



**FEDERAL GOVERNMENT OF  
SOMALIA**

**STANDARD BIDDING DOCUMENTS  
(Open International Competitive Bidding)**

**REQUEST FOR BIDS  
GOODS**

**National Intelligence and Security Agency  
(NISA)**

**Issuing Date: 30 May, 2019**

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# Standard Procurement Document

## Summary

### **PART 1 – BIDDING PROCEDURES**

#### **Section I - Instructions to Bidders (ITB)**

This Section provides information to help Bidders prepare their Bids. It is based on a one-envelope Bidding process. Information is also provided on the submission, opening, and evaluation of Bids and on the award of Contracts.

**Section I contains provisions that are to be used without modification.**

#### **Section II - Bid Data Sheet (BDS)**

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders.

#### **Section III - Evaluation and Qualification Criteria**

This Section specifies the criteria to determine the Lowest Evaluated Bid. The Lowest Evaluated Bid is the Bid of the Bidder that meets the qualification criteria and whose Bid has been determined to be:

- (a) substantially responsive to the bidding document, and
- (b) the lowest evaluated cost.

#### **Section IV - Bidding Forms**

This Section includes the forms for the Bid submission, Price Schedules, Bid Security, and the Manufacturer's Authorization to be completed and submitted by the Bidder as part of its Bid.

#### **Section V - Eligible Countries**

This Section contains information regarding eligible countries.

#### **Section VI - Fraud and Corruption**

This section includes the fraud and corruption provisions which apply to this Bidding process.

### **PART 2 – SUPPLY REQUIREMENTS**

#### **Section VII - Schedule of Requirements**

This Section includes the List of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured.

### **PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

#### **Section VIII - General Conditions of Contract (GCC)**

This Section includes the general clauses to be applied in all contracts. **The text of the clauses in this Section shall not be modified.**

#### **Section IX - Special Conditions of Contract (SCC)**

This Section consists of Contract Data and Specific Provisions which contains clauses specific to each contract. The contents of this Section modify or supplement, but not over-write, the General Conditions and shall be prepared by the Procuring Entity.

#### **Section X - Contract Forms**

This Section contains forms which, once completed, will form part of the Contract. The forms for **Performance Security** and **Advance Payment Security**, when required, shall only be completed by the successful Bidder after contract award.

# **Request for Bids**

## **Goods**

**Ministry of Internal Security, Federal Government  
of Somalia**

**Procurement of:**  
**Supply and Delivery of Non-perishable  
Foodstuff (NISA)**

**Request for Bids No:** FGS/MOF/ICB/2019/0018

**Procuring Entity:** Ministry of Internal Security, Federal Government of  
Somalia

**Issued on:** 30 May, 2019

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## **PART 1 – BIDDING PROCEDURES**

# Section I - Instructions to Bidders

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## Section I. Instructions to Bidders

### A. General

#### 1. Scope of Bid

1.1 The Procuring Entity (“PE”), as specified **in the BDS**, issues this bidding document for the supply of Goods as specified in Section VII, Schedule of Requirements. The name, identification and number of lots (contracts) of this RFB are **specified in the BDS**.

1.2 Throughout this bidding document:

- (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, including if **specified in the BDS**, distributed or received through the electronic-procurement system used by the PE) with proof of receipt
- (b) “Day” means calendar day.

#### 2. Source of Funds

2.1 The Procuring Entity named in the **Bid Data Sheet** has budgeted for the cost of the contract described in the **Bid Data Sheet**, and it intends to apply budget to payments under the contract described in the **Bid Data Sheet**.

#### 3. Fraud and Corruption

3.1 The FGS requires compliance with the Public Procurement Concessions and Disposal Act (“PPCDA”) Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in Section VI of the bidding documents.

3.2 In further pursuance of this policy, bidders shall permit and shall cause its agents (where declared or not),

subcontractors, sub consultants, service providers, suppliers, and their personnel, to permit the FGS to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the FGS.

- 4. Eligible Bidders**
- 4.1 A Bidder may be a firm that is a private entity, a state-owned enterprise or institution subject to ITB 4.4, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Bidding process and, in the event the JV is awarded the Contract, during contract execution. Unless specified **in the BDS**, there is no limit on the number of members in a JV.
- 4.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this Bidding process, if the Bidder:
- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
  - (b) receives or has received any direct or indirect subsidy from another Bidder; or

- (c) has the same legal representative as another Bidder;  
or
- (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the Bid of another Bidder, or influence the decisions of the PA or the PE regarding this Bidding process; or
- (e) any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the Bid; or
- (f) any of its affiliates has been hired (or is proposed to be hired) by the PE for the Contract implementation;  
or
- (g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the activity specified in the BDS ITB 1.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
- (h) Has a business or family relationship with a staff member of the Procuring Entity who is directly or indirectly involved in the preparation of the specifications of the contract, or the selection process for or supervision of such contract, shall not be hired for such a contract.

4.3 A firm that is a Bidder (either individually or as a JV member) shall not participate in more than one Bid. This includes participation as a subcontractor. Such participation

shall result in the disqualification of all Bids in which the firm is involved. A firm that is not a Bidder or a JV member, may participate as a subcontractor in more than one Bid.

- 4.4 A Bidder that has been sanctioned by the FGS pursuant to the PPCDA and shall be ineligible to be prequalified for, bid for, or be awarded a FGS financed contract or benefit from a FGS-financed contract, financially or otherwise, during such period of time as the FGS shall have determined. The list of debarred firms and individuals is available at the electronic address **specified in the BDS**.
- 4.5 Bidders that are state-owned enterprises or institutions in the FGS may be eligible to compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the PE, that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the PE.
- 4.6 A Bidder may have the nationality of any country, subject to the restrictions pursuant to country laws. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be.
- 4.7 A Bidder shall not be under suspension from Bidding by the FGS as the result of the operation of a Bid-Securing Declaration.

- 4.8 A Bidder shall provide such documentary evidence of eligibility satisfactory to the PA, as the PA shall reasonably request.

**5. Eligible Goods and Related Services**

- 5.1 All the Goods and Related Services to be supplied under the Contract shall have their origin in eligible source countries.

- 5.2 For purposes of this ITB, the term “goods” includes commodities, raw materials, machinery, equipment and industrial plants, and “related services” includes services such as insurance, installation, training and initial maintenance.

- 5.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

**B. Contents of Request for Bids Document**

**6. Sections of Bidding Document**

- 6.1 The bidding document consist of Parts 1, 2, and 3, which include all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

**PART 1 Bidding Procedures**

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

- Section III - Evaluation and Qualification Criteria
- Section IV - Bidding Forms
- Section V - Eligible Countries
- Section VI - Fraud and Corruption

## **PART 2 Supply Requirements**

- Section VII - Schedule of Requirements

## **PART 3 Contract**

- Section VIII - General Conditions of Contract (GCC)
- Section IX - Special Conditions of Contract (SCC)
- Section X - Contract Forms

- 6.2 The Specific Procurement Notice, Request for Bids (RFB), issued by the PA is not part of this bidding document.
- 6.3 Unless obtained directly from the Ministry of Finance, which is acting as the PA on behalf of the PE, the PE is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Bid meeting (if any), or Addenda to the bidding document in accordance with ITB 8. In case of any contradiction, documents obtained directly from the PA shall prevail.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding document and to furnish with its Bid all information or documentation as is required by the bidding document.

**7. Clarification of  
Bidding  
Document**

7.1 A bidder may request a clarification from the Procuring Agent (PA), specified **in the BDS**, provided that the request is (i) made in writing and (ii) received prior to the deadline for submission of Bids within a period and address specified **in the BDS**. The PA shall respond to all bidders who have acquired the bidding document including a description of the inquiry but without identifying its source. The PA shall also promptly publish its response at its web page. Should the clarification result in changes to the essential elements of the Bidding Documents, the PA shall amend the Bidding Documents by issuing an addendum following the procedure under ITB 8 and ITB 22.2.

**8. Amendment of  
Bidding  
Document**

- 8.1 At any time prior to the deadline for submission of bids, the PA, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, may amend the bid documents by issuing an addenda.
- 8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the PA. The PA shall also promptly publish the addendum on its web page.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the PA may, at its discretion, extend the deadline for the submission of bids.



### C. Preparation of Bids

- 9. Cost of Bidding**      9.1      The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the PA and PE shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.
- 10. Language of Bid**      10.1      The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the PA and the PE, shall be written in the language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language specified **in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents  
Comprising the  
Bid**      11.1      The Bid shall comprise the following documents prepared in the format provided in Section IV of this bidding document:
- (a)      **Letter of Bid;**
  - (b)      **Bidder Information Form;**
  - (c)      **Price Schedule;**
  - (d)      **Bid-Securing Declaration;**
  - (e)      **Authorization:** Written confirmation authorizing the signatory of the Bid to commit the Bidder;
  - (f)      **Bidder's Eligibility:** Documentary evidence establishing the Bidder's eligibility to bid;
  - (g)      **Eligibility of Goods and Related Services:** Documentary evidence establishing the eligibility

of the Goods and Related Services to be supplied by the Bidder;

- (h) **Conformity:** Documentary evidence that the Goods and Related Services conform to the bidding document; and
- (i) **Qualifications:** Documentary evidence establishing the Bidder's qualifications to perform the Contract if its Bid is accepted;
- (j) any other document required in the **BDS**.

11.2 In addition to the requirements under ITB 11.1, Bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed Agreement.

11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.

## **12. Letter of Bid and Price Schedules**

12.1. The Letter of Bid and Price Schedules shall be prepared using the relevant forms furnished in Section IV of the Bidding Documents. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.3. All blank spaces shall be filled in with the information requested.

## **13. Alternative Bids**

13.1. Alternative Bids shall not be considered.

**14. Bid Prices and Discounts**

- 14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Price Schedules shall conform to the requirements specified below:
- 14.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.
- 14.3 The price to be quoted in the Letter of Bid in accordance with ITB 12.1 shall be the total price of the Bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and indicate the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.
- 14.5 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise **specified in the BDS**. A Bid submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITB 29. However, if in accordance with **the BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero
- 14.6 If so specified in ITB 1.1, Bids are being invited for individual lots (contracts) or for any combination of lots (packages). Unless otherwise specified **in the BDS**, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot.

14.7 The terms EXW, CIP and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce, **as specified in the BDS.**

14.8 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Bids by the PE. This shall not in any way limit the PE's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V, Eligible Countries. Similarly, the Bidder may obtain insurance services from any eligible country in accordance with Section V, Eligible Countries. Prices shall be entered in the following manner:

(a) For Goods manufactured in the FGS:

- (i) the price of the Goods quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
- (ii) any FGS sales tax and other taxes which will be payable on the Goods if the Contract is awarded to the Bidder; and
- (iii) the price for inland transportation, insurance, and other local services required to convey the

Goods to their final destination (Project Site) specified **in the BDS**.

- (b) For Goods manufactured outside the FGS, to be imported:
  - (i) the price of the Goods, quoted CIP named place of destination, in the FGS, as specified **in the BDS**;
  - (ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified **in the BDS**;
- (c) For Goods manufactured outside the FGS, 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 custom duties and other import taxes already paid or to be paid on the Goods already imported;
  - (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
  - (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;

(iv) any FGS sales and other taxes which will be payable on the Goods if the Contract is awarded to the Bidder; and

(v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified **in the BDS.**

(d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements, the price of each item comprising the Related Services (inclusive of any applicable taxes).

**15. Currencies of  
Bid and  
Payment**

15.1 The currency (ies) of the Bid and the currency (ies) of payments shall be the same. The Bidder shall quote in the currency of the FGS the portion of the Bid price that corresponds to expenditures incurred in Somali Shillings, unless otherwise specified **in the BDS.**

15.2 The Bidder may express the Bid price in any currency. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three foreign currencies in addition to Somali Shillings.

**16. Documents**  
**Establishing the**  
**Eligibility and**  
**Conformity of**  
**the Goods and**  
**Related Services**

- 16.1 To establish the eligibility of the Goods and Related Services, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.
- 16.2 To establish the conformity of the Goods and Related Services to the bidding document, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.
- 16.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.
- 16.4 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the BDS** following commencement of the use of the goods by the PE.
- 16.5 The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the PE's satisfaction, that the substitutions ensure substantial equivalence or are

superior to those specified in the Section VII, Schedule of Requirements.

**17. Documents  
Establishing the  
Eligibility and  
Qualifications of  
the Bidder**

17.1 The bidder shall furnish, as part of its bid, documents establishing the bidder's eligibility to bid and its qualifications to perform the contract if its bid is accepted.

17.2 The documentary evidence of the Bidder's qualifications to perform the Contract if its Bid is accepted shall establish to the PE's satisfaction:

- (a) that, if required **in the BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in FGS;
- (b) that, if required **in the BDS**, in case of a Bidder not doing business within the FGS, the Bidder is or will be (if awarded the Contract) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
- (c) that the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

**18. Period of  
Validity of Bids**

18.1. Bids shall remain valid for the Bid Validity period **specified in the BDS**. The Bid Validity period starts from the date fixed for the Bid submission deadline (as



prescribed by the PA in accordance with ITB 22.1). A bid valid for a shorter period shall be rejected by the PA as nonresponsive.

18.2. The PA may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing.

### **19. Bid Security**

19.1. The Bidder shall furnish as part of its Bid, either a Bid-Securing Declaration or a Bid Security, as specified **in the BDS**, in original form and, in the case of a Bid Security, in the amount and currency specified **in the BDS**.

19.2. A Bid Securing Declaration shall use the form included in Section IV, Bidding Forms.

19.3. If a Bid Security is specified pursuant to ITB 19.1, the Bid Security shall be a demand guarantee in any of the following forms at the Bidder's option:

- (a) an unconditional guarantee issued by a bank or non-bank financial institution (such as an insurance, bonding or surety company);
- (b) an irrevocable letter of credit;
- (c) a cashier's or certified check; or
- (d) another security specified **in the BDS**,

from a reputable source, and an eligible country. If an unconditional guarantee is issued by a non-bank financial institution located outside the FGS, the issuing non-bank financial institution shall have a correspondent financial

institution located in the FGS to make it enforceable unless the PA has agreed in writing, prior to Bid submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Bid Security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the PA prior to Bid submission. The Bid Security shall be valid for twenty-eight (28) days beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB 18.2.

- 19.4. If a Bid Security is specified pursuant to ITB 19.1, any Bid not accompanied by a substantially responsive Bid Security shall be rejected by the PA as non-responsive.
- 19.5. If a Bid Security is specified pursuant to ITB 19.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the Performance Security pursuant to ITB 46.
- 19.6. 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.
- 19.7. The Bid Security may be forfeited or the Bid Securing Declaration executed:
  - (a) if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder in the Letter of Bid, or any extension thereto provided by the Bidder; or

- (b) If the successful Bidder fails to:
  - (i) Sign the Contract in accordance with ITB 45;  
or
  - (ii) Furnish a Performance Security in  
accordance with ITB 46.

19.8. The Bid Security or Bid- Securing Declaration of a JV must be in the name of the JV that submits the Bid. If the JV has not been legally constituted into a legally enforceable JV at the time of Bidding, the Bid Security or Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.

19.9. If a Bid Security is **not required in the BDS**, pursuant to ITB 19.1, and

- (a) if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Letter of Bid; or
- (b) if the successful Bidder fails to: sign the Contract in accordance with ITB 45; or furnish a performance security in accordance with ITB 46;

the FGS may, if provided for **in the BDS**, declare the Bidder ineligible to be awarded a contract by the PE for a period of time as stated **in the BDS**.

## 20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the documents comprising the bid 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 them

“COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 Bidders shall mark as “CONFIDENTIAL” information in their Bids which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information

20.3 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written power of attorney 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 where entries or amendments have been made shall be signed or initialled by the person signing the bid.

20.4 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV.

20.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the bid.

#### **D. Submission and Opening of Bids**

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

21.1. The Bidder shall enclose the original and all copies of the bid in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope.

21.2. The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the PA;

- (c) bear the specific identification of this bidding process indicated in the bid; and
- (d) bear a warning not to open before the time and date for bid opening.

21.3 If all envelopes are not sealed and marked as required, the PA will assume no responsibility for the misplacement or premature opening of the bid.

**22. Deadline for  
Submission of  
Bids**

22.1. Bids must be received by the PA at its address and no later than the date and time **specified in the BDS. When so specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**.

22.2. The PA may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 8.

**23. Late Bids**

23.1. Any Bid received by the PA after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.

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

24.1. A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

- (a) be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
- (b) Received by the PA prior to the deadline prescribed for submission of bids.

24.2. Bids requested to be withdrawn shall be returned unopened to the Bidders.

24.3. 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 on the Letter of Bid or any extension thereof.

## **25. Bid Opening**

25.1. Except as in the cases specified in ITB 23 and ITB 24.2, the PA shall, at the Bid opening, publicly open and read out all Bids received by the deadline at the date, time and place **specified in the BDS** in the presence of Bidders’ designated representatives and anyone who chooses to attend. Any specific electronic bid opening procedures if permitted, shall be as **specified in the BDS**.

25.2. First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding Bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding Bid will 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.

- 25.3. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to 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.
- 25.4. Next, envelopes marked “MODIFICATION” 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.
- 25.5. Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid Prices, per lot (contract) if applicable, including any discounts and alternative Bids; the presence or absence of a Bid Security, if required; and any other details as the PA may consider appropriate.
- 25.6. Only Bids, alternative Bids and discounts that are opened and read out at Bid opening shall be considered further in the evaluation. The Letter of Bid and the Price Schedules are to be initialled by representatives of the PA attending Bid opening in the manner specified **in the BDS**.
- 25.7. The PA shall neither discuss the merits of any Bid nor reject any Bid (except for late Bids, in accordance with ITB 23.1).
- 25.8. The PA shall prepare a record of the Bid opening that shall include, as a minimum:

- (a) the name of the Bidder
- (b) the Bid Price, per lot (contract) if applicable, including any discounts;
- (c) the presence or absence of a Bid-Securing Declaration, if one was required.

25.9. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

#### **E. Evaluation and Comparison of Bids**

##### **26. Confidentiality**

- 26.1 Information relating to the evaluation of bids and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with the bidding process until information on Contract Award is communication to all Bidders.
- 26.2 Any effort by a Bidder to influence the PA in the evaluation or contract award decisions may result in the rejection of its Bid.
- 26.3 From the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the PA on any matter related to the bidding process, it should do so in writing.

##### **27. Clarification of Bids**

- 27.1 To assist in the examination, evaluation, comparison of the bids, and qualification of the Bidders, the PA may, at its discretion, ask any Bidder for a clarification of its Bid. The request for clarification and the response shall be in writing, and 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 PA in the Evaluation of the Bids, in accordance with ITB 31.

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

**28. Deviations,  
Reservations,  
and Omissions**

28.1 During the evaluation of Bids, the following definitions apply:

- (a) "Deviation" is a departure from the requirements specified in the bidding document;
- (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding document; and
- (c) "Omission" is the failure to submit part or all of the information or documentation required in the bidding document.

**29. Determination of  
Responsiveness**

29.1 The PA's determination of a Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB 11

29.2 A substantially responsive Bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) If accepted, would:
  - (i) Affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
  - (ii) Limit in any substantial way, inconsistent with the bidding document, the PE's rights or the Bidder's obligations under the Contract; or

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

29.3 The PA shall examine the technical aspects of the bid submitted, in particular, to confirm that all requirements as per the Schedule of Requirements have been met without any material deviation or reservation, or omission.

29.4 If a Bid is not substantially responsive to the requirements of bidding document, it shall be rejected by the PA and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

**30. Nonconformities,**

**Errors and**

**Omissions**

30.1 Provided that a Bid is substantially responsive, the PA may waive any nonconformities in the Bid.

30.2 Provided that a Bid is substantially responsive, the PA may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the bidder to comply with the request may result in the rejection of the bid.

30.3 Provided that a Bid is substantially responsive, the PA shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified **in the BDS**.

**31. Correction of  
Arithmetical  
Errors**

31.1 Provided that the Bid is substantially responsive, the PA shall correct arithmetical errors on the following basis:

- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the PA there is an obvious misplacement of the decimal point in the unit price, in which case the line item total 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.

31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction shall result in the rejection of the Bid.

**32. Conversion to  
Single Currency**

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

**33. Margin of  
Preference**

33.1 Unless otherwise **specified in the BDS**, a margin of preference shall not apply.

### 34. Evaluation of Bids

34.1 The PA shall use the criteria and methodologies set out in the bidding document. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the PA shall determine the Most Advantageous Bid. This is the Bid of the Bidder that meets the qualification criteria and whose Bid has been determined to be:

- (a) substantially responsive to the bidding document; and
- (b) the lowest evaluated cost

34.2 The methodology for evaluation of bids and the selection of the successful bidder, shall be done on the following:

- (a) evaluation will be done for Items or Lots (contracts), as specified **in the BDS**; and the Bid Price as quoted in accordance with ITB 14;
- (b) Price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
- (c) price adjustment due to discounts offered in accordance with ITB 14.4
- (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;
- (e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3; and
- (f) The additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria.

34.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.

34.4 If this bidding document allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the Letter of Bid, is specified in Section III, Evaluation and Qualification Criteria.

34.5 The PA's evaluation of bid will exclude and not take in to account:

- (a) in the case of Goods manufactured in the Federal Government of Somalia, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;
- (b) in the case of Goods manufactured outside the Federal Government of Somalia already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder;
- (c) Any allowance for price adjustment during the period of execution of the contract, if provided in the Bid.

34.6 The PA's evaluation of a Bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall

be expressed in monetary terms to facilitate comparison of Bids, unless otherwise specified **in the BDS** from amongst those set out in Section III, Evaluation and Qualification Criteria. The criteria and methodologies to be used shall be as specified in ITB 34.2(f).

**35. Comparison of  
Bids**

35.1 The PA shall compare the evaluated prices of all substantially responsive bids to determine the lowest evaluated bid. The comparison shall be on the basis of CIP (place of final destination) prices for imported goods and EXW prices, plus cost of inland transportation and insurance to place of destination, for goods manufactured within the FGS, together with prices for any required installation, training, commissioning and other services. The evaluation of prices shall not take into account custom duties and other taxes levied on imported goods quoted CIP and sales and similar taxes levied in connection with the sale or delivery of goods.

**36. Abnormally Low  
Bids**

36.1 In the event of identification of a potentially Abnormally Low Bid, where the Bid price appears unreasonably low to the extent that the Bid price raises material concerns with the PE as to the capability of the Bidder to perform the Contract for the offered Bid price, the PA shall seek written clarification from the Bidder, including a detailed price analyses of its Bid price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the bidding document.

36.2 After evaluation of the price analyses, in the event that the PA determines that the Bidder has failed to demonstrate its capability to perform the contract for the offered Bid price, the PA shall reject the Bid.

**37. Qualification of the Bidder**

37.1 The PA shall determine, to its satisfaction, whether the eligible Bidder that is selected as having submitted the lowest evaluated cost and substantially responsive Bid, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

37.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.

37.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the Bid, in which event the PA shall proceed to the Bidder who offers a substantially responsive Bid with the next lowest evaluated cost to make a similar determination of that Bidder's qualifications to perform satisfactorily.

**38. PE's Right to Accept Any Bid, and to Reject Any or All Bids**

38.1 The PA and the PE reserve the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to Contract Award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted shall be promptly returned to the Bidders.

**39. Standstill Period**

39.1 The Contract shall be awarded not earlier than the expiry of the Standstill Period. The duration of the Standstill Period is **specified in the BDS**. Where only one Bid is submitted, the Standstill Period shall not apply.

**40. Notice of  
Intention to  
Award**

- 40.1 When a Standstill Period applies, the PA shall send the Notification of Intention to Award the Contract to the successful Bidder. The Notification of Intention to Award to be sent to all bidders who submitted bids shall contain, at a minimum, the following information:
- (a) the name and address of the Bidder submitting the successful Bid;
  - (b) the Contract price of the successful Bid;
  - (c) the names of all Bidders who submitted Bids, and their Bid prices as readout, and as evaluated;
  - (d) a statement of the reason(s) the Bid (of the unsuccessful Bidder to whom the letter is addressed) was unsuccessful, unless the price information in c) above already reveals the reason;
  - (e) the expiry date of the Standstill Period
  - (f) instructions on how to request a debriefing and/or submit a complaint during the standstill period.

**F. Award of Contract**

**41. Award Criteria**

- 41.1 The PE shall award the Contract to the Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

**42. PE's Right to  
Vary Quantities  
at Time of  
Award**

- 42.1 The PE reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in unit price or other terms and conditions. The margin of decrease or increase will be as **specified in the BDS**.



**43. Notification of  
Award**

- 43.1 Prior to the expiration of the Bid Validity Period and upon expiry of the Standstill Period, or upon satisfactorily addressing a complaint that has been filed within the Standstill Period, the PE shall transmit the Letter of Acceptance to the successful Bidder. The Letter of Acceptance shall specify the sum that the PE will pay the Supplier in consideration of the execution of the Contract.
- 43.2 At the same time, the PE shall publish the Contract Award Notice which shall contain, at a minimum, the following information:
- (a) name and address of the PE;
  - (b) name and reference number of the contract being awarded, and the selection method used;
  - (c) names of all Bidders that submitted Bids, and their Bid prices as read out at Bid opening, and as evaluated;
  - (d) names of all Bidders whose Bids were rejected either as nonresponsive or as not meeting qualification criteria, or were not evaluated, with the reasons therefor; and
  - (e) the name of the successful Bidder, the final total contract price, the contract duration and a summary of its scope.
- 43.3 The Contract Award Notice shall be published on the PE's website with free access if available, or in at least one newspaper of national circulation in the FGS, or in the official gazette.

43.4 Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

43.5 No Procuring Entity shall enter into a procurement contract unless a minimum of fourteen (14) calendar days have lapsed since the notification of award of a contract with a winning bidder.

**44. Debriefing by  
the PE**

44.1 The PA shall upon request of any unsuccessful bidder, inform the bidder of the reasons for which the bid was unsuccessful.

**45. Signing of  
Contract**

45.1 Promptly after notification, the PE shall send the successful Bidder the Contract Agreement.

45.2 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

**46. Performance  
Security**

46.1 Within twenty-eight (28) days of the receipt of notification of award from the PE, the successful Bidder, if required, shall furnish the Performance Security using the Performance Security Form included in Contract Forms.

46.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and execution of the Bid Securing Declaration. In that event the PE may award the Contract to the next lowest evaluated Bidder, whose bid is substantially responsive and is determined by the

PA to be qualified to perform the Contract satisfactorily.

**47. Procurement  
Related  
Complaint**

47.1 The procedures for making a Procurement-related Complaint are **as specified in the BDS.**

## Section II - Bid Data Sheet (BDS)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

<b>ITB Reference</b>	<b>A. General</b>
<b>ITB 1.1</b>	<p>The Procuring Entity (PE) is: <b>Ministry of Internal Security, Federal Government of Somalia</b></p> <p>The Procuring Agent (PA) is: <b>Ministry of Finance Procurement Unit</b></p> <p>The name of the RFB is: <b>Supply and Delivery of Non-perishable Foodstuff (NISA)</b></p>
<b>ITB 2.1</b>	The Source of Funds is: <b>Government funded</b>
<b>ITB 4.4</b>	A list of debarred firms and individuals is available on the website: <b>N/A</b>
	<b>B. Contents of Bidding Document</b>
<b>ITB 7.1</b>	<p>For <u><b>Clarification of Bid purposes</b></u> only, the PA address is:</p> <p>Attention: <b>Ismail Aweis Haji Ali</b></p> <p><b>Procurement Director</b></p> <p>Address: <b>Ministry of Finance</b></p> <p>Floor/ Room number: <b>5th floor, Procurement Department</b></p> <p>City: <b>Mogadishu.</b></p> <p>Country: <b>Federal Government of Somalia</b></p> <p>Requests for clarification should be received by the PE no later than: <b>16 June, 2019</b></p>
	<b>C. Preparation of Bids</b>
<b>ITB 10.1</b>	<p>The language of the Bid is: <b>English</b></p> <p>All correspondence exchange shall be in <b>English</b> language.</p>

	Language for translation of supporting documents and printed literature is <b>English</b>
<b>ITB 11.1 (j)</b>	<p>The Bidder shall submit the following documents in its Bid, in addition to those required by ITB 11.1:</p> <ol style="list-style-type: none"> <li>1. Documentary evidence demonstrating legal status and ability to operate in Somalia, such as a valid Certificate of Company Registration.</li> <li>2. <u>Financial Statements</u> for the last 2 years demonstrating of annual turnover of a minimum \$USD 50,000 (financial capacity). In the event that financial statements have not been produced by the bidder, Bank statements for the last 24 months must be submitted to evidence turnover.</li> <li>3. A declaration of certificate that the candidate has fulfilled the obligation to pay tax a clearance certificate (TCC) must be attached.</li> <li>4. Tax identification Number (TIN)</li> <li>5. Documentary evidence demonstrating of at <u>least 3 years'</u> experience in food supply and <u>previous work experience</u> in Somalia, Horn of Africa region and conflict/post-conflict countries.</li> <li>6. Documentary evidence of the current shareholders and shareholder ownership percentages of the Bidder and any JV Members submitting a bid.</li> </ol>
<b>ITB 14.5</b>	The prices quoted by the Bidder <b>shall not</b> be subject to adjustment during the performance of the Contract.
<b>ITB 14.7</b>	The Incoterms edition is: <b>Incoterms edition 2015</b>
<b>ITB 14.8 (b)(i) and (c)(v)</b>	Place of destination: <b>NISA Warehouse Mogadishu, Banadir</b>
<b>ITB 14.8 (a)(iii), (b)(ii) and (c)(v)</b>	<p>Final Destination: NISA Warehouse, Mogadishu, Banadir.</p> <p>Quantities of required goods are specified for the Schedule of Requirement section; however, physical deliveries will be made to NISA Warehouse,</p>

	Mogadishu, Banadir. Please refer to the List of Goods and Delivery Schedule in Section VII, Schedule of Requirements.
<b>ITB 15.1</b>	The Bidder <b>shall not</b> quote in Somali Shillings the portion of the Bid price that corresponds to expenditures incurred in Somali shillings. All bid prices shall be in USD.
<b>ITB 15.2</b>	Bid Prices shall be in <b>USD</b> .
<b>ITB 18.1</b>	The Bid validity period shall be <b>120</b> days.
<b>ITB 19.1</b>	A Bid-Securing Declaration shall be required in the form included in Schedule IV.
<b>ITB 19.1</b>	The period of Bid-Securing Declaration shall be <b>1</b> Year.
<b>ITB 20.1</b>	In addition to the original of the Bid, the number of copies is: <b>2 copies</b>
	<b>D. Submission and Opening of Bids</b>
<b>ITB 22.1</b>	For <u><b>Bid submission purposes</b></u> only, the PA's address is: Attention: <b>Ismail Aweis Haji Ali</b> <b>Procurement Director</b> Address: <b>Ministry of Finance</b> Floor/ Room number: <b>5th floor, Procurement Department</b> City: <b>Mogadishu</b> . Country: <b>Federal Government of Somalia</b> . <b>The deadline for Bid submission is:</b> Date: <b>19 June, 2019</b> Time: <b>12:00 PM (Mogadishu Time)</b>
<b>ITB 25.1</b>	The Bid opening shall take place at: Street Address: <b>Ministry of Finance</b> Floor/ Room number: <b>5th floor, Procurement Department</b> City: <b>Mogadishu</b> Country: <b>Federal Government of Somalia</b> Date: <b>19 June, 2019</b> Time: <b>12:00 PM (Mogadishu Time)</b>

<b>ITB 25.6</b>	The Letter of Bid and Price Schedules shall be initialled by all members of the evaluation committee, representatives of the PA and the PE conducting Bid opening
	<b>E. Evaluation and Comparison of Bids</b>
<b>ITB 30.3</b>	The adjustment shall be based on the <b>average</b> price of the item or component as quoted in other substantially responsive Bids. If the price of the item or component cannot be derived from the price of other substantially responsive Bids, the PE shall use its best estimate.
<b>ITB 32.1</b>	The currency that shall be used for Bid evaluation and comparison purposes to convert at the selling exchange rate all Bid prices expressed in various currencies into a single currency is: <b>USD</b> The source of exchange rate shall be: <b>Central Bank in the FGS</b> The date for the exchange rate shall be: <b>19 June, 2019</b>
<b>ITB 33.1</b>	A margin of domestic preference <b>shall not</b> apply.
<b>ITB 34.2(a)</b>	Evaluation will be done for <b>lots</b>
<b>ITB 34.6</b>	The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria:  (a) Deviation in Delivery schedule: <i>No.</i>  (b) Deviation in payment schedule: <i>No.</i>
	<b>F. Award of Contract</b>
<b>ITB 39.1 Standstill Period</b>	The Standstill Period is 14 Days <b>fourteen (14)</b> from the date the PA has transmitted to all Bidders that submitted Bids, the Notification of its Intention to Award the Contract to the successful Bidder.
<b>ITB 42.1</b>	The margin of increase or decrease that can be applied to the quantity of goods specific in the Schedule of Requirements at contract award is 30%.
<b>ITB 47.1</b>	The procedures for making a Procurement-related Complaint are detailed in Part VIII the PPDCA  If a Bidder wishes to make a Procurement-related Complaint, the Bidder

	<p>should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or in person), to:</p> <p>Attention: <b>Ismail Aweis Haji Ali</b></p> <p>Title/Position: <b>Procurement Director</b></p> <p>Address: <b>Ministry of Finance</b></p> <p>Floor/ Room number: <b>5th floor, Procurement Department</b></p> <p>City: <b>Mogadishu.</b></p> <p>Country: <b>Federal Government of Somalia</b></p> <p>Email: <a href="mailto:Procurement.fgs@gmail.com">Procurement.fgs@gmail.com</a></p>
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# Section III - Evaluation and Qualification Criteria

*This Section contains the criteria that the PE shall use to evaluate a Bid and qualify the Bidders. No other factors, methods or criteria shall be used other than specified in this bidding document.*

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## **1. Evaluation**

### **1.1. Evaluation Criteria**

The PA's evaluation of a Bid may take into account, in addition to the Bid Price quoted in accordance with ITB 14.8, one or more of the following factors as specified in ITB 34.2(f) and in BDS referring to ITB 34.6, using the following criteria and methodologies.

(a) Delivery schedule. (As per Incoterms specified in the BDS)

The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in Section VII, Schedule of Requirements. No credit will be given to deliveries before the earliest date, and Bids offering delivery after the final date shall be treated as nonresponsive. Within this acceptable period, no adjustment will be made to the Bid price of Bids offering deliveries later than the "Earliest Delivery Date" specified in Section VII, Schedule of Requirements.

(b) Deviation in payment schedule.

The SCC stipulates the payment schedule specified by the PE. If a Bid deviates from the schedule it may be considered non-complaint and rejected by the PA.

(c) Specific additional criteria

Goods to be delivered under the contract are required to meet the Technical Specifications specified in Section VII – Specification. Bids that include the provision of Goods which do not meet these Technical Specifications may be considered non-compliant and rejected by the PA.

## **1.2. Multiple Contracts**

If in accordance with ITB 1.1, Bids are invited for individual lots or for any combination of lots, the contract will be awarded to the Bidder or Bidders offering a substantially responsive Bid(s) and the lowest evaluated cost to the PE for combined lots, after considering all possible combination of lots, subject to the selected Bidder(s) meeting the required qualification criteria (this Section III, Sub-Section ITB 37 Qualification Requirements) for a lot or combination of lots as the case may be.

In determining Bidder or Bidders that offer the total lowest evaluated cost to the PE for combined lots, the PA shall apply the following steps in sequence:

- (a) Evaluate individual lots to determine the substantially responsive Bids and corresponding evaluated costs;
- (b) For each lot, rank the substantially responsive Bids starting from the lowest evaluated cost for the lot;
- (c) Apply to the evaluated costs listed in b) above, any applicable discounts/price reductions offered by a Bidder (s) for the award of multiple contracts based on the discounts and the methodology for their application offered by the respective Bidder; and
- (d) Determine contract award on the basis of the combination of lots that offer the total lowest evaluated cost to the PE.

## **2. Qualification**

### **2.1 Post qualification Requirements**

After determining the substantially responsive Bid, which offers the lowest-evaluated cost, the Purchaser shall carry out the post-qualification of the Bidder in accordance with ITB 37, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Bidder's qualifications.

#### **(i) Financial Capability**

Financial Statements for the last 2 years demonstrating of annual turnover of a minimum \$USD 50,000, or as may be otherwise demonstrated through 24

months of bank statements in the case where Financial Statements were not prepared by the bidder.

**(ii) Experience and Technical Capacity**

Documentary evidence demonstrating of at least 3 years' experience in food supply and previous work experience in Somalia, Horn of Africa region and conflict/post conflicts countries.

**(iii) Documentary Evidence**

1. Documentary evidence demonstrating ability to operate in Somalia such as a certificate of registration or trade license etc. (legal capacity)
2. Documentary evidence of the current shareholders and shareholder ownership percentages of the Bidder and any JV Members submitting a bid.

## Section IV - Bidding Forms

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## Letter of Bid

*The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and address.*

*Note: All italicized text is for use in preparing these forms and shall be deleted from the final products.*

Date: *[insert date (as day, month and year) of Bid Submission]*

RFB No.: *[insert identification number of Request for Bids]*

To: *[insert complete name of Procuring Agent]*

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders;
- (b) We meet the eligibility requirements and have no conflict of interest;
- (c) We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Bid Securing Declaration in the Federal Government of Somalia
- (d) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods:  
*[insert a brief description of the Goods and Related Services]*;
- (e) The total price of our Bid, excluding any discounts offered in item (f) below is:  
***[insert the total price of the bid in words and figures, indicating the various amounts and the respective currencies, per month and over the term of the contract]***;
- (f) Our bid shall be valid for a period of *[specify the number of calendar days]* days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (g) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process;

- (h) We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Authority. Further, we are not ineligible under the country laws or official regulations or pursuant to a decision of the United Nations Security Council;
- (i) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITB 4.6];*
- (j) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Bidding process or execution of the Contract:  
*[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate “none.”)

- (k) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (l) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (m) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption

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

---

[signature]

---

[in the capacity of]

Duly authorized to sign bid for an on behalf of \_\_\_\_\_



## Bidder Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]*

Date: *[insert date (as day, month and year) of Bid Submission]*

RFB No.: *[insert identification number of Request for Bids]*

1. Bidder's Name: <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Bidder's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Bidder's year of registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Address in country of registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i> Tax Identification Number
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above.  <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement.  <input type="checkbox"/> Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## Bidder's JV Members Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Bidder and for each member of a Joint Venture].*

Date: *[insert date (as day, month and year) of Bid Submission]*

RFB No.: *[insert identification number of Request for Bids]*

1. Bidder's Name: <i>[insert Bidder's legal name]</i>
2. Bidder's JV Member's name: <i>[insert JV's Member legal name]</i>
3. Bidder's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4. Bidder's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5. Bidder's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6. Bidder's JV Member's authorized representative information Name: <i>[insert name of JV's Member authorized representative]</i> Address: <i>[insert address of JV's Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i> Email Address: <i>[insert email address of JV's Member authorized representative]</i> Tax Identification Number
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above.  <input type="checkbox"/> Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## Price Schedule Forms

*[The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Price Schedules** shall coincide with the List of Goods and Related Services specified by the PE in the Schedule of Requirements.]*

### Price Schedule: Non-perishable foodstuff (to be filled out by suppliers)

	Date: _____ Alternative No: ____N/A_____. RFB No: _____								
1	2	3	4	5	6	7	8	9	
Line Item N°	<b>Description of the items (see detailed description in technical specifications)</b>	<b>Quantities Required Monthly</b>	<b>Physical Unit</b>	<b>Delivery Destination</b>	<b>Supplier to Include Unit Price (In figures/letters)</b>	<b>Supplier to include Total Price DDP per item (In figures/letters))</b>	<b>Supply to confirm if product offered fully compliant with technical specifications (Yes or no)</b>	<b>Supplier to Confirm Delivery</b>	
								<b>Site</b>	<b>Date</b>
1	Rice (50kg) (Xamse or equivalent)	220	50 Kgs	NISA Warehouse Mogadishu, Banadir					
2	Pasta (10 kg)	280	10 Kgs						
3	Wheat flour (50 kg)	150	50 Kgs						
4	Sugar (50kg)	150	50 Kgs						
5	Beans (50 kg)	150	50 Kgs						
6	Cooking oil (20 litres)	366	20 litres						
	<b>TOTAL MONTHLY PRICE: NON-PERISHABLE FOODSTUFFS –</b>							<i>[Insert Total Price]</i>	

<b>Price Schedule: Total Bid Price (to be filled out by suppliers)</b>	
<b>TOTAL MONTHLY PRICE: NON-PERISHABLE FOODSTUFFS - Insert price from above</b>	<i>[Insert Total Price]</i>
<b>TOTAL CONTRACT PRICE:– Multiply the Monthly contract price by the number of months (12) of the contract;</b>	<i>[Insert Total Price]</i>

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[Insert Date]*

## Form of Bid-Securing Declaration

*[The Bidder shall fill in this Form in accordance with the instructions indicated.]*

Date: *[date (as day, month and year)]*

Bid No.: *[number of RFB process]*

Alternative No.: *[insert identification No if this is a Bid for an alternative]*

To: *[complete name of Purchaser]*

We, the undersigned, declare that:

We understand that, according to your conditions, Bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Bidding in any contract with the Purchaser for the period of time of *[number of months or years]* starting on *[date]*, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) Have withdrawn our Bid during the period of Bid validity specified in the Letter of Bid;  
or
- (b) having been notified of the acceptance of our Bid by the Purchaser during the period of Bid validity, (i) fail or refuse to sign the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, in accordance with the ITB.

We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Name of the Bidder\* \_\_\_\_\_

Name of the person duly authorized to sign the Bid on behalf of the Bidder\*\* \_\_\_\_\_

Title of the person signing the Bid \_\_\_\_\_

Signature of the person named above \_\_\_\_\_

Date signed \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

\*\*: Person signing the Bid shall have the power of attorney given by the Bidder attached to the Bid

*[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all members to the Joint Venture that submits the Bid.]*

## Section V - Eligible Countries

### **Eligibility for the Provision of Goods, Works and Non-Consulting Services in FGS-Financed Procurement**

Goods, suppliers and contractors from a country may be ineligible for consideration under this Act if:

- (a) The law of Federal Government of Somalia or official regulation prohibits commercial relations with that particular country, or
- (b) A decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations that prohibits any dealings with that particular country.

*The Federal Government of Somalia does not currently keep a list of countries and or companies who are ineligible for the Provision of Goods, Works and Non-Consulting Services in FGS-Financed Procurement. As a result, there are no firms that are currently disbarred from participation in this procurement.*



## Section VI - Fraud and Corruption

**(Section VI shall not be modified)**

All parties must observe the highest ethical standards during procurement process and contract execution. In this context, any corrupt, fraudulent, collusive, coercive, fraud or obstructive actions taken by public officers, bidders, suppliers, contractors, and their subcontractors and consultants for undue advantage are prohibited.

In pursuance of this policy, and for the purposes of this provision, the terms are defined as follows:

- a. *Corruption* is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.
- b. *Fraud* is any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party to obtain a financial or other benefit or to avoid an obligation.
- c. *Collusion* is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- d. *Coercion* is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
- e. *Obstruction* is deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators (auditor general office reports) in order to materially impede an investigation into allegations of a corrupt, fraudulent, collusive, or coercive practice; and/or threatening, harassing, or

intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights.

A PE will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question.

A PE will forward the name of a firm or individual to the Authority recommending debarment, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in procurement proceedings.

For the purpose of this section, bidding and proposal documents and contract agreements will:

- a. Include a provision requiring bidders, suppliers, contractors and consultants to permit the officials of the PE and other concerned Government officials to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by designated auditors; and
- b. Require bidders to provide an undertaking to observe, in competing for and executing a contract, laws against fraud and corruption declaring that “the bidder undertakes that in competing for and executing a contract, the bidder will strictly observe the laws against fraud and corruption in force in FGS.

## **PART 2 – SUPPLY REQUIREMENTS**

**Section VII - Schedule of Requirements**

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**2. Technical Specifications ..... 63**

**3. Inspections and Tests ..... 67**

## 1. List of Goods and Delivery Schedule

### Non-perishable foodstuff

*The following items are required to be delivered on a monthly basis, according to the delivery requirements below, over a twelve (12) month period.*

Line Item N°	Description of Goods	Quantity	Physical unit	Final Destination	Delivery (as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date [ <i>to be provided by the Bidder</i> ]
	Rice (Xamse or equivalent)	220	50 Kgs	NISA Warehouse Mogadishu, Banadir	1 <sup>st</sup> day of each month	4 <sup>th</sup> day of each month	
	Pasta	280	10 Kgs				
	Wheat flour	150	50 Kgs				
	Sugar	150	50 Kgs				
	Bean	150	50 Kgs				
	Cooking oil	366	20 litres				





## 2. Technical Specifications

### Non-perishable Foodstuffs

#### 1. Rice Specification (Xamse or equivalent)

**The Rice must be:**

- Safe and fit for human consumption;
- Wholly milled medium or long grain rice (non-parboiled); and
- Double polished

Technical specifications:

Organoleptic Properties Fair & Sound marketable quality, free from abnormal smell & pests, fit for human consumption

Moisture 14.0% max.

Broken rice 5.0% max. (If the kernel is less than 3/4 of the Kernel)

Chalky grain 5.0% max.

Grain striated with red 3.0% max.

Spotted grain 1.5% max.

Stained grain 1.0% max.

Yellow grain 0.05% max.

Amber grain 0.2% max.

Inedible non-toxic or vegetable substances, provided they are non-Toxic 0.01% max

Edible extraneous grains or parts thereof 0.1%

**NOTES:**

**Suppliers:** The food commodity must not be derived from biotechnology, suppliers must ensure that food commodities are brought in from countries whose health status allows this.

**Packing:** The rice must be packed in new sound bags (of minimum weight of 110 g net) manufactured of polypropylene containing a uniform net weight of 50 kg each.

#### 2. Pasta Specification

**The Pasta must be:**

- The product is dry and its moisture level guarantees the absence of any microbiological risk. SHELF LIFE 2 years
- Safe and fit for human consumption;

**PRODUCT SPECIFICATION**

General requirements;

**CHEMICAL CHARACTERISTICS**

Value Moisture 12.50mm maximum

Max Ashes 1.60 +/- 0.2

Proteins 13.00 Min

100% DURUM WHEAT SEMOLINA SPAGHETTI

Fiber 6.00 + 2.0 – 0.0

Gallatin yes



Style: Dried

Shelf Life 2yrs

Processing type: Refined

Packing (inner packing 500gr)

NOTES: Suppliers: The food commodity must not be derived from biotechnology, suppliers must ensure that food commodities are brought in from countries whose health status allows this.

Packing: 500GRS x 20/ CARTONS

### 3. Wheat Flour Specifications

**The wheat flour must be:**

- Safe and fit for human consumption;
- Newly milled from fresh crop;
- Good, clean sound semi- hard wheat;
- Consistent with normal standard milling practice (including use of entoleter equipment) and granulation; and
- Should produce a dough which does not stick during mechanical kneading.

Technical specifications:

1. Colour Creamy
2. Moisture 14.0% max.
3. Ash (dry basis) 0.62% max. of dry matter (ICC method no. 104)
4. Protein (Nx5.70 in dry basis matter) 11% min.
5. Fatty Acids 50 mg KOH/100g max. of dry matter
6. Insect Infestation Nil
7. Lumpiness Nil
8. Absorption 55% min.
9. Odour Free of odour
10. Wet Gluten 26 % min (ICC method no. 155)
11. Hagberg falling no. 250 min. incl. preparation (agitation time of 60 seconds) (ICC method no. 107)
12. Zeleny Index 30 min. (ICC method no. 116 and no. 118)
13. W value 200 min
14. P/L value 0.6 min.
15. Flour fortified is as follows:

Notes: Suppliers must ensure that food commodities conform to the Public Health Regulations in force in the country of origin. The food commodity must not be derived from biotechnology and suppliers must ensure that food commodities are brought in from countries whose health status allows this. Milling facilities should meet the Recommended International Code of Practice: General Principles of Food Hygiene CAC/RCP 1-1969, Rev 4-2003 Codex

Packing: The wheat flour shall be packed in new sound bags manufactured of polypropylene. Each bag shall contain a uniform weight of 50 kg net. The empty bags each should be of minimum weight 110 g net.

#### 4. White Sugar Specifications

**The white sugar must be:**

- Safe and fit for human consumption;
- Refined beet or cane white crystal sugar
- Of healthy quality;
- Dry and free running of homogenous grain size.

Technical specifications:

Polarization 99.8 degrees (minimum)

Moisture 0.06% max.

Purity Extra pure (Free from foreign matters)

Free flowing free flowing

Inverted sugar 0.04% max.

Ash 0.027% max. (Not more than 15 points)

Color Not more than 9 points

Color in solution not more than 6 points (45 units ICUMSA max.)

Points in total 22 points max.

1 point equals 1. 0.0018% ash 2. 0.5 units of color type units 3. 7.5 attenuation index for colour in solution at 420 NM (ICUMSA)

NOTES: Suppliers: The food commodity must not be derived from biotechnology. Suppliers must ensure that food commodities are brought in from countries whose health status allows this. Packing: The White sugar shall be packed in new sound double bags woven outer and solid plastic inner (of minimum weight of 110 g net) manufactured of single polythene lined polypropylene. Each bag shall contain a uniform weight of 50 kg Net.

#### 5. Dry Mung bean grains Specification

**The Mung Beans must be:**

Safe and fit for human consumption;

Of healthy quality

**PRODUCT SPECIFICATION**

**General requirements**

Moisture content: 14.0% max

Organoleptic: Clean and bright appearance, Natural odour

Purity: 99.0% min (by weight)

Defective: 4.0% max (by weight)

Insect damaged: 0.2% max (by weight)

Immature: 3.0% max (by weight)

Foreign material: 1.0% max (by weight)

Unmillable material: 0.25% max (by weight)

Other edible grains: 0.5% max (by weight)

Live insects: Nil

Production year: As per contractual agreement

NOTES: Suppliers: The food commodity must not be derived from biotechnology, suppliers must ensure that food commodities are brought in from countries whose health status allows this.

Packing: The rice must be packed in new sound bags (of minimum weight of 110 g net) manufactured of polypropylene containing a uniform net weight of 50 kg each.

## 6. Cooking Oil Specifications

### The Cooking oil must be:

- Safe and fit for human consumption;
- Free of abnormal and rancid odors;
- Clear and free from any other oils, especially mineral oil; and
- Fortified with Vitamin A and D.

### Technical specifications:

Free fatty acids 0.15% max. (Oleic acid)

Linolenic acid 2% max.

Sediment Nil

Moisture and other impurities 0.2% max.

Adulterants Nil

Rancidity Nil

Saponification no. 184-198

Iodine No. (Wijs) 103-135

Organoleptic properties Satisfactory

Specific gravity 0.910-0.923

Natural or refined only

Delta-7-stigmasterol 9% min. (of total sterol content and absence of brassica sterol)

Soap Absence

Foreign odors or flavors Absence

Peroxide number Below 10 mill equivalents of active oxygen per kg of oil Authorized

additives 100 mg butylated hydroxytoluene (BHT-E-321) per kg of oil

Reactive index at 40C° 1.467-1.469

NOTES: Suppliers: The food commodity must not be derived from biotechnology. Suppliers must ensure that food commodities are brought in from countries whose health status allows this. Packing: The sunflower oil shall be packed in new plastic containers to be of robust type each containing 1 liter, properly capped, capable of protecting the product. The containers shall be completely filled and hermetically sealed in an atmosphere of nitrogen. The label shall show clearly the product name, the name and address of the packer, the production and expiration dates. The outer carton thickness must be 3 plys.

### **3. Inspections and Tests**

The following inspections and tests shall be performed: At each delivery all the items shall be inspected and tested to ensure that they conform to the technical specifications as stated in the Bidding Documents. Only items that comply with the specifications will be accepted.

## **PART 3 - CONTRACT**

## Section VIII - General Conditions of Contract

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## Section VIII. General Conditions of Contract

### 1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- (a) “Contract” means the Contract Agreement entered into between the Procuring Entity and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (b) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
- (c) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (d) “Completion” means the fulfilment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- (e) “Day” means calendar day.
- (f) “GCC” means the General Conditions of Contract.
- (g) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the PE under the Contract.
- (h) FGS means the Federal Government of Somalia.
- (i) “Procuring Entity” or “PE” means the entity purchasing the Goods and Related Services, as specified in the **SCC**.
- (j) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation,



training and initial maintenance and other such obligations of the Supplier under the Contract.

(k) “SCC” means the Special Conditions of Contract.

(l) “Subcontractor” means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

(m) “Supplier” means the person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the PE and is named as such in the Contract Agreement.

(n) “The Project Site,” where applicable, means the place named in the SCC.

## **2. Contract Documents**

2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

## **3. Fraud and Corruption**

3.1 The FGS requires compliance with the Public Procurement Concessions and Disposal Act (“PPCDA”) Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in Appendix to the GCC.

3.2 The PE requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the Bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount

and currency, and the purpose of the commission, gratuity or fee.

#### **4. Interpretation**

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

(a) 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 Incoterms **specified in the SCC**.

(b) The terms EXW, CIP, and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC**.

4.3 Entire Agreement

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

4.4 Amendment

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

4.5 Nonwaiver

(a) Subject to GCC Sub-Clause 4.5(b) 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, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, 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.

#### 4.6 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.

### 5. Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the PE, shall be written in the language specified in the **SCC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.

### 6. Joint Venture, Consortium or Association

- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the PE for the fulfilment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution

of the joint venture, consortium, or association shall not be altered without the prior consent of the PE.

## **7. Eligibility**

- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

## **8. Notices**

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

## **9. Governing Law**

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of Federal Government of Somalia, unless otherwise specified in the **SCC**.

9.2 Throughout the execution of the Contract, the Supplier shall comply with the import of goods and services prohibitions in the FGS when

(a) as a matter of law or official regulations, the FGS prohibits commercial relations with that country; 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 FGS prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

**10 Settlement of Disputes**

10.1 The PE and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the PE or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **SCC**.

10.3 Notwithstanding any reference to arbitration herein,

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

**11 Inspections  
and Audit by  
the FGS**

11.1 Appendix to the General Conditions the Supplier shall permit and shall cause its subcontractors and sub consultants to permit, the FGS and/or persons appointed by the FGS to inspect the Site and/or the accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the FGS. The Supplier's and its Subcontractors' and sub consultants' attention is drawn to Sub-Clause 3.1 which provides, inter alia, that acts intended to materially impede the exercise of the FGS's inspection and audit rights constitute a prohibited practice subject to contract termination.

**12. Scope of  
Supply**

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

**13. Delivery and  
Documents**

13.1 The Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC

**14. Supplier's  
Responsibilities**

14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.

- 15 Contract Price**      15.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the **SCC**.
- 16. Terms of Payment**
- 16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.
- 16.2 The Supplier's request for payment shall be made to the PE in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC 13 and upon fulfilment of all other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the PE, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the PE has accepted it.
- 16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.
- 17. Taxes and Duties**
- 17.1 For goods manufactured outside the FGS, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the FGS.
- 17.2 For goods Manufactured within the FGS, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the PE.

- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the FGS, the PE shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

**18. Performance  
Security**

- 18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount **specified in the SCC**.

- 18.2 The proceeds of the Performance Security shall be payable to the PE as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

- 18.3 The Performance Security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the PE and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in FGS or abroad, acceptable to the PE, in the form provided in the bid documents.

- 18.4 The Performance Security shall be discharged by the PE and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations under the contract.

**19. Copyright**

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the PE by the Supplier herein shall remain vested in the Supplier.



**20. Confidential  
Information**

20.1 The PE and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the PE to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The PE shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the PE for any purpose other than the performance of the Contract.

20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:

- (a) The PE or Supplier need to share with the Bank or other institutions participating in the financing of the Contract;
- (b) Now or hereafter enters the public domain through no fault of that party;
- (c) Can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

- (d) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

20.6 The obligation of a party under GCC Sub-Clauses 20.1 above, however, shall not apply to information that:

- (a) The PE or Supplier need to share with the Administrative review board or appointed auditor/investigator or other institutions participating in the financing of the Contract;
- (b) Now or hereafter enters the public domain through no fault of that party;
- (c) Can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
- (d) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.7 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

## **21. Subcontracting**

21.1 The Supplier shall notify the PE in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

**22. Specifications  
and Standards**

22.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in the Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the PE, by giving a notice of such disclaimer to the PE.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the PE and shall be treated in accordance with GCC Clause 33.

**23. Packing and  
Documents**

23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and

precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the PE.

#### **24. Insurance**

24.1 Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in the manner specified in the **SCC**.

#### **25. Transportation and Incidental Services**

25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;

- (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- (e) Training of the PE's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

**26. Inspections and Tests**

26.1 The Supplier shall at its own expense and at no cost to the PE carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.

26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Country as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the PE.

26.3 The PE or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the PE bear all of its own costs and

expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the PE. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the PE or its designated representative to attend the test and/or inspection.
- 26.5 The PE may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the PE with a report of the results of any such test and/or inspection.
- 26.7 The PE may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary

to meet the specifications at no cost to the PE, and shall repeat the test and/or inspection, at no cost to the PE, upon giving a notice pursuant to GCC Sub-Clause 26.4.

- 26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the PE or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

**27. Liquidated  
Damages**

- 27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the PE may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the PE may terminate the Contract pursuant to GCC Clause 35.

**28. Warranty**

- 28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from

any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

28.4 The PE shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The PE shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the PE.

28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the PE may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the PE may have against the Supplier under the Contract.

## **29. Patent Indemnity**

29.1 The Supplier shall, subject to the PE's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the PE and its



employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the PE may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) The sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the PE arising out of the matters referred to in GCC Sub-Clause 29.1, the PE shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the PE's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the PE within twenty-eight (28) days after receipt of such notice that it intends to conduct any

such proceedings or claim, then the PE shall be free to conduct the same on its own behalf.

29.4 The PE shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

29.5 The PE shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the PE.

**30 Limitation of Liability**

30.1 Except in cases of criminal negligence or wilful misconduct,

- (a) the Supplier shall not be liable to the PE, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the PE and
- (b) the aggregate liability of the Supplier to the PE, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective

equipment, or to any obligation of the supplier to indemnify the PE with respect to patent infringement

**31. Change in  
Laws and  
Regulations**

31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the country that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

**32. Force Majeure**

32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

32.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the PE in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the PE in writing of such condition and the cause thereof. Unless otherwise directed by the PE in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**33. Change Orders  
and Contract  
Amendments**

33.1 The PE may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) Drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the PE;
- (b) The method of shipment or packing;
- (c) The place of delivery; and
- (d) The Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the PE's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and

shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

**34. Extensions of Time**

34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the PE in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the PE shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

**35. Termination**

35.1 Termination for Default

- (a) The PE, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:

- (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the PE;
  - (ii) if the Supplier fails to perform any other obligation under the Contract; or
  - (iii) if the Supplier, in the judgment of the PE has engaged in fraud and corruption, as defined in the Act, in competing for or in executing the Contract.
- (b) In the event the PE terminates the Contract in whole or in part, pursuant to the Act, the PE may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the PE for any additional costs for such similar Goods or Related Services.

#### 35.1 Termination for Insolvency.

- (a) The PE may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the PE.

#### 35.3 Termination for Convenience.

- (a) The PE, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the PE's convenience, the extent to which performance of the Supplier under the Contract is

terminated, and the date upon which such termination becomes effective.

- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the PE at the Contract terms and prices. For the remaining Goods, the PE may elect:
  - (i) To have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) To cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

### **36. Assignment**

- 36.1 Neither the PE nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

### **37. Export Restriction**

- 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the PE, to the country of the PE, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services. Termination of the Contract on this basis shall be for the PE's convenience.

## APPENDIX TO GENERAL CONDITIONS

### Fraud and Corruption

*(Text in this Appendix shall not be modified)*

All parties must observe the highest ethical standards during procurement process and contract execution. In this context, any corrupt, fraudulent, collusive, coercive, fraud or obstructive actions taken by public officers, bidders, suppliers, contractors, and their subcontractors and consultants for undue advantage are prohibited.

In pursuance of this policy, and for the purposes of this provision, the terms are defined as follows:

- a. *Corruption* is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.
- b. *Fraud* is any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party to obtain a financial or other benefit or to avoid an obligation.
- c. *Collusion* is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- d. *Coercion* is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
- e. *Obstruction* is deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators (auditor general office reports) in order to materially impede an investigation into allegations of a



corrupt, fraudulent, collusive, or coercive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights.

A PE will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question.

A PE will forward the name of a firm or individual to the Authority recommending debarment, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in procurement proceedings.

For the purpose of this section, bidding and proposal documents and contract agreements will:

- a. Include a provision requiring bidders, suppliers, contractors and consultants to permit the officials of the PE and other concerned Government officials to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by designated auditors; and
- b. Require bidders to provide an undertaking to observe, in competing for and executing a contract, laws against fraud and corruption declaring that “the bidder undertakes that in competing for and executing a contract, the bidder will strictly observe the laws against fraud and corruption in force in FGS.

## Section IX. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<b>GCC 1.1(i)</b>	The PE is: Ministry of Internal Security Federal Government of Somalia
<b>GCC 1.1 (n)</b>	Final Destination NISA Warehouse, Mogadishu, Banadir
<b>GCC 4.2</b>	The version edition of Incoterms shall be <b>Incoterms edition 2015</b>
<b>GCC 5.1</b>	The language shall be: <b>English</b>
<b>GCC 8.1</b>	<p>For <b><u>notices</u></b>, the PE's address shall be:</p> <p>Attention:</p> <p>Address: <b>Ministry of Internal Security</b></p> <p>Floor/ Room number:</p> <p>City: <b>Mogadishu.</b></p> <p>Country: <b>Federal Government of Somalia.</b></p> <p>Electronic mail address:</p> <p>For <b><u>notices</u></b>, the Supplier's address shall be:</p> <p>Attention: <i>[include name of Supplier or its representative]</i></p> <p>Address: <i>[insert address of the Supplier]</i></p> <p>City: <i>[Insert City of the Supplier]</i></p> <p>Country: <i>[Insert Country of the Supplier]</i></p> <p>Electronic mail address: <i>[insert email address of the supplier]</i></p>
<b>GCC 9.1</b>	The governing law shall be the law of: <b>Federal Government of Somalia</b>

<b>GCC 10.2</b>	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:</p> <p><b>(a) <i>Contract with foreign Supplier:</i></b></p> <p>Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.</p> <p><b>(b) <i>Contracts with Supplier national of the Federal Government of Somalia:</i></b></p> <p>Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force. The number of arbitrators to the proceedings shall be three.</p> <p>The appointing Authority shall be the Somali Chamber of Commerce (SCCI.)</p> <p>The seat of arbitration shall be in the Federal Government of Somalia.</p> <p>The language to be used in arbitration shall be Somali.</p> <p>The award rendered by the arbitrator(s) shall be final and binding and shall be enforced by any Court of competent jurisdiction. The party seeking enforcement shall be entitled to an award of all costs incurred including legal fees to be paid by the party against whom enforcement is ordered.</p>
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<b>GCC 13</b>	<p>The shipping and other documents to be furnished by the Supplier to the PE shall be:</p> <ul style="list-style-type: none"> <li>• One (1) copy of the Supplier’s Delivery Note to be provided with each delivery, which describes and lists the quantity of each product delivered and certifies that products delivered comply with the technical specifications; and,</li> <li>• One (1) copy of the Acceptance Certificate and associated Goods Inspection Report, which, once signed by the appropriate representatives of the PE, confirms the quantities of products received, inspected and accepted by the PE;</li> </ul> <p>The above document shall be received by the PE at the time of delivery of the Goods and if not received the Supplier will be responsible for any consequent expenses.</p>
<b>GCC 15.1</b>	<p>The unit prices charged for the Goods supplied and the related Services performed <b>shall not</b> be adjustable.</p> <p>However, the quantities required to be delivered to the Sector may vary over time, in accordance with GCC 33.1. As a result, the monthly price invoiced may change as a result of changes in quantities but not changes in unit prices.</p>
<b>GCC 16.1</b>	<p>Advance payment <b>shall not</b> be considered.</p> <p>Payment for Goods and Services supplied shall be made in USD Dollars as follows:</p> <p>On submission of a monthly invoice following delivery and acceptance of all goods supplied during the previous month: One hundred (100) percent of the Monthly Contract Price, as adjusted by changes in quantities actually delivered and accepted, shall be paid to the Supplier.</p>

	<p>The Supplier must provide the following documents for each delivery supplied to the PE:</p> <ul style="list-style-type: none"> <li>• A copy of the delivery note signed by an NISA representative who received the goods</li> </ul> <p>In addition, for each delivery of non-perishable foodstuffs, the following documents must be provided:</p> <ul style="list-style-type: none"> <li>• A copy of the inspection report; and,</li> <li>• The acceptance letter signed by a second NISA representative, who shall be, where possible, a NISA Finance Unit representative.</li> </ul> <p>At the end of each month an invoice should be submitted showing the quantities of each good delivered to each location during the month and specifying the payment due. The delivery documentation described above must be attached to the invoice for each delivery that is included on the invoice. The supplier will be paid within thirty (30) days after receipt of the above documentation by the Purchaser associated with the respective deliveries by the Purchaser.</p>
<b>GCC 18.1</b>	A Performance Security <b>shall not be required</b>
<b>GCC 21.1</b>	Subcontracting without the prior written authorization of the PE is not allowed
<b>GCC 24.1</b>	The Goods supplied under the Contract shall be <b>fully insured against loss or damage</b>
<b>GCC 25.2</b>	Additional services to be provided are: <b>N/A</b>
<b>GCC 26.1</b>	The inspections and tests shall be conducted at each delivery of non-perishable foodstuffs, These tests shall confirm the conformity of goods to the technical specifications as stated in the Bidding Documents.
<b>GCC 26.2</b>	The inspections and tests shall be conducted at: <b>NISA Warehouse</b>
<b>GCC 27.1</b>	<p>The liquidated damage shall be: 1 % per week</p> <p>Note: The Maximum Percentage of Liquidated Damages shall be: <b>10 %</b></p>
<b>GCC 28.5</b>	The period for repair or replacement shall be: <b>within 30 days.</b>

<b>GCC 33.1</b>	In addition to those changes specified in the GCC, the PE is also entitled to increase or decrease the quantities of foodstuffs by up to 30% the quantities of foodstuffs required, upon appropriate notice.
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# Section X - Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

## Table of Forms

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## Notification of Award - Letter of Acceptance

*[use letterhead paper of the PE]*

*[date]*

To: *[name and address of the Supplier]*

Subject: **Notification of Award Contract No.** . . . . .

This is to notify you that your Bid dated *[insert date]* for execution of the *[insert name of the contract and identification number, as given in the SCC]* for the Accepted Contract Amount of *[insert amount in numbers and words and name of currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Entity.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form included in Section X, Contract Forms, of the bidding document.

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

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

Name of Entity: \_\_\_\_\_

**Attachment: Contract Agreement**



## Contract Agreement

*[The successful Bidder shall fill in this form in accordance with the instructions indicated]*

THIS AGREEMENT made

the *[insert: **number**]* day of *[insert: **month**]*, *[insert: **year**]*.

BETWEEN

- (1) *[insert complete name of PE]*, and having its principal place of business at *[insert address of PE]* (hereinafter called “the PE”), of the one part, 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”), of the other part:

WHEREAS the PE invited Bids for certain Goods and ancillary services, viz., *[insert brief description of Goods and Services]* and has accepted a Bid by the Supplier for the supply of those Goods and Services for a duration of 12 (twelve) months from the date of signature of the present agreement by both parties.

The PE and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
  - (a) the Letter of Acceptance
  - (b) the Letter of Bid
  - (c) the Addenda Nos. \_\_\_\_\_ (if any)
  - (d) Special Conditions of Contract
  - (e) General Conditions of Contract

- (f) the Specification (including Schedule of Requirements, which is comprised of the List of Goods and Delivery Schedule; Technical Specifications; and, Inspection and Tests)
  - (g) the completed Schedules (including Price Schedules)
  - (h) Sample Forms (including the Delivery Note, Goods and Inspection Report, and Inspection Acceptance Certificate)
  - (i) any other document listed in GCC as forming part of the Contract
3. In consideration of the payments to be made by the PE to the Supplier as specified in this Agreement, the Supplier hereby covenants with the PE to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The PE hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of *[insert the name of the Contract governing law country]* on the day, month and year indicated above.

For and on behalf of the PE

Signed: *[insert signature]*

in the capacity of *[insert title or other appropriate designation]*

In the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*

in the capacity of *[insert title or other appropriate designation]*

in the presence of *[insert identification of official witness]*

## Delivery/Receipt Note


Name Vendor:  
Address:  
Address 2:  
Tel:

[illegible]

**Signature of Representative of User Department and Date**

## Acceptance Certificate

Contract: *[ insert: name of Contract ]*

**To:** *[ insert: name and address of Supplier ]*

**Date of Delivery:**

**Delivery Site:**

Dear Sir or Madam:

Pursuant to GCC Clause 26 (Inspections and test) of the Contract entered into between yourselves and the **PE** dated *[ insert: date of Contract ]*, relating to the **supply and delivery of non-perishable food stuff (NISA)**, we hereby notify you that we have accepted the goods delivered to the Site mentioned above on the date mentioned above. Where required, these goods have successfully completed the inspection tests specified in the Contract. In accordance with the terms of the Contract, the PE hereby gives its approval for payment of the goods delivered on the date mentioned above. This letter shall not relieve you of your remaining performance obligations under the Contract.

For and on behalf of the PE

Signed:

Date:

in the capacity of: **[Insert name and title]**

**Attachment: Goods Inspection Report, where required by SCC 26.**

<b>GOODS INSPECTION REPORT</b>
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*(to be attached to the Inspection Acceptance Certificate)*

Supplier Name :

Supplier Address:

Contract Name :

Date of Delivery:

Place of Delivery:

No	Description	Test Results Comments	Status	
			Accepted	Rejected
Etc....				

Description item of Total Quantity Received	Total Acceptable Quantity	Total Rejected Quantity	Total Returned Quantity	Total Amount Paid
Etc...				

Date and Signature of Second NISA Representative (Finance Unit Representative where possible)

Name

Title

Date and Signature of NISA Representative:

Name

Title