capturing all kinds of data such as text, numeric, alphanumeric, date, integers.
- 1.0.5.2 Support addition of user defined custom fields (alphanumeric, numeric, letters, free text, date, etc.) onto data capture forms and master-files in the system build process.



- 1.0.5.3 Support user definition of field values where provision of a dropdown list is requested in order to encourage entry of correct and accurate data.
- 1.0.5.4 Allow users to make fields mandatory to compel users to enter those fields.
- 1.0.5.5 Perform immediate field validation to discourage users from entering wrong data in a field.
- 1.0.5.6 Facilitate multi-agency capability and enable the creation of multi-agency users.
- 1.0.5.7 Facilitate multi-currency capability (HNL, USD, EUR).
- 1.0.5.8 Allow authorized users to set the system time with the legal time of the Republic of Honduras (UTC-6) including hours, minutes and seconds with a difference of no more than 5 seconds.
- 1.0.5.9 Allow authorized users to configure and maintain a master file with the CUBS codes.
- 1.0.5.10 The amount fields of the System must be able to hold a minimum 15 digit figures and to round off amounts to 2 decimal places.
- 1.0.5.11 In addition to allowing keying of dates, the date fields must have the capability of popping up a calendar to enable users to enter dates by selecting on the calendar.
- 1.0.5.12 Support both 12-hour and 24-hour time formats and must allow users to select the time format of their choice.

#### **1.0.6 Document and content management**

- 1.0.6.1 Allow for the utilization and facilitate the storage of all procurement documentation (including both original content created within the software and attachments in the form of: text-based documents, all MS Office documents, pdf and images).
- 1.0.6.2 Index, categorize and store procurement documentation in a manner that allows easy access and retrieval, and must control access to that information to authorized users only.
- 1.0.6.3 Allow for the export of documents from the software for printing or updating and then reloading into the System.
- 1.0.6.4 Provide the ability to search for, retrieve and view documents stored within the software. Users should be able to search by document title, author, category, and by keywords.
- 1.0.6.5 Permit the direct input of information, and the uploading (and downloading) of documents to (or from) the software via a variety of access devices.

#### **1.0.7 Business processes**

- 1.0.7.1 Facilitate a flexible business process model to enable authorized users to define new procurement procedures and their configurations (e.g. pre-qualification, public and private tenders, request for information, single sourcing, FA, etc.).
- 1.0.7.2 Allow the buyers to configure procurement process that can be easily created or changed.
- 1.0.7.3 Assign a unique identifier to every single procurement process created by users.
- 1.0.7.4 Facilitate administration by means of a range of appropriate states (such as “published”, “bid reception” “evaluation”, “awarded”, “cancelled”, “failed”) which may be configured by type of procurement process.

- 1.0.7.5 Support the configurations of routing rules to enable assigning of process steps to users and definition of tasks to be carried out by users at each process step.
- 1.0.7.6 Display required process steps that must be executed to complete procedures and processes.
- 1.0.7.7 Support a single process workflow and multiple process workflows, using AND, OR, or exclusive OR operands.
- 1.0.7.8 Facilitate powerful search capabilities to enable users to find procurement processes.
- 1.0.7.9 Enable multiple search/query criteria for processes, including agency, supplier, process number, procedure type, CUBS, status, dates and open text.
- 1.0.7.10 Enable reports of use of the software per agency/supplier, e.g. status of procurement processes, statistical and historical information of procurement processes, supplier's bid history, user usage, active & inactive users, etc.

### **1.0.8 Alerts and notifications**

- 1.0.8.1 Facilitate a robust notification system that enables messages and alerts to be sent when an event occurs or due to passage of time.
- 1.0.8.2 Enable users to create and configure alarms, alerts and notifications.
- 1.0.8.3 Allow the users to configure one alert/notification to be sent to several recipients.
- 1.0.8.4 Support email and text message alerts and notifications to users.
- 1.0.8.5 Support in-application alerts and notifications i.e. the notifications and alerts are viewed by users within the modules.

### **1.0.9 Audit logs**

- 1.0.9.1 Record and retain an audit log covering all significant activity undertaken within the software (such as the creation, modification and deletion of content, publication of documents, communications and the granting of access to documentation).
- 1.0.9.2 The audit log must show the event, the user who performed the event, date- and time-stamped (in hours, minutes & seconds, BR time) and the IP addresses of the device used to perform the event.
- 1.0.9.3 It must not be possible to alter the accounting log (other than to extract one sequence of activity from among unrelated ones).
- 1.0.9.4 The availability of the audit log must be restricted to those users with a valid interest in the log.
- 1.0.9.5 The audit log must be comprehensible to the reader without the need for specialist interpretation.

### **1.0.10 Reports**

- 1.0.10.1 Facilitate a powerful query tool or filtering capability to enable users to generate a range of standard reports and user-defined reports.
- 1.0.10.2 Provide an on-screen facility to enable users preview any reports generated by the software.
- 1.0.10.3 Allow users to copy reports as previewed on screen and paste into third party document processing application such as MS Word and Excel.

- 1.0.10.4 Allow reports as viewed on screen to be exported into a MS Excel document, as a pdf, rtf document or printed by a connected printer.
- 1.0.10.5 Enable users to email reports to users, buyers, suppliers, etc.
- 1.0.10.6 Facilitate a report creator to allow users to develop and organize the layout of report outputs.

## **1.1 Supplier management module**

The supplier management module will facilitate buyers to solicit and manage supplier information, risk and performance. This module provides the means and a place to register, archive and organize supplier data. Include information such as contact information, insurance certificates and plant locations collected directly from suppliers through a web portal. The supplier management module will enable the following processes:

- 1.1.1 Registration of suppliers
- 1.1.2 Suppliers management
- 1.1.3 Access to procurement processes

### **1.1.1 Registration of suppliers**

- 1.1.1.1 Allow configure a form to capture basic supplier information (e.g. supplier name, supplier code, RTN, supplier classification, registration date, registration expiry, address, contact person, financial statements, bank account details, etc.).
- 1.1.1.2 Allow users to upload document as part of the supplier registration process.
- 1.1.1.3 Allow authorized users to validate supplier registration data and make corrections (e.g. that mandatory information is completed, that records are not duplicated, etc.)
- 1.1.1.4 Allow the suppliers to register CUBS codes of the goods and services they can offer.
- 1.1.1.5 Enable new suppliers to complete their registration via an activation link sent via email or a temporary password and generate a supplier registration number.
- 1.1.1.6 Allow the registration of multiple users within a supplier while allowing both collaboration within procurement processes and segmentation between different user accounts.

### **1.1.2 Suppliers management**

- 1.1.2.1 Enable amendment of supplier information by authorized users of the supplier.
- 1.1.2.2 Enable to the users to easily identify supplier duplicates.
- 1.1.2.3 Maintain to the supplier price list based on agreed rate contract.
- 1.1.2.4 Maintain a list of suppliers with non-compliances.
- 1.1.2.5 Maintain a list of blacklisted supplier that has been disqualified that do not perform as required.
- 1.1.2.6 Maintain an update list of awarded contracts for each supplier.
- 1.1.2.7 Maintain supplier evaluation and performance information.
- 1.1.2.8 On selecting a good or service, System must list out all the suppliers who have registered to supply that item.
- 1.1.2.9 Enable the creation of a single supplier directory that must be visible and available for users across all modules.

1.1.2.10 Allow authorized users to query and view a list of all suppliers registered and their status.

### **1.1.3 Access to procurement processes**

1.1.3.1 Allow the supplier to gain access to procurement process which a buyer has published to that supplier and view, print and export/download the documentation which has been published.

1.1.3.2 Allow the supplier to acknowledge receipt of the procurement process documentation and indicate to the buyer an intention to participate in that process.

1.1.3.3 Allow the supplier to view a history of their own interactions in previous procurement processes (e.g., bid submissions) with the System.

## **1.2 Electronic sourcing module**

The e-sourcing module will enable a complete procurement process, from publishing of procurement plans, identifying potential suppliers, solicit and evaluate information (RFIs) and proposals (RFPs), electronic submission of bids until electronic awarding of contracts. The module will interface with SIAFI to validate the budgetary availability. The electronic sourcing module will enable the following processes:

- 1.2.1 Procurement Plan (PACC)
- 1.2.2 Tender documentation
- 1.2.3 Tender publishing
- 1.2.4 Tender clarification and amendment
- 1.2.5 Electronic bid submission
- 1.2.6 Bid opening
- 1.2.7 Bid evaluation
- 1.2.8 Award of contract

### **1.2.1 Procurement Plan (PACC)**

1.2.1.1 Allow to capture organizational PACC with the following detail: item, department, CUBS code, description, expected delivery date, quantities, estimated value. The buyer should be able to use the rest of the System functionality with or without PACC.

1.2.1.2 Enable approval of PACC at departmental level within organization.

1.2.1.3 Enable the authorized users to review and amend the PACC and record progress against the PACC.

1.2.1.4 Enable multiple search/query criteria for PACC, including agency, procedure type, CUBS codes, status, dates, values and open text and allow the results to be exported into a MS Excel.

1.2.1.5 Allow the PACC to be exported into a MS Excel document or other spreadsheet formats.

1.2.1.6 Enable the users to generate standard PACC reports and filter the information per agency, item, CUBS code, estimated value, etc.

1.2.1.7 Alert and notify the suppliers of the items included in the procurement plans based on the CUBS codes.

- 1.2.1.8 Enable the authorized users to view the departmental procurement plans, consolidate them into an overall PACC, approve it and publish it in a public view.
- 1.2.1.9 Maintain different versions of PACC, identify current and previous versions of the PACC and identify and attribute any changes made between versions.

### **1.2.2 Tender documentation**

- 1.2.2.1 Enable the buyer to create the tender documentation by creating content directly within the software, by uploading documents created elsewhere, or by a combination of both methods.
- 1.2.2.2 Enable the buyer to utilize a range of templates, previously created tender documentation, and document groups in the creation of tender documentation.
- 1.2.2.3 Enable the buyer to create a tender price list with the following detail: item, CUBS code, description, quantities and estimated value.
- 1.2.2.4 Enable the buyer to configure supplier qualification and evaluation structure (weightings, scorings, and scoring criteria).
- 1.2.2.5 Enable the buyer to work collaboratively with other buyers and stakeholders on the development of tender documentation, such that other users can review, comment upon and revise the tender documentation.
- 1.2.2.6 Enable the buyer to make the tender documentation available to selected users, and have the tender documentation reviewed, amended or approved by selected users.
- 1.2.2.7 Enable the buyer to review tender documentation, track the changes and version control.
- 1.2.2.8 Permit the authorized users to create new templates or amend existing ones and make them available to selected agencies or users.

### **1.2.3 Tender publishing**

- 1.2.3.1 Enable the buyer to create a deadline by which suppliers must submit responses to the tender documentation.
- 1.2.3.2 Enable the buyer to publish any conditions or rules regarding the participation in the tender process and set the conditions under which the tender responses shall be returned.
- 1.2.3.3 Enable the buyer to preview the tender documentation prior to publication, as it will be seen by suppliers after publication.
- 1.2.3.4 Enable the buyer to publish the tender documentation, such that it becomes available to interested suppliers while remaining secure from unauthorized access.
- 1.2.3.5 Assign unique identifier (tender ID) to published tender and alert automatically to suppliers about the publication of tender documentation.
- 1.2.3.6 Create automatic alerts to inform buyers when a FA for a good or service exist.

### **1.2.4 Tender clarification and amendment**

- 1.2.4.1 Enable the buyer to conduct clarification of the tenders of one or more suppliers at multiple stages (e.g. pre- and post-evaluation).
- 1.2.4.2 Permit the buyer to respond a clarification to one or more suppliers.
- 1.2.4.3 Maintain an audit trail of any clarification undertaken with the suppliers.

- 1.2.4.4 Enable to withdraw, amend and reissue updated versions of tender documentation to suppliers, such that suppliers are aware of the correct version of the document to be used.
- 1.2.4.5 Enable the buyer to amend the deadline, and ensure that suppliers are alerted to any amendments to a tender deadline.
- 1.2.4.6 Create automatic alerts to inform suppliers of key events (e.g. amendments, the forthcoming expiry of the response period).
- 1.2.4.7 Maintain different tender status, including at least: published, cancelled, unsuccessful, awarded.

### **1.2.5 Electronic bid submission**

- 1.2.5.1 Enable the supplier to see a “tender checklist” relating to the documentation/answers to be submitted.
- 1.2.5.2 Enable the supplier to create a response to the tender either by creating original content within the software, by uploading documents created elsewhere, or by a combination of both methods.
- 1.2.5.3 Enable the supplier to save their bids “in progress” and permit to return to it in order to review, amend or add to it as many times as desired.
- 1.2.5.4 Enable the supplier to see an accurate “countdown” (in hours, minutes and seconds) of the time remaining before closure of the tender response period.
- 1.2.5.5 Validate automatically that all documentation/answers are completed and the buyer have accepted the terms and conditions before bid submission.
- 1.2.5.6 Allow the supplier to formally submit an online bid to the tender. Immediately upon bid submission, the System shall issue the supplier a formal notification (or “electronic receipt”).
- 1.2.5.7 Enable the supplier to withdraw a previously submitted bid, replace a previously submitted bid, or submit revisions to previously submitted bid (such that only the latest submission or version of a submission shall be available to the buyer) at any time before the expiry of the response period.
- 1.2.5.8 Enable the buyer to upload a pdf scanned version of a paper bid onto the solution and record a summary of that bid, including at least the identity of the supplier, date and time of response and pricing information.

### **1.2.6 Bid opening**

- 1.2.6.1 Ensure that submitted bids are held sealed within the software until the opening date and time is reached. Nobody (even system administrators) can view or edit submitted bids before that time.
- 1.2.6.2 On no account should it be possible to access bid documentation other than in particular circumstances (e.g. investigating reported issues) and with the explicit knowledge and agreement of the supplier.
- 1.2.6.3 Permit authorized user to open the bids after the approval workflow are finished.
- 1.2.6.4 Enable the buyer to create a bids report including, at a minimum: number of submitted bids, supplier name, bid submission time and bids prices.

- 1.2.6.5 Enable the buyer to allow the submitted bids to be evaluated in the solution (e.g. to ensure that all documentation is present).

### **1.2.7 Bid evaluation**

- 1.2.7.1 Support the evaluation of bids by a team of evaluators which may be geographically dispersed.
- 1.2.7.2 Allow the buyer to assign different roles to individual evaluators and grant controlled access by evaluators to bids or specific parts of bids (e.g. finance, technical and legal).
- 1.2.7.3 Enable the buyer to utilize a range of suitable system templates or previously created evaluation models (e.g. evaluation criteria, scoring schemes, and model answers).
- 1.2.7.4 Include an integral evaluation matrix to allow the buyer to create a case-specific matrix to facilitate the scoring of bids by evaluators. The matrix must allow evaluators to apply the evaluation criteria and weightings to each bid (price, quality).
- 1.2.7.5 Enable evaluators to perform a detailed evaluation of bids by recording scores for each requirement, each requirement section and/or each bid and recording their justification for each scoring decision.
- 1.2.7.6 Enable the buyer to create rankings of bids, parts of bids, and suppliers' responses to individual requirements.
- 1.2.7.7 Support the decision process by enabling a buyer to present a comparison in scores between different bidders.
- 1.2.7.8 Support the decision process by enabling a buyer to reject bids in the System along with the reason for the rejection (open text and dropdown box fields).
- 1.2.7.9 Support the decision process by enabling a buyer to present the results of the evaluation, print and export the evaluation results into other formats as MS Word and Excel.

### **1.2.8 Award of contract**

- 1.2.8.1 Enable buyer to award the tender, deal with partial awards, awards of lots or appointment to FA, and support the award with the documentation of the evaluation process.
- 1.2.8.2 Enable a buyer (utilizing a range of suitable templates) to prepare, edit and issue contract award letters and letters to unsuccessful suppliers.
- 1.2.8.3 Enable a buyer to generate contract documentation from templates, standard terms and conditions and tender documentation resulting from preceding tender exercise. The System must assign a unique identifier to the contract (contract ID).
- 1.2.8.4 Enable the buyer to send the contract to awarded supplier(s), including at least: contract ID, contract subject, contract value, warranties, effective start date, end date and allow attachment of contract documents.
- 1.2.8.5 Permit to manage the process by which the parties agree and sign the contract documentation.

## **1.3 Electronic catalog module**

The e-catalog module will enable the operation of framework agreements to complete indirect purchasing process for simple and standardized products and services. The module provides

information like product names, product hierarchy, descriptions, prices and supplier and internal codes, and supports on-line ordering capabilities (PO). The module will also need an integration with SIAFI to validate the budgetary availability. The electronic catalog module will enable the following processes:

- 1.3.1 FA contract management
- 1.3.2 Catalog administration
- 1.3.3 Catalog search
- 1.3.4 Shopping cart
- 1.3.5 Requisition
- 1.3.6 PO creation

### **1.3.1 FA contract management**

- 1.3.1.1 Upload the FA contract information from electronic sourcing module, including contract ID, contract subject, contract value, warranties, effective start date, end date and allow attachment of FA contract documents.
- 1.3.1.2 Maintain the FA contract information updated, on contract terms and conditions, rates, payment conditions, etc. through integration with electronic sourcing module.
- 1.3.1.3 Provide a system for administering FAs to modify, cancel or terminate live FA and store the information on concluded FAs in a database format.
- 1.3.1.4 Create automatic alerts to inform ONCAE of key events, e.g. expiry of FA.

### **1.3.2 Catalog administration**

- 1.3.2.1 Permit to upload the electronic catalogs resulting of FA negotiated by ONCAE, including at least: item name, item ID, CUBS code, description, supplier, supplier name, supplier part number, unit of measurement, delivery conditions.
- 1.3.2.2 Allow for differential pricing by further specifying the freight charges, local taxes, discounts for specific users, etc. for delivery in various permitted locations.
- 1.3.2.3 Allow the maintenance and hosting of individual electronic catalogues to be controlled according to the terms of an individual FA between ONCAE and its particular suppliers.
- 1.3.2.4 Provide a system for administering electronic catalogs to modify, cancel or terminate live FA and store the information on concluded FAs in a database format.

### **1.3.3 Catalog search**

- 1.3.3.1 Allow categorization as well as the location of electronic catalogs through browsing.
- 1.3.3.2 Allow buyers to view the electronic catalogs items before they log into the System.
- 1.3.3.3 Facilitate both simple and advanced search functionalities and the possibility to compare search results by supplier.
- 1.3.3.4 Allow items to be identified (searched) by more than one specific identifier such as description, item code, etc.

### **1.3.4 Shopping cart**

- 1.3.4.1 Support shopping cart functionality when procuring using electronic catalogues.



- 1.3.4.2 Permit add items to the shopping cart and calculate the total value of the procurement.
- 1.3.4.3 Allow user to add items from different suppliers to shopping cart.
- 1.3.4.4 Split items by different suppliers, and accumulate items in shopping cart at the time of releasing the requisition.

### **1.3.5 Requisition**

- 1.3.5.1 Allow buyer to create a requisition from shopping cart and copy an existing requisition.
- 1.3.5.2 Assign unique identifier (requisition ID) to published requisition and alert automatically to FA suppliers about to the publication of requisition.
- 1.3.5.3 Auto-populate the requisition with buyer, department, shipping details, etc. The user should be able to override this information (different buyer, department, shipping address, etc.).
- 1.3.5.4 Allow attachment of documents to the requisitions.
- 1.3.5.5 Save requisition that can be completed at a later time and allow copy saved requisitions to create new processes.
- 1.3.5.6 Permit cancel or modify requisitions.

### **1.3.6 PO creation**

- 1.3.6.1 Send automated email alerts to facilitate the PO approval workflow in the organization once the requisition has been released.
- 1.3.6.2 Permit automatic creation of PO, once the requisition has been approved by the appropriate buyer authority.
- 1.3.6.3 Permit to create PO to the selected single supplier, multiple suppliers, multiple lots, etc.
- 1.3.6.4 Link the PO number with the requisition number to allow tracking.
- 1.3.6.5 Support configuration of (i) automatic release of PO or (ii) releasing PO once PO releasing workflow has finished.
- 1.3.6.6 Send automated email alerts to suppliers and support electronic confirmation from the supplier upon receipt of the online PO.
- 1.3.6.7 Enable the supplier to confirm the reception of the PO and accept the terms and conditions of the FA.

## **1.4 Contract management module**

The e-sourcing module will allow buyers document and track supply agreements. Include tools to support contract creation and negotiation, pre-signature approval workflow, monitoring contract obligations and post-execution activities. The module will interface with SIAFI to validate the budget commitment. The contract management module will allow the following processes:

- 1.4.1 Contract Amendments
- 1.4.2 Contract administration
- 1.4.3 Reception and invoicing
- 1.4.4 Contract Closing

The System should enable the same functionalities to manage contracts or POs. Within the Functional Requirements below “contracts” should be read as “contracts or POs”.

#### **1.4.1 Contract Amendments**

- 1.4.1.1 Allow the buyer to draft amendments and variations to contracts and agree them with the supplier.
- 1.4.1.2 Maintain different contract status, including at least: unmodified, modified, cancelled, terminated.
- 1.4.1.3 Allow the buyer to draft, agree and record call-offs and mini-competitions under FA.
- 1.4.1.4 Allow the buyer to view a history of the contract's amendments, call-offs and mini-competitions made under a FA.

#### **1.4.2 Contract administration**

- 1.4.2.1 Maintain a template library for contracts with common set of terms and conditions. The user should be able to define the contract on the awarded vendor.
- 1.4.2.2 Maintain different contract status, including at least: signed, modified, cancelled, closed.
- 1.4.2.3 Allow the buyer to manage the different phases of a contract, including at least: initiation, execution and closure.
- 1.4.2.4 Allow the buyer to associate a user (known as the “contract supervisor”) with a contract.
- 1.4.2.5 Allow the contract supervisor to record and maintain such information as contract values, contract start and end dates, break-points, and options to extend.
- 1.4.2.6 Allow the contract supervisor to set alerts for which contracts they are responsible. This user should specify the date and time at which alerts are to be issued.
- 1.4.2.7 Allow the buyer to view the full details of closed contracts, including tender information and any amendments.

#### **1.4.3 Reception and invoicing**

- 1.4.3.1 Allow the contract supervisor to record the reception of good and services in full or partially and allow attachment of support documentation.
- 1.4.3.2 Allow the contract supervisor to record the percent of work complete (real, and planned) and allow attachment of support documentation.
- 1.4.3.3 Facilitate the ability to automatically update contract progress upon receipt of new good, service or work.
- 1.4.3.4 Enable the supplier to register invoices, including at least the following details: invoice number, invoice amount, registration date, due date, currency, payment conditions.
- 1.4.3.5 Allow for attachment of a copy of a supplier invoice to the registered invoice.
- 1.4.3.6 Enable the buyer to approve of the registered invoices.
- 1.4.3.7 Enable three way matching of invoices to awarded contract and to the goods, services and works received.

#### **1.4.4 Contract Closing**

- 1.4.4.1 Allow the contract supervisor to register the quality of good, services and works received and the performance of the suppliers.
- 1.4.4.2 Allow the contract supervisor to register the non-compliance of supplier and technical reasons supporting non-compliance.
- 1.4.4.3 Allow the contract supervisor to publish the fines and penalties associated with suppliers' non-compliances.
- 1.4.4.4 Allow the contract supervisor to register the abnormal contract termination when the process was unsuccessful.
- 1.4.4.5 Allow the contract supervisor to close a contract when the supplier has finished the contract obligations.

#### **1.4.5 Performance management**

- 1.4.5.1 Allow the buyer to evaluate the performance of suppliers against several performance categories (e.g. delivery, service, quality, cost, etc.).
- 1.4.5.2 Allow the buyer to evaluate the quality of items (e.g. model, brand, warranty, etc.).
- 1.4.5.3 Enable the buyer to review through a single screen the supplier performance during a certain period (e.g awards, contracts compliance, score, etc.).
- 1.4.5.4 Enable de buyer to produce a variety of reports on supplier performance.
- 1.4.5.5 Enable de buyer to compare the performance reports of suppliers with multiple contracts.

## C. TECHNICAL SPECIFICATIONS

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### 2.0 General technical requirements

- 2.0.1 The Bidder should describe in detail the key components of the overall technical architecture of the System, including attributes like.
- View & Presentation Layer
  - Business Layer
  - Integration Layer
  - Infrastructure Layer
  - Data Layer
  - Security Layer
  - Management & Monitoring
- 2.0.2 The Licenses of Standard Software must cover all System modules and unlimited users on perpetuity basis.
- 2.0.3 The source codes & intellectual property rights of all the software developed under this project shall be the exclusive property of ONCAE.
- 2.0.4 Structured or unstructured procurement data migration is not required.
- 2.0.5 The System must support OCDS for data structuring, reporting and analytics. See the [OCDS documentation](#) and the [OCDS implementation methodology for e-GP](#) from the World Bank e-Procurement Toolkit.
- 2.0.6 The System must be based in a SOA architecture.
- 2.0.7 Language Support: All information technologies must provide support in Spanish.

### 2.1 Integration requirements

The following integration points are initial set of interfaces among the System and SIAFI.

- 2.1.1 Validate the procurement estimate in the PACC must not exceed the budget amount.
- 2.1.2 Validate the budget availability before publishing the tender (sourcing) or release the requisition (catalog).
- 2.1.3 Register the budget commitment once the contract is awarded (sourcing) or the PO is released (catalog).
- 2.1.4 Send payment requests based on supplier invoices in full or partially.
- 2.1.5 Receive the payment confirmation.
- 2.1.6 The integration must be done through various methods such as:
- Web Services based (REST or SOAP).
  - File based (where data is available in form of flat files)
  - Message based (for asynchronous data exchange)
  - API based
- 2.1.7 The System must support the following integration standards.

- XML
- SOAP
- REST
- WSDL

## **2.2 Performance requirements**

The System must have following performance in PROD.

- 2.2.1 The System must be able to run even in low bandwidths like 512 Kbps and should not hang.
- 2.2.2 The System portal page must have a target load time of 5 seconds based on a connection speed of 2 Mbps and the target being met in 90% of cases.
- 2.2.3 The System application must be able to handle at least 500 concurrent users.
- 2.2.4 The System DB must have the capacity to handle up to 10.000 transactions per hour.
- 2.2.5 The CPU and memory utilization of the servers (Application, DB, Web) at peak load is capped at 70%.
- 2.2.6 The System must support scalability both vertically (scale-up) and horizontally (scale-out) across architecture tiers.
- 2.2.7 The System should be compatible with 3rd party system monitoring package.
- 2.2.8 The Supplier must conduct a performance testing to determine the required infrastructure as well as its configuration to support the above requirements.

## **2.3 Service continuity requirements**

The System must have following availability and reliability in PROD.

- 2.3.1 The System must, under normal circumstances, be available for use at minimal 99 % in a monthly basis.
- 2.3.2 The maximum downtime during business hours is 15 minutes per day and during non-business hours is 180 minutes per day.
- 2.3.3 Support redundancy and failover servers in cases of outages and System crashes. The system must auto-switch to available server in case of failure.
- 2.3.4 Use clustered and load balanced systems to ensure that no congestion in any component of the System and provide high quality service.

## **2.4 Database requirements**

The System DB must have following features:

- 2.4.1 High availability. In case of failure of one DB server provided by ONCAE, each remaining DB server in the cluster should provide full access to all data anytime.

- 2.4.2 Provide horizontal scalability, by adding additional servers for the same DB without any downtime.
- 2.4.3 Support data export and import facility to variety of databases and other software packages.
- 2.4.4 Support different partitioning schemes to split large volumes of data into separate pieces or 'partitions' which can be managed independently.
- 2.4.5 Support plug and play data transfer across Systems or OS.
- 2.4.6 Support a single unified data model hosted on a single database.
- 2.4.7 Provide encryption capabilities while transferring data over networks.
- 2.4.8 Address all the structured and unstructured data storage requirements of the System.
- 2.4.9 Support various types of content like texts, images, multi-media, spatial and XML content natively.
- 2.4.10 Allow index, search, and analyze text and documents stored in the System.

## **2.5 Security requirements**

The System must have following security characteristics.

- 2.5.1 The System must ensure that all users are identified and authenticated by means of a unique username and a password.
- 2.5.2 The implemented System must support the following security controls.
  - Confidentiality. Ensure data is protected from interception or eavesdropping.
  - Integrity. Identify unauthorized changes in data during transmission and storage.
  - Privacy. Ensure data privacy between departments or agencies who store procurement process in the System.
  - Availability. Provide uninterrupted access and infrastructure in line with business requirements, and include BC and DR.
- 2.5.3 The System must be protected from electronic attack, including against hacking, introduction of malicious software and privilege escalation (e.g. an authorized user attempting to use his credentials to access other users/organizations' data). All access violation attempts must be logged and reported for investigation by the systems security administrator.
- 2.5.4 The System must check for viruses in all documents and messages within the system. Where a virus is identified, the infected file must be quarantined.
- 2.5.5 Data transmission to and from the System must be protected by 128-bit SSL and Supplier must provide, managed and maintain the certificates.
- 2.5.6 The Supplier must undertake an annual network penetration test of the System and report findings to ONCAE.
- 2.5.7 All information in the System must be encrypted so that IT staff cannot access sensitive information by querying directly against the database.

- 2.5.8 No DEV, TEST or TRAIN users may have access to PROD data in any circumstances.
- 2.5.9 All information created within the System must be retained until the owner of the information orders its archiving.
- 2.5.10 All information held within the System must be capable of being archived for a minimum of 10 years following archiving.

## **2.6 Open Contracting Data Standard**

The System must have the capacity to:

- 2.6.1 Generate structured data from each stage of the contracting process, from planning through to contract management, according to the latest version of the OCDS.
- 2.6.2 Generate an OCDS release for each update to a procurement process and each OCDS release shall be made persistently available at a unique public URL in JSON format.
- 2.6.3 Maintain an OCDS record for each procurement process providing a complete history of the procurement process and each OCDS record shall be made persistently available at a unique public URL in JSON format.
- 2.6.4 Make available bulk downloads of OCDS data in both structured JSON format and flattened formats (e.g. CSV, etc.).
- 2.6.5 Assign a unique identifier (an Open Contracting ID) to each procurement process to link each stage of the process, from planning to contract management, and facilitate the publication of OCDS data.
- 2.6.6 Support the ability to make adjustments to the OCDS output to accommodate changes to the OCDS schema over the lifetime of the e-GP system.

## **D. TESTING AND QUALITY ASSURANCE REQUIREMENTS**

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The Testing and Quality Assurance Requirements below statements should be read as preceded by "The Supplier must".

### **3.1 System tests**

#### **3.1.1 Performance test**

- 3.1.1.1 Determine metrics and design performance test plan that will be conducted by its infrastructure team.
- 3.1.1.2 Develop the necessary workload to conduct performance tests in PROD.
- 3.1.1.3 Test the System with production volume workloads in PROD to determine overall performance in terms of throughput, response time, run time and resource utilization.

#### **3.1.2 Code quality test**

- 3.1.2.1 Determine metrics and design quality code test plan that will be conducted by its development team.
- 3.1.2.2 Utilize a code quality tool to find bugs and check style of the System source code.

#### **3.1.3 Backup test**

- 3.1.3.1 Determine metrics and design backup and recovery plan that will be conducted after a real emergency.
- 3.1.3.2 Coordinate with DC provider the backup and recovery tests to make sure that the backup and recovery plan will work the right way.

#### **3.1.4 Stress tests**

- 3.1.4.1 Perform the load/stress testing on the exact architecture as would be used in PROD.
- 3.1.4.2 Provide all necessary tools to perform load/stress testing of the System.

#### **3.1.5 Penetration test**

- 3.1.5.1 Perform an external port scan and penetration test of the System. This test should include all public facing servers.
- 3.1.5.2 Scan System for potential vulnerabilities. This test should include all servers and networks from the perspective of an outside attacker.
- 3.1.5.3 Provide all necessary tools to perform penetration testing of the System.

### **3.2 Functional tests**

#### **3.2.1 Unit and integration tests**

- 3.2.1.1 Carry out the unit testing of the System in accordance with the approved Test Plan.
- 3.2.1.2 Conduct integration testing in accordance with the approved Test Plan before handing over to ONCAE for acceptance.
- 3.2.1.3 Test all System functionalities and modules before and after go-live.



3.2.1.4 Work with ONCAE and government agencies to test all the System integration interfaces.

### **3.2.2 Acceptance tests**

ONCAE will undertake an acceptance testing of System through a third party to determine if the Functional Requirements are met. The Supplier must inform ONCAE and third party, as soon as the System is ready to go-live, to start the acceptance tests.

3.2.2.1 Prepare test procedures and test scripts required for the satisfactory completion of acceptance tests.

3.2.2.2 Coordinate with ONCAE and the third party for starting acceptance testing of the System.

3.2.2.3 Offer necessary assistance to ONCAE and third party during acceptance testing on the System and its components.

3.2.2.4 Provide and configure an error tracking system to record and track the solution of detected errors.

3.2.2.5 Fix all errors detected by ONCAE and the third party during acceptance testing of the System at no extra cost.

The acceptance of the system will be subject to final acceptance tests before a Operational Acceptance Certificate can be issued by ONCAE. Final acceptance tests will be conducted to confirm that all errors identified during acceptance testing have been addressed accordingly.

## **E. IMPLEMENTATION SCHEDULE AND DELIVERABLES**

The implementation of the System may be segmented in eight distinct phases: (i) plan, (ii) design, (iii) development, (iv) integration, (v) testing, (vi) training, (vii) go-live y (viii) stabilization. The timelines given in the following table are indicative (months).

No.	Phase	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
4.1	Plan																
4.2	Design																
4.3	Development																
4.4	Integration																
4.5	Testing																
4.6	Go-live																
4.7	Stabilization																

The following are the main project deliverables of each phase. The project deliverables below statements should be read as preceded by “The Supplier must”.

### **4.1 Plan**

- 4.1.1 Prepare a detailed Project Plan version that address the topics and points specified in preliminary Project Plan.
- 4.1.2 The Project Plan must describe the human resources, tasks and activities, roles and responsibilities required throughout the execution of the project.
- 4.1.3 The Project Plan must state the major responsibilities of the Purchaser, ONCAE and any other involved third parties in System installation.

### **4.2 Design**

- 4.2.1 Undertake IT infrastructure, OS and DB sizing and prepare requirement documents for DC and DR for TRAIN and PROD.
- 4.2.2 Provide all IT infrastructure, OS, DB and licenses for DEV and TEST during the Contract Period. Including servers, networking, security components, storage, etc.
- 4.2.3 Prepare a FRS and SRS documents with a complete description of the behavior of the functionalities to be configured/developed.

### **4.3 Development**

- 4.3.1 Configure and customize the System to meet the Functional Requirements in accordance with the FRS and SRS documents.
- 4.3.2 Develop the Functional Requirements that the System does not have available in the Standard Software for its immediate configuration.
- 4.3.3 Develop at least ten (10) customized reports to cover at least the following information:

- Procurement processes (number)
  - Procurement processes (value)
  - Historical and cancelled procurement processes
  - Bids per procurement process
  - Evaluation criteria per procurement process
  - Total procurement contracts
  - Procurement contracts by value
  - Procurement contracts by contractor type (SME, SMB, individual business)
  - Top categories for goods and services
  - Top agencies using the System.
- 4.3.4 Develop one report using OCDS model to publish initiation, award, contract and execution information for each contracting process.
- 4.3.5 Deploy the customized System in TEST.

#### **4.4 Integration**

- 4.4.1 Provide the Integration Plan among the System and SIAFI.
- 4.4.2 Develop and test the integration points with SIAFI.
- 4.4.3 Supply, install, configure and support any additional software required to proper operation of the integration among the System and SIAFI.

#### **4.5 Testing**

- 4.5.1 Provide a Test Plan that needs to be conducted to implement the System. This plan must be presented to ONCAE for review and approval.
- 4.5.2 The Test Plan must describe all tests, the quality criteria for acceptance and the roles and responsibilities of each of the Supplier's management team.
- 4.5.3 Provide, after finishing performance tests, a sizing guide for the System future growth in PROD and TRAIN.
- 4.5.4 Provide the results of the quality code tests executed on the source code developed as part of the System customization.
- 4.5.5 Provide the results of the backup tests executed on the System including recommendations to be implemented by DC provider.
- 4.5.6 Provide the results of the load and stress tests executed on the System.
- 4.5.7 Provide the results of the penetration tests executed on the System including recommendations to be implemented by DC provider.
- 4.5.8 Provide the results of the unit and integration tests executed on the System.
- 4.5.9 Provide the test procedures and scripts that need to be conducted by ONCAE and third party in the acceptance tests.

#### **4.6 Go-live**

- 4.6.1 Close all issues detected as part of acceptance tests prior to go live.
- 4.6.2 Undertake IT infrastructure certification for PROD and TRAIN.
- 4.6.3 Deploy System in PROD and TRAIN using IT infrastructure provided by ONCAE or DC service provider.
- 4.6.4 Deliver on behalf of ONCAE the licenses of Standard Software in PROD and TRAIN. License must cover all System modules and unlimited users on perpetuity basis.
- 4.6.5 Supply, install, configure and support any additional software required to proper operation of the System in PROD and TRAIN.
- 4.6.6 Undertake master data load, templates of tender documentation, and any other key data load into the System.

#### **4.7 Stabilization**

- 4.7.1 Provide technical and functional support 12 hours a day, 5 days a week during the stabilization phase to assist IT ONCAE's support team.
- 4.7.2 Present a daily activity report of the System during the stabilization phase, including new agencies, new procedures, connected users, and awarded contracts.
- 4.7.3 Present a weekly operation report of the System including all issues reported during the stabilization phase and the plan to fix them.
- 4.7.4 Provide the System manual, administration manual, troubleshooting manuals and any other documentation that can help to support System operation.
- 4.7.5 Provide the procedure and contact details to access to support services.
- 4.7.6 Include at least two thousand **2,000** hours of software development to accomplish the change requests and keep the System usable during the Contract Period.

## F. TRAINING REQUIREMENTS

### 5.1 Training

- 5.1.1 Provide a Training Plan that needs to be applied to develop skills and provide user training to various types of System users within the project.
- 5.1.2 The Training Plan must describe the types of trainings, scope, units, delivery method, duration, assessment method, participants and responsible.
- 5.1.3 Arrange at least the following training programs depending on the ONCAE's requirements.

No.	Training Type	Content	Participants	Days	Qty
5.1.3	Technical training	System architecture System installation and deploy System configuration System operation System maintenance	ONCAE IT team System administrator	2	1
5.1.4	Basic functional training	Register and log-in System introduction Procurement workflow System modules System reports	ONCAE team	1	2
5.1.5	Public agencies training	Register and log-in Agency and user configuration System key features Procurement workflow Practical exercises	ONCAE team Public Agencies (5)	3	5
5.1.6	Suppliers training	Register and log-in Supplier and user configuration System key features Procurement workflow Practical exercises	ONCAE team Suppliers (200)	1	10

- 5.1.4 Provide the necessary course material and user manuals for the above training programs.
- 5.1.5 Design the assessment model that will be used for training programs and provide the assistance list and assessment results of each training.

## **G. OPERATIONAL REQUIREMENTS**

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The Operational Requirements of the e-GP project are organized into three sections:

- 6.1 Minimum Key Staff
- 6.2 Maintenance and Support
- 6.3 SLA

The operational requirement below statements should be read as preceded by “The Supplier must”.

### **6.1 Minimum Key Staff**

Provide the following Minimum Key Staff with the required experience and qualification.

- 6.1.1 Project Manager
- 6.1.2 Business Analyst
- 6.1.3 Operations Manager
- 6.1.4 Training Specialist

#### **6.1.1 Project Manager**

##### **(i) Responsibilities**

- Define, plan, and direct the execution of the System project.
- Ensure project objectives and requirements are clear and agreed to by all stakeholders.
- Manage relationships with various technology and business areas to achieve objectives.
- Facilitate project management activities across the entire project.
- Track progress against baseline schedule.
- Ensure successful and timely completion of deliverables.
- Control costs to ensure projects are completed within approved budget
- Conduct risk management planning, identification, analysis, mitigation and monitoring.
- Ensure timely and appropriate disposition of project information and documentation.
- Other duties as assigned.

##### **(ii) Experience and qualifications**

- Bachelor's Degree in Information Systems, Information Technology, Computer Science.
- 8+ years of professional experience as an Information Systems Project Manager
- Fluent in Spanish (Read/Write/Speak).
- Excellent verbal and written communication skills
- Plus: Experience deploying e-Procurement Information Systems
- Plus: PMP

#### **6.1.2 Business Analyst**

**(i) Responsibilities**

- Coordinate all activities related to the requirements gathering, use cases, process documentation, development, training, testing and use of the System.
- Analyze Functional Requirements and transfer the knowledge to the development team.
- Create and update high level technical documents aligned with procurement processes and Functional Requirements.
- Effectively communicate relevant information to Project Manager.
- Develop test scenarios and test cases, and testing activities necessary to assess the quality and completion of the System.
- Define and document external interfaces and data requirement clarification and definition.
- Provide functional training on the System when needed.

**(ii) Experience and qualifications**

- Bachelor's Degree.
- 5+ years of professional experience analyzing and documenting business processes.
- Fluent in Spanish (Read/Write/Speak).
- Excellent verbal and written communication skills.
- Plus: Experience analyzing and documenting procurement processes.
- Plus: CBAP

**6.1.3 Operations Manager**

**(i) Responsibilities**

- Coordinate all activities for building support processes for the System.
- Manage System required IT infrastructure. Responsible for all network and server operations, System availability and delivery technical support.
- Engage Supplier resources to support and monitor the System.
- Manage operations team including helpdesk, System administration and oversee the operations and maintenance activities.
- Responsible for System documentation, regulatory compliance, and change control.
- Coordinate the development of helpdesk procedures and end user training standards.

**(ii) Experience and qualifications**

- Bachelor's Degree in Information Systems, Information Technology, Computer Science.
- 5+ years of professional experience in managing IT operations teams.
- Fluent in Spanish (Read/Write/Speak).
- Excellent verbal and written communication skills.
- Plus: Experience supporting information systems in production environment.
- Plus: ITIL

#### **6.1.4 Training specialist**

##### **(i) Responsibilities**

- Devise project training strategy, oversee its implementation and assess its outcomes.
- Design and present training material for admin users, buyers and suppliers.
- Schedule of staff resources for project trainings (technical, functional and external).
- Ensure delivery of training according to ONCAE's requirements.
- Monitor and evaluate training program's effectiveness and report on them.
- Identify and assess future and current training needs through user appraisals.

##### **(ii) Experience and qualifications**

- Bachelor's Degree.
- 5+ years of professional experience leading training programs.
- Fluent in Spanish (Read/Write/Speak).
- Excellent verbal and written communication skills.
- Plus: Experience performing trainings in e-Procurement.
- Plus: Experience with learning management systems

#### **6.2 Maintenance and Support**

##### **6.2.1 System warranty**

- Provide warranty for the System during the Warranty Period, starting from the end of Contract Period .
- Ensure the System must have no defect arising from design, workmanship or from any act or omission of the Supplier that may develop under normal use of the System.
- Be completely responsible for defect free functionalities of the System.
- Resolve any System related issues including bug fixing within a duration agreed on between the Project Manager and the Supplier.
- Provide the latest updates, patches, fixes, version upgrades relevant for the System components at no additional cost during the Contract Period.
- Be responsible for software version management and software documentation management, reflecting current features and functionalities of the system.

##### **6.2.2 Infrastructure management**

- Provide management and administration of infrastructure solution for DEV and TEST, including servers, networking, security components and storage.
- Performance tuning of all environments of the System as may be needed to comply with SLA requirements on a continuous basis.



- Monitor and track of server and network performance and take corrective actions to optimize the performance daily.
- Ensure the overall security of the System by performing monitoring, intrusion detection and other security management task the System.
- System administration tasks such as managing the System configuration, access control, creating and managing users, storage management, backup, restore and archiving.
- Escalation to and coordination with DC provider and other vendors for problem resolution wherever required.
- Ensure that frequent stress testing exercises to be performed on PROD and TRAIN to confirm sizing of the System.

### **6.2.3 System maintenance**

- Provide a complete procedure, documentation and policies required to start a change request in the System.
- Estimate of the resources needed to accomplish the change in the System using the agreed change request document.
- Perform the requirements engineering, architecting, design, development, testing and deployment of the changes in TEST, PROD and TRAIN.
- Update the software documentation after changes has management, reflecting current features and functionalities of the system.
- Undertake supporting activities during the changes, e.g. software documentation, configuration management, problem resolution, quality assurance, reviews, and audits.
- Update System user's manuals and carry out training to the administrators and end users after the change is accomplished in the System.
- Make reasonable adjustments to the System to accommodate changes to the OCDS schema during the warranty period.

### **6.2.4 Support**

- Perform second-tier support for ONCAE's IT team to solve System related technical and functional incidents during the Contract Period.
- Provide at least the following channels to carry out the second-tier support: phone, e-mail, chat and web.
- Provide service management tool to create support tickets, assign a ticket number and track the solution progress during the process.
- Provide functional support to ONCAE on the transactions carried out in the System, along with references if required.
- The second-tier support must be available 12-hours a day, 5 days a week.
- The service must be available in Spanish.

### 6.3 SLAs

#### 6.3.1 System SLAs

- The availability of System must be at least **99%**.
- The System portal page must have a target load time of **5** seconds based on a connection speed of 2 Mbps and the target being met in **90%** of cases.
- The System application must be able to handle at least **500** concurrent users.
- The System DB must have the capacity to handle up to **10.000** transactions per hour.
- The CPU and memory utilization of the servers (Application, DB, Web) at peak load is capped at **70%**.

#### 6.3.2 Support SLAs

- Incident severity

Incident Severity	Definition
<b>1</b>	An incident has made a critical System function unusable or unavailable and no workaround exists.
<b>2</b>	An incident problem has made a critical System function unusable or unavailable but a workaround exists, or an incident has made an important System function unusable or unavailable and no workaround exists.
<b>3</b>	An incident has diminished critical or important System functionality or performance but the functionality still performs as specified.
<b>4</b>	An incident has diminished supportive System functionality or performance.

- Response and resolve the incidents of the System within the following times.

Incident Severity	Initial Response	Estimation Response	Resolution
<b>1</b>	15 minutes	2 hours	4 hours
<b>2</b>	30 minutes	2 hours	16 hours
<b>3</b>	1 hour	8 hours	4 calendar days
<b>4</b>	1 hour	Next business day	20 calendar days

Response and resolution times are measured from when the incident is opened by the helpdesk.

- o **Initial Response** is when a ticket is opened and acknowledged by helpdesk staff.

- **Estimation Response** is when the user that logged the ticket is informed of an estimated resolution time.
- **Resolution** is the point at which the problem is resolved and the application function is returned to a usable and available state.
- Accept a deduction from the Supplier's monthly invoice expressed as a percentage of the agreed upon service delivery fee for the month in which a SLA was not met.

<b>Incident Severity</b>	<b>Measurement</b>	<b>Penalty</b>
<b>1</b>	One or more severity 1 incidents are resolved in over 4 hours.	10% of monthly fees
<b>2</b>	Less than 90% of severity 2 incidents are resolved in 8 hours.	10% of monthly fees
<b>3</b>	Less than 90% of severity 3 incidents are resolved in 4 calendar days.	5% of monthly fees
<b>4</b>	Less than 90% of Severity 4 problems are resolved in 20 calendar days.	5% of monthly fees

- Ensure that no problem is older than 60 days.

## H. TECHNICAL RESPONSIVENESS CHECKLIST

For each of the following Functional Requirements, the Bidder must to specify the compliance to Functional Requirements of its proposed Standard Software. The Bidder must also provide **Comments and References** to the relevant supporting information, if any, included in the Bid.

No.	Description	Weight	Compliance [NA] [PAR] [FULL]	Comments and References
<b>1.0.1</b>	<b>General system requirements</b>			
<b>1.0.1</b>	<b>User access</b>			
1.0.1.1	Include a publicly log-in screen accessible from different commercial browsers: Internet Explorer, Chrome, Mozilla, Safari, etc.	MFR		
1.0.1.2	The log-in screen must incorporate the means for existing users (buyers, suppliers and other users) to log in.	MFR		
1.0.1.3	The log-in screen must incorporate the means for potential users to register or seek access to the System.	MFR		
1.0.1.4	The log-in screen must incorporate the means for to obtain a new password (or otherwise obtain assistance) in the event of a forgotten password.	MFR		
1.0.1.5	The log-in screen must allow users select the language of the user interface.	MFR		
1.0.1.6	The log-in screen must allow authorized users incorporate the following information: notices, terms and conditions, multimedia content and access support information.	MFR		
<b>1.0.2</b>	<b>User interface</b>			
1.0.2.1	Facilitate responsive web-based user interface that are intuitive and easy to navigate from different devices.	MFR		
1.0.2.2	Allow authorized users to configure the format currently in use within ONCAE, this include organizational logo, menu, toolbars, header, footer and fonts.	MFR		
1.0.2.3	Allow administrators to configure different languages for user interface and rename menus and tags.	MFR		
1.0.2.4	The user interface must allow users quick access to frequently used functions.	MFR		
1.0.2.5	Facilitate customized dashboard to view snapshot of information within the System.	MFR		
1.0.2.6	Limit users to a single concurrent session on all systems.	MFR		
1.0.2.7	Automatically terminate users' sessions if the session is not active for a predefined time interval.	MFR		
<b>1.0.3</b>	<b>User management</b>			
1.0.3.1	Allow creation of an administrator user at agency level and one administrator user for ONCAE.	MFR		
1.0.3.2	Allow the creation of profiles, privileges and resources which may be defined for each user or applied to groups of users.	MFR		

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1.0.3.3	Allow users to complete their registration via an activation link sent via email or a temporary password.	MFR		
1.0.3.4	Provide the ability to search for users' information. ONCAE should be able to search by user name, user profile, agency and by keywords.	MFR		
1.0.3.5	Allow restriction of users by agency, procurement procedure, user profile and other criteria.	MFR		
1.0.3.6	Allow the creation of a delegate user account when a user is on vacation. Delegate user account should permit access across all the modules where the user have access rights.	MFR		
1.0.3.7	Allow users to be disabled so that their activity is stored in the System even though these users cannot longer login.	MFR		
<b>1.0.4</b>	<b>Agency management</b>			
1.0.4.1	Allow ONCAE to configure a form with the information required to register the public procurement agency (hereinafter called "the agency") in the System.	2		
1.0.4.2	Allow the maintenance of the agency's information by its own administrator.	2		
1.0.4.3	Allow agency administrator to create and maintain agency users and assign the allowed profiles.	2		
1.0.4.4	Allow creation of agencies that dependent hierarchically of another agency.	2		
<b>1.0.5</b>	<b>Transactional features</b>			
1.0.5.1	All modules of the System must make use of forms to capture data. The forms must support capturing all kinds of data such as text, numeric, alphanumeric, date, integers.	2		
1.0.5.2	Support addition of user defined custom fields (alphanumeric, numeric, letters, free text, date, etc.) onto data capture forms and master-files in the system build process.	2		
1.0.5.3	Support user definition of field values where provision of a dropdown list is requested in order encourage entry of correct and accurate data.	2		
1.0.5.4	Allow users to make fields mandatory to compel users to enter those fields.	2		
1.0.5.5	Perform immediate field validation to discourage users from entering wrong data in a field.	2		
1.0.5.6	Facilitate multi-agency capability and enable the creation of multi-agency users.	2		
1.0.5.7	Facilitate multi-currency capability (HNL, USD, EUR).	2		
1.0.5.8	Allow authorized users to set the system time with the legal time of the Republic of Honduras (GMT-6) including hours, minutes and seconds with a difference of no more than 5 seconds.	2		
1.0.5.9	Allow authorized users to configure and maintain a master file with the CUBS codes.	2		
1.0.5.10	The amount fields of the System must be able to hold a minimum 15 digit figures and to round off amounts to 2 decimal places.	2		

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1.0.5.11	In addition to allowing keying of dates, the date fields must have the capability of popping up a calendar to enable users to enter dates by selecting on the calendar.	2		
1.0.5.12	Support both 12-hour and 24-hour time formats and must allow users to select the time format of their choice.	2		
<b>1.0.6</b>	<b>Document and content management</b>			
1.0.6.1	Allow for the utilization and facilitate the storage of all procurement documentation (including both original content created within the software and attachments in the form of: text-based documents, all MS Office documents, pdf and images).	2		
1.0.6.2	Index, categorize and store procurement documentation in a manner that allows easy access and retrieval, and must control access to that information to authorized users only.	2		
1.0.6.3	Allow for the export of documents from the software for printing or updating and then reloading into the System.	2		
1.0.6.4	Provide the ability to search for, retrieve and view documents stored within the software. Users should be able to search by document title, author, category, and by keywords.	2		
1.0.6.5	Permit the direct input of information, and the uploading (and downloading) of documents to (or from) the software via a variety of access devices.	2		
<b>1.0.7</b>	<b>Business processes</b>			
1.0.7.1	Facilitate flexible business process model to enable authorized users to define new procurement procedures and their configurations (e.g. pre-qualification, public and private tenders, request for information, single sourcing, FA, etc).	2		
1.0.7.2	Allow the buyers to configure procurement process that can be easily created or changed.	2		
1.0.7.3	Assign a unique identifier to every single procurement process created by users.	2		
1.0.7.4	Facilitate administration by means of a range of appropriate states (such as "published", "bid reception" "evaluation", "awarded", "cancelled", "failed") which may be configured by type of procurement process.	2		
1.0.7.5	Support the configurations of routing rules to enable assigning of process steps to users and definition of tasks to be carried out by users at each process step.	2		
1.0.7.6	Display required process steps that must executed to complete procedures and processes.	2		
1.0.7.7	Support a single process workflow and multiple process workflows, using AND, OR, or exclusive OR operands.	2		
1.0.7.8	Facilitate powerful search capabilities to enable users to find procurement processes.	2		
1.0.7.9	Enable multiple search/query criteria for processes, including agency, supplier, process number, procedure type, CUBS, status, dates and open text.	2		

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1.0.7.10	Enable reports of use of the software per agency/supplier, e.g. status of procurement processes, statistical and historical information of procurement processes, supplier's bid history, user usage, active & inactive users, etc.	2		
<b>1.0.8</b>	<b>Alerts and notifications</b>			
1.0.8.1	Facilitate robust notification system that enables messages and alerts to be sent when an event occurs or due to passage of time.	2		
1.0.8.2	Enable users to create and configure alarms, alerts and notifications.	2		
1.0.8.3	Allow the users to configure one alert/notification to be sent to several recipients.	2		
1.0.8.4	Support email and text message alerts and notifications to users.	2		
1.0.8.5	Support in-application alerts and notifications i.e. the notifications and alerts are viewed by users within the modules.	2		
<b>1.0.9</b>	<b>Audit logs</b>			
1.0.9.1	Record and retain an audit log covering all significant activity undertaken within the software (such as the creation, modification and deletion of content, publication of documents, communications and the granting of access to documentation).	2		
1.0.9.2	The audit log must show the event, the user who perform the event, date- and time-stamped (in hours, minutes & seconds, BR time) and the IP addresses of the device used to perform the event.	2		
1.0.9.3	It must not be possible to alter the accounting log (other than to extract one sequence of activity from among unrelated ones).	2		
1.0.9.4	The audit log must be comprehensible to the reader without the need for specialist interpretation.	2		
1.0.9.5	The availability of the audit log must be restricted to those users with a valid interest in the log.	2		
<b>1.0.10</b>	<b>Reports</b>			
1.0.10.1	Facilitate powerful query tool or filtering capability to enable users to generate a range of standard reports and user-defined reports.	2		
1.0.10.2	Provide an on-screen facility to enable users preview any reports generated by the software.	2		
1.0.10.3	Allow users to copy reports as previewed on screen and paste into third party document processing application such as MS Word and Excel.	2		
1.0.10.4	Allow reports as viewed on screen to be exported into a MS Excel document, as a pdf, rtf document or printed by a connected printer.	2		
1.0.10.5	Enable users to email reports to users, buyers, suppliers, etc.	2		
1.0.10.6	Facilitate report creator to allow users to develop and organize the layout of report outputs.	2		
<b>1.1</b>	<b>Supplier management module</b>			

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<b>1.1.1</b>	<b>Registration of suppliers</b>			
1.1.1.1	Allow configure a form to capture basic supplier information (e.g. supplier name, supplier code, RTN, supplier classification, registration date, registration expiry, address, contact person, financial statements, bank account details, etc.).	2		
1.1.1.2	Allow users to upload document as part of the supplier registration process.	2		
1.1.1.3	Allow authorized users to validate supplier registration data and make corrections (e.g. that mandatory information is completed, that records are not duplicated, etc.)	2		
1.1.1.4	Allow the suppliers to register CUBS codes of the goods and services they can offer.	2		
1.1.1.5	Enable new suppliers to complete their registration via an activation link sent via email or a temporary password and generate a supplier registration number.	2		
1.1.1.6	Allow the registration of multiple users within a supplier while allowing both collaboration within procurement processes and segmentation between different user accounts.	2		
<b>1.1.2</b>	<b>Suppliers management</b>			
1.1.2.1	Enable amendment of supplier information by authorized users of the supplier.	2		
1.1.2.2	Enable to the users to easily identify supplier duplicates.	2		
1.1.2.3	Maintain to the supplier price list based on agreed rate contract.	2		
1.1.2.4	Maintain a list of suppliers with non-compliances.	2		
1.1.2.5	Maintain a list of blacklisted supplier that has been disqualified that do not perform as required.	2		
1.1.2.6	Maintain an update list of awarded contracts for each supplier.	2		
1.1.2.7	Maintain supplier evaluation and performance information.	2		
1.1.2.8	On selecting a good or service, System must list out all the suppliers who have registered to supply that item.	2		
1.1.2.9	Enable the creation of a single supplier directory that must be visible and available for users across all modules.	2		
1.1.2.10	Allow authorized users to query and view a list of all suppliers registered and their status.	2		
<b>1.1.3</b>	<b>Access to procurement processes</b>			
1.1.3.1	Allow the supplier to gain access to procurement process which a buyer has published to that supplier and view, print and export/download the documentation which has been published.	2		
1.1.3.2	Allow the supplier to acknowledge receipt of the procurement process documentation and indicate to the buyer an intention to participate in that process.	2		
1.1.3.3	Allow the supplier to view a history of their own interactions in previous procurement processes (e.g. bid submissions) with the System.	2		
<b>1.2</b>	<b>Electronic sourcing module</b>			



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1.2.1	Procurement Plan (PACC)			
1.2.1.1	Allow to capture organizational PACC with de following detail: item, department, CUBS code, description, expected delivery date, quantities, estimated value. The buyer should be able to use the rest of the System functionality with or without PACC.	2		
1.2.1.2	Enable approval of PACC at departmental level within organization.	2		
1.2.1.3	Enable the authorized users to review and amend the PACC and record progress against the PACC.	2		
1.2.1.4	Enable multiple search/query criteria for PACC, including agency, procedure type, CUBS codes, status, dates, values and open text and allow the results to be exported into a MS Excel.	2		
1.2.1.5	Allow the PACC to be exported into a MS Excel document or other spreadsheet formats.	2		
1.2.1.6	Enable the users to generate standard PACC reports and filter the information per agency, item, CUBS code, estimated value, etc.	2		
1.2.1.7	Alert and notify the suppliers of the items included in the procurement plans based on the CUBS codes.	2		
1.2.1.8	Enable the authorized users to view the departmental procurement plans, consolidate them into an overall PACC, approve it and publish it in a public view.	2		
1.2.1.9	Maintain different versions of PACC, identify current and previous versions of the PACC and identify and attribute any changes made between versions.	2		
1.2.2	Tender documentation			
1.2.2.1	Enable the buyer to create the tender documentation by creating content directly within the software, by uploading documents created elsewhere, or by a combination of both methods.	2		
1.2.2.2	Enable the buyer to utilize a range of templates, previously created tender documentation, and document groups in the creation of tender documentation.	2		
1.2.2.3	Enable the buyer to create a tender price list with de following detail: item, CUBS code, description, quantities and estimated value.	2		
1.2.2.4	Enable the buyer to configure supplier qualification and evaluation structure (weightings, scorings, and scoring criteria).	2		
1.2.2.5	Enable the buyer to work collaboratively with other buyers and stakeholders on the development of tender documentation, such that other users can review, comment upon and revise the tender documentation.	2		
1.2.2.6	Enable the buyer to make the tender documentation available to selected users, and have the tender documentation reviewed, amended or approved by selected users.	2		
1.2.2.7	Enable the buyer to review tender documentation, track the changes and version control.	2		

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1.2.2.8	Permit the authorized users to create new templates or amend existing ones and make them available to selected agencies or users.	2		
<b>1.2.3</b>	<b>Tender publishing</b>			
1.2.3.1	Enable the buyer to create a deadline by which suppliers must submit responses to the tender documentation.	2		
1.2.3.2	Enable the buyer to publish any conditions or rules regarding the participation in the tender process and set the conditions under which the tender responses shall be returned.	2		
1.2.3.3	Enable the buyer to preview the tender documentation prior to publication, as it will be seen by suppliers after publication.	2		
1.2.3.4	Enable the buyer to publish the tender documentation, such that it becomes available to interested suppliers while remaining secure from unauthorized access.	2		
1.2.3.5	Assign unique identifier (tender ID) to published tender and alert automatically to suppliers about to the publication of tender documentation.	2		
1.2.3.6	Create automatic alerts to inform buyers when a FA for a good or service exist.	2		
<b>1.2.4</b>	<b>Tender clarification and amendment</b>			
1.2.4.1	Enable the buyer to conduct clarification of the tenders of one or more suppliers at multiple stages (e.g. pre- and post-evaluation).	2		
1.2.4.2	Permit the buyer to respond a clarification to one or more suppliers.	2		
1.2.4.3	Maintain an audit trail of any clarification undertaken with the supplier.	2		
1.2.4.4	Enable to withdraw, amend and reissue updated versions of tender documentation to suppliers, such that suppliers are aware of the correct version of the document to be used.	2		
1.2.4.5	Enable the buyer to amend the deadline, and ensure that suppliers are alerted to any amendments to a tender deadline.	2		
1.2.4.6	Create automatic alerts to inform suppliers of key events (e.g. amendments, the forthcoming expiry of the response period).	2		
1.2.4.7	Maintain different tender status, including at least: published, cancelled, unsuccessful, awarded.	2		
<b>1.2.5</b>	<b>Electronic bid submission</b>			
1.2.5.1	Enable the supplier to see a "tender checklist" relating to the documentation/answers to be submitted.	2		
1.2.5.2	Enable the supplier to create a response to the tender either by creating original content within the software, by uploading documents created elsewhere, or by a combination of both methods.	2		
1.2.5.3	Enable the supplier to save their bids "in progress" and permit to return to it in order to review, amend or add to it as many times as desired.	2		

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1.2.5.4	Enable the supplier to see an accurate “countdown” (in hours, minutes and seconds) of the time remaining before closure of the tender response period.	2		
1.2.5.5	Validate automatically that all documentation/answers are completed and the buyer have accepted the terms and conditions before bid submission.	2		
1.2.5.6	Allow the supplier to formally submit an online bid to the tender. Immediately upon bid submission, the System shall issue the supplier a formal notification (or “electronic receipt”).	2		
1.2.5.7	Enable the supplier to withdraw a previously submitted bid, replace a previously submitted bid, or submit revisions to previously submitted bid (such that only the latest submission or version of a submission shall be available to the buyer) at any time before the expiry of the response period.	2		
1.2.5.8	Enable the buyer to upload a pdf scanned version of a paper bid onto the solution and record a summary of that bid, including at least the identity of the supplier, date and time of response and pricing information.	2		
<b>1.2.6</b>	<b>Bid opening</b>			
1.2.6.1	Ensure that submitted bids are held sealed within the software until the opening date and time is reached. Nobody (even system administrators) can view or edit submitted bids before that time.	2		
1.2.6.2	On no account should it be possible to access bid documentation other than in particular circumstances (e.g. investigating reported issues) and with the explicit knowledge and agreement of the supplier.	2		
1.2.6.3	Permit authorized user to open the bids after the approval workflow are finished.	2		
1.2.6.4	Enable the buyer to create a bids report including, at a minimum: number of submitted bids, supplier name, bid submission time and bids prices.	2		
1.2.6.5	Enable the buyer to allow the submitted bids to be evaluated in the solution (e.g. to ensure that all documentation is present).	2		
<b>1.2.7</b>	<b>Bid evaluation</b>			
1.2.7.1	Support the evaluation of bids by a team of evaluators which may be geographically dispersed.	2		
1.2.7.2	Allow the buyer to assign different roles to individual evaluators and grant controlled access by evaluators to bids or specific parts of bids (e.g. finance, technical and legal).	2		
1.2.7.3	Enable the buyer to utilize a range of suitable system templates or previously created evaluation models (e.g. evaluation criteria, scoring schemes, and model answers).	2		
1.2.7.4	Include an integral evaluation matrix to allow the buyer to create a case-specific matrix to facilitate the scoring of bids by evaluators. The matrix must allow evaluators to apply the evaluation criteria and weightings to each bid (price, quality).	2		

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1.2.7.5	Enable evaluators to perform a detailed evaluation of bids by recording scores for each requirement, each requirement section and/or each bid and recording their justification for each scoring decision.	2		
1.2.7.6	Enable the buyer to create rankings of bids, parts of bids, and suppliers' responses to individual requirements.	2		
1.2.7.7	Support the decision process by enabling a buyer to present a comparison in scores between different suppliers.	1		
1.2.7.8	Support the decision process by enabling a buyer to reject bids in the System along with the reason for the rejection (open text and dropdown box fields).	1		
1.2.7.9	Support the decision process by enabling a buyer to present the results of the evaluation, print and export the evaluation results into other formats as MS Word and Excel.	1		
<b>1.2.8</b>	<b>Award of contract</b>			
1.2.8.1	Enable buyer to award the tender, deal with partial awards, awards of lots or appointment to FA, and support the award with the documentation of the evaluation process.	2		
1.2.8.2	Enable a buyer (utilizing a range of suitable templates) to prepare, edit and issue contract award letters and letters to unsuccessful suppliers.	2		
1.2.8.3	Enable a buyer to generate contract documentation from templates, standard terms and conditions and tender documentation resulting from preceding tender exercise. The System must assign a unique identifier to the contract (contract ID).	2		
1.2.8.4	Enable the buyer to send the contract to awarded supplier(s), including at least: contract ID, contract subject, contract value, warranties, effective start date, end date and allow attachment of contract documents.	2		
1.2.8.5	Permit to manage the process by which the parties agree and sign the contract documentation.	2		
<b>1.3</b>	<b>Electronic catalog module</b>			
<b>1.3.1</b>	<b>FA contract management</b>			
1.3.1.1	Upload the FA contract information from electronic sourcing module, including contract ID, contract subject, contract value, warranties, effective start date, end date and allow attachment of FA contract documents.	1		
1.3.1.2	Maintain the FA contract information updated, on contract terms and conditions, rates, payment conditions, etc. through integration with electronic sourcing module.	1		
1.3.1.3	Provide a system for administering FAs to modify, cancel or terminate live FA and store the information on concluded FAs in a database format.	1		
1.3.1.4	Create automatic alerts to inform ONCAE of key events, e.g. expiry of FA.	1		
<b>1.3.2</b>	<b>Catalog administration</b>			
1.3.2.1	Permit to upload the electronic catalogs resulting of FA negotiated by ONCAE, including at least: item name, item ID, CUBS code, description, supplier, supplier name,	1		

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	supplier part number, unit of measurement, delivery conditions.			
1.3.2.2	Allow for differential pricing by further specifying the freight charges, local taxes, discounts for specific users, etc. for delivery in various permitted locations.	1		
1.3.2.3	Allow the maintenance and hosting of individual electronic catalogues to be controlled according to the terms of an individual FA between ONCAE and its particular suppliers.	1		
1.3.2.4	Provide a system for administering electronic catalogs to modify, cancel or terminate live FA and store the information on concluded FAs in a database format.	1		
<b>1.3.3</b>	<b>Catalog search</b>			
1.3.3.1	Allow categorization as well as the location of electronic catalogs through browsing.	1		
1.3.3.2	Allow buyers to view the electronic catalogs items before they log into the System.	1		
1.3.3.3	Facilitate both simple and advanced search functionalities and the possibility to compare search results by supplier.	1		
1.3.3.4	Allow items to be identified (searched) by more than one specific identifier such as description, item code, etc.	1		
<b>1.3.4</b>	<b>Shopping cart</b>			
1.3.4.1	Support shopping cart functionality when procuring using electronic catalogues.	1		
1.3.4.2	Permit add items to the shopping cart and calculate the total value of the procurement.	1		
1.3.4.3	Allow user to add items from different suppliers to shopping cart.	1		
1.3.4.4	Split items by different suppliers, and accumulate items in shopping cart at the time of releasing the requisition.	1		
<b>1.3.5</b>	<b>Requisition</b>			
1.3.5.1	Allow buyer to create a requisition from shopping cart and copy an existing requisition.	1		
1.3.5.2	Assign unique identifier (requisition ID) to published requisition and alert automatically to FA suppliers about to the publication of requisition.	1		
1.3.5.3	Auto-populate the requisition with buyer, department, shipping details, etc. The user should be able to override this information (different buyer, department, shipping address, etc.).	1		
1.3.5.4	Allow attachment of documents to the requisitions.	1		
1.3.5.5	Save requisition that can be completed at a later time and allow copy saved requisitions to create new processes.	1		
1.3.5.6	Permit cancel or modify requisitions.	1		
<b>1.3.6</b>	<b>PO creation</b>			
1.3.6.1	Send automated email alerts to facilitate the PO approval workflow in the organization once the requisition has been released.	1		

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1.3.6.2	Permit automatic creation of PO, once the requisition has been approved by the appropriate buyer authority.	1		
1.3.6.3	Permit to create PO to the selected single supplier, multiple suppliers, multiple lots, etc.	1		
1.3.6.4	Link the PO number with the requisition number to allow tracking.	1		
1.3.6.5	Support configuration of (i) automatic release of PO or (ii) releasing PO once PO releasing workflow has finished.	1		
1.3.6.6	Send automated email alerts to suppliers and support electronic confirmation from the supplier upon receipt of the online PO.	1		
1.3.6.7	Enable the supplier to confirm the reception of the PO and accept the terms and conditions of the FA.	1		
<b>1.4</b>	<b>Contract management module</b>			
<b>1.4.1</b>	<b>Contract amendments</b>			
1.4.1.1	Allow the buyer to draft amendments and variations to contracts and agree them with the supplier.	1		
1.4.1.2	Maintain different contract status, including at least: unmodified, modified, cancelled, terminated.	1		
1.4.1.3	Allow the buyer to draft, agree and record call-offs and mini-competitions under FA.	1		
1.4.1.4	Allow the buyer to view a history of the contract's amendments, call-offs and mini-competitions made under a FA.	1		
<b>1.4.2</b>	<b>Contract administration</b>			
1.4.2.1	Maintain a template library for contracts with common set of terms and conditions. The user should be able to define the contract on the awarded vendor.	1		
1.4.2.2	Maintain different contract status, including at least: signed, modified, cancelled, and closed.	1		
1.4.2.3	Allow the buyer to manage the different phases of a contract, including at least: initiation, execution and closure.	1		
1.4.2.4	Allow the buyer to associate a user (known as the "contract supervisor") with a contract.	1		
1.4.2.5	Allow the contract supervisor to record and maintain such information as contract values, contract start and end dates, break-points, and options to extend.	1		
1.4.2.6	Allow the contract supervisor to set alerts for which contracts they are responsible. This user should specify the date and time at which alerts are to be issued.	1		
1.4.2.7	Allow the buyer to view the full details of closed contracts, including tender information and any amendments.	1		
<b>1.4.3</b>	<b>Reception and invoicing</b>			
1.4.3.1	Allow the contract supervisor to record the reception of good and services in full or partially and allow attachment of support documentation.	1		
1.4.3.2	Allow the contract supervisor to record the percent of work complete (real, and planned) and allow attachment of support documentation.	1		

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1.4.3.3	Facilitate the ability to automatically update contract progress upon receipt of new good, service or work.	1		
1.4.3.4	Enable the supplier to register invoices, including at least the following details: invoice number, invoice amount, registration date, due date, currency, and payment conditions.	1		
1.4.3.5	Allow for attachment of a copy of a supplier invoice to the registered invoice.	1		
1.4.3.6	Enable the buyer to approve of the registered invoices.	1		
1.4.3.7	Enable three way matching of invoices to awarded contract and to the goods, services and works received.	1		
<b>1.4.4</b>	<b>Contract closing</b>			
1.4.4.1	Allow the contract supervisor to register the quality of good, services and works received and the performance of the suppliers.	1		
1.4.4.2	Allow the contract supervisor to register the non-compliance of supplier and technical reasons supporting non-compliance.	1		
1.4.4.3	Allow the contract supervisor to publish the fines and penalties associated with suppliers' non-compliances.	1		
1.4.4.4	Allow the contract supervisor to register the abnormal contract termination when the process was unsuccessful.	1		
1.4.4.5	Allow the contract supervisor to close a contract when the supplier has finished the contract obligations.	1		
<b>1.4.5</b>	<b>Performance management</b>			
1.4.5.1	Allow the buyer to evaluate the performance of suppliers against several performance categories (e.g. delivery, service, quality, cost, etc.).	1		
1.4.5.2	Allow the buyer to evaluate the quality of items (e.g. model, brand, warranty, etc.).	1		
1.4.5.3	Enable the buyer to review through a single screen the supplier performance during a certain period (e.g awards, contracts compliance, score, etc.).	1		
1.4.5.4	Enable the buyer to produce a variety of reports on supplier performance.	1		
1.4.5.5	Enable the buyer to compare the performance reports of suppliers with multiple contracts.	1		

## I. DEMONSTRATION MEETING PROTOCOL

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1. The Demonstration Meetings will be scheduled by inverse order of Bids submission.
2. During the Bid Evaluation, Purchaser will inform to the qualified Bidders, the time, date, and place for Demonstration Meetings 72 hours in advance.
3. The Demonstration Meetings will take place in Tegucigalpa and it will take no more than 4 hours.
4. Purchaser will supply a dedicated Internet access for testing the Standard Software.
5. Before the Demonstration Meeting, Bidder must arrange to configure an instance of its proposed Standard Software for testing using Internet.
6. System configuration or customization is not permitted during the Demonstration Meeting.
7. During the Demonstration Meeting, Purchaser will verify the real availability of the Functional Requirements stated in Section VII.

After the Demonstration Meeting,

8. A rating will be assigned for each Functional Requirement based on an assessment of how well the Bidder's proposed Standard Software meets each Functional Requirement.

Code	Rating
NA	0
PART	1
FULL	3

9. Purchaser will calculate a score for each Functional Requirement by multiplying importance weighting number by the quality rating number.
10. The scores of Functional Requirements will be added, and each bidder's will receive a proportion of the maximum obtainable score (**900**).



## **J. ATTACHMENTS**

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**Attachment 1. Existing Information Systems**

**Attachment 2. Procurement procedures and workflows**

**Attachment 3. Relevant Legal Codes and Regulations**

**Attachment 4. Available Training Facilities**

**Attachment 5. The Purchaser's Project and Corporate Management Structure**

## **Attachment 1. Existing Information Systems**

### **A. INTEGRATED FINANCIAL MANAGEMENT SYSTEM**

The Integrated Financial Management System of Honduras was created to systematize the evaluation, management and control of Honduran financial resources, in order to give information in a timely and accurate manner.

It interfaces with different systems or sub systems such as Public Investment and Human Resources, and other systems which influence financial management in public entities. Currently, it is being improved to work in this way with the public procurement system.

Its objectives are:

### **B. SIAFI FEATURES**

The integrated Financial Management System<sup>1</sup> has the following characteristics:

#### **◆ Regulatory centralization and operative decentralization**

The regulatory centralization implies the definition of general policies, developing and implementing regulations, common methodologies and general procedures that may regulate the operation of the system, taking care of the particular characteristics and specificities of each public entity.

Operational decentralization, implies that each entity uses the system on its own, depending of its regulations and operative capacity.

#### **◆ Single transaction log and procedures delimited by level or responsibilities and functions.**

Each user enters information directly through linked terminals with a passcode that allows users to be assigned different level of access and permissions and allows only to enter information according to the user profile. information is entered directly into a single transaction log.

◆ Provides budgetary, economic, financial, accounting and economical management information simultaneously. With the information entered by the user, the system generates an automatic series of files so every system is absolutely independent, but the operations are simultaneous.

Providers and other recipients receive their payments on line directly to their bank accounts (private banks) using the single Treasury account.

#### **◆ Integration**

It has a complete integration between budget, treasury, public credit, accounting, human resources and most of the public entities of central and local government.

And it's looking forward to a complete integration, also with the procurement system.

## **Attachment 2. Procurement procedures and workflows**

### **Procurement procedures**

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<sup>1</sup> <http://www.sefin.gob.hn/?p=3054>

See attached file *Procedures.zip*

- A.3.1 Prequalification (Pre-calificación)
- A.3.2 Private Bidding (Licitación Privada)
- A.3.3 Public Bidding (Licitación Pública)
- A.3.4 Direct Tendering (Contratación Directa)
- A.3.5 Minor Purchase (Compra Menor)
- A.3.6 Private Tender (Concurso Privado)
- A.3.7 Public Tender (Concurso Público)

**Workflows**

[http://www.honducompras.gob.hn/ONCAE\\_DIAGRAMA/HTMLB/contratacion/index.html](http://www.honducompras.gob.hn/ONCAE_DIAGRAMA/HTMLB/contratacion/index.html)

### **Attachment 3. Relevant Legal Codes and Regulations**

- Decreto No. 074-2001. Ley de Contratación Del Estado  
[http://www.oncae.gob.hn/Normativa2016/NormativaConPub/NormCP2\\_11.pdf](http://www.oncae.gob.hn/Normativa2016/NormativaConPub/NormCP2_11.pdf)
- Decreto No. 055-2002. Reglamento de la Ley De Contratación del Estado  
<http://www.oncae.gob.hn/Normativa2016/NormativaConPub/NormCP4.pdf>
- Decreto No. 036-2013. Ley de Compras Eficientes y Transparentes a través de Medios Electrónicos  
<http://www.oncae.gob.hn/Normativa2016/NormativaConPub/NormCP1.pdf>
- Decreto No. 641-2014. Reglamento de la Ley de Compras Eficientes y Transparentes a través de Medios Electrónicos  
<http://www.oncae.gob.hn/Normativa2016/NormativaConPub/NormCP3.pdf>
- Otras normas  
<http://www.oncae.gob.hn/normativa-h/normas>

**Attachment 4. Available Training Facilities**

For all the training activities described in Section VII, Purchaser Requirements, letter F. Training Requirements, ONCAE will make available a training room with capacity to accommodate fifty people comfortably seated. The training room is equipped with two projectors, two projection screens, audio with two microphones and wi fi.

The address is: Centro Cívico Gubernamental, Bulevar Fuerzas Armadas, contiguo a Chiminike, Tegucigalpa MDC, Honduras, Centroamérica

Working hours: 9:00 AM - 5:00 PM, phone number: PBX (+504) 2230-7000

## Attachment 5. The Purchaser's Project and Corporate Management Structure

### 1. ONCAE management structure



### 2. Project implementation structure

