

# International bidding for mechanical and electrical products Tender documents

(Volume1)

Project name:X-ray Fluorescence Spectrometer Procurement Project

Tenderer: : Tianjin heavy industries research&development co. ,  
Ltd.\_\_\_\_\_

Tender number:5256-264TGJTB1166

Tianjin Jiantong Engineering Consulting Co. , Ltd  
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# **Section 1**

## **Instructions to Bidders**

# Instructions to Bidders

## **A. Introduction**

### **1. The Bidding Project and Parties**

- 1.1 The Tenderee named in the Volume II Section 6 Bid Data Sheet of the bidding document has obtained a fund/loan. The Tenderee intends to apply a portion of the proceeds of this fund/loan to the payments under the contract for which this Invitation for Bids is issued.
- 1.2 For the name, address, contacting persons, telephone No., fax No. and e-mail address of the Tenderee and the Tendering Agent, please refer to Volume II Section 6 Bid Data Sheet.
- 1.3 For the introduction of the bidding project and source of the funds, please refer to Volume II Section 6 “Bid Data Sheet”.

### **2. Eligible Bidders**

- 2.1 The Bidder is legal person or other organization that has purchased the bidding documents from the Tenderee or the Tendering Agent, and participated in the bid. Any legal person or organization that has not purchased the bidding documents from the Tenderee or the Tendering Agent is not allowed to participate in the bid.
- 2.2 This Invitation for Bids is open to all legal persons or other organizations from within the People’s Republic of China (hereinafter abb. as “PRC”) and all countries/areas which have regular trade relations with PRC (hereinafter called “the eligible source countries/areas”), except as provided hereinafter.
- 2.3 Any legal person or other organization that has conflict of interest with the Tenderee and may have impact on fairness of the bidding is not allowed to participate in the bid.
- 2.4 Any legal person or other organization that has been entrusted to provide consulting service at the preliminary stage of the project or to prepare the bidding document is not allowed to participate in the bid, nor to prepare bid documents or provide consulting service to the Bidder.
- 2.5 Different bidders that have the same person in charge or have the relationship of share-holding or management should not participate in the bids for the same package, except for the case to form a joint venture to bid.
- 2.6 Any party to a joint venture shall not, for the same package, submit bid independently in its name or participate in another joint venture.
- 2.7 The Suppliers may participate in the bids only if they are legally and financially autonomous, if they operate under relevant law, and if they are not a dependent agency of the Tenderee or the Tendering Agent.

- 2.8 Bidders should successfully complete registration on <http://www.chinabidding.com> (hereinafter abb. as “the Website”) prior to the deadline for submission of bids stipulated in the bidding document. Otherwise, the bidders cannot enter into bidding procedures, and any consequence arisen thereafter shall be borne by bidders.

### **3. Eligible Goods and Services**

- 3.1 The term “Goods” in this document refers to electrical and mechanical products, including mechanical equipment, electrical equipment, transportation equipment and tools, electronic and electric products, instruments and meters, metal products etc. as well as their spare parts and components.
- 3.2 All goods and related services to be supplied by the Bidder shall have their origin in eligible source countries/areas, as defined in Clause 2.2 above, and all expenditures made under the contract will be limited to such goods and services.
- 3.3 For purposes of this clause, “origin” means the country or area where the goods have been 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.
- 3.4 The origin of goods and services is distinct from the nationality of the Bidder.

### **4. Cost of Bid**

- 4.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Tenderee or the Tendering Agent, named in the Bid Data Sheet, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bid process.

## **B. The Bidding Documents**

### **5. Compilation Principle and Content of Bidding Documents**

- 5.1 The bidding document is compiled in accordance with “The Bidding and Bid Law of the People’s Republic of China”, “Implementation Regulation of the Bidding and Bid Law of the People’s Republic of China”, and Decree No.1 [2014] of the Ministry of Commerce “Implementation Method of Electrical & Mechanical Products by International Bidding (trial)”.
- 5.2 The goods required, bidding procedures and contract terms are prescribed in the bidding documents. The bidding document is written either by Chinese or by Chinese and English. In the case of Chinese and English, two languages have the same effectiveness. In the event of any discrepancies between them, the Chinese version shall govern. Paper bidding document and electronic one have the same legal effectiveness. Unless otherwise stipulated, in the event of any discrepancies between them, the paper version shall govern.
- 5.3 The content of the bidding documents will be separated into two volumes as follows:

Volume One:

- Section I Instructions to Bidders
- Section II General Conditions of Contract
- Section III Contract Form
- Section IV Formats of Bids

Volume Two:

- Section V Invitation for Bids
- Section VI Bid Data Sheet
- Section VII Special Conditions of Contract
- Section VIII Schedule of Requirements and Technical Specifications

5.4 The Bidder is expected to examine all instructions, forms, terms and specifications etc. in the bidding documents and prepare bids pursuant to the requirement of the bidding documents. Failure of doing so will be at the Bidder's risk.

## **6. Clarification and Amendment of Bidding Documents**

6.1 A prospective bidder who requires any clarification of the bidding document (including any clarification of amendment of the bidding document) should notify the Tenderee or the Tendering Agent in writing prior to the time stipulated in the Bid Data Sheet. The Tenderee or the Tendering Agent will respond in writing to any request for clarification received no later than the time stipulated in the Bid Data Sheet. Written copies of the response (without identifying the source of inquiry) will be sent to all prospective bidders who have purchased the bidding documents.

6.2 Prior to the deadline for submission of bids, the Tenderee, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, may modify the bidding document by amendment.

6.3 The amendment is a part of the bidding documents. If content of clarification or amendment may affect preparation of the Bid, the Tenderee or the Tendering Agent shall, at least fifteen (15) days prior to the deadline for submission of bids, notify in writing to all prospective bidders who have purchased the bidding documents. And such clarification or amendment will bind on bidders. Prospective bidders shall promptly acknowledge the receipt thereof in writing to the Tenderee or the Tendering Agent.

6.4 In order to ensure prospective bidders reasonable time to take amendments into consideration, the Tenderee or the Tendering Agent will extend the deadline for submission of bids in accordance with the relevant regulations.

## **7. Objection to Bidding Documents**

7.1 A prospective bidder who has purchased the bidding documents may raise its objection on the bidding documents (including its clarification and amendment) to the Tenderee or the Tendering Agent within ten (10) days prior to the deadline for the submission of bids, and post it on the Website. Within three (3) days upon receipt of the objection, the Tenderee or the Tendering Agent will respond to the objection and post the response on the Website.

cost for transportation and insurance within PRC customs territory + price additions for

missing or omitting items + commercial and technical deviation additions + other costs

## **C. Preparation of Bids**

### **8. Language of Bid**

8.1 The bid prepared by the Bidder, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Tenderee and the Tendering Agent, shall be written in the language specified in the Bid Data Sheet. Supporting information and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the Bid Data Sheet, in which case, for purposes of interpretation of the Bid, the translation shall govern.

### **9. Documents Comprising the Bid**

- 9.1 The bid prepared by the Bidder shall comprise the following components:
- 1) A Bid Form, Bid Schedule of Prices and a Summary Sheet for Bid Opening which shall be submitted in a separate envelope completed in accordance with ITB Clauses 10, 11 and 12;
  - 2) Documentary evidence established in accordance with ITB Clause 13 that the Bidder is eligible to bid and is qualified to perform the contract if its bid is accepted;
  - 3) Documentary evidence established in accordance with ITB Clause 14 that the goods and ancillary services to be supplied by the Bidder are eligible and conform to the bidding documents;
  - 4) Bid security furnished in accordance with ITB Clause 15.

### **10. Compilation of Bid**

10.1 The Bidder shall complete the Bid Form, Summary Sheet for Bid Opening and Price Schedule and other stipulated contents furnished in Section IV “Formats of Bids” of the bidding documents.

10.2 The Bidder shall prepare its bid in accordance to the requirements of the bidding documents and make authentic responsiveness based on its commercial capability and technical level.

10.3 Unless otherwise specified in the Bid Data Sheet or Technical Specifications, the Bidder is only permitted to offer one proposal; otherwise its bid will be rejected. Provided that alternative bid is allowed or required in the bidding document, the bidder can only submit one alternative proposal and specify the main proposal. In such case, the price of the alternative bid or its evaluated bid price should not be higher than that of the main proposal (comprehensive evaluated value of the alternative proposal shall not inferior than that of the main proposal). Only the main proposal will enter into evaluation. If the bidder submits two and more alternative proposals or fails to specify the main proposal, its bid will be rejected.

## **11. Bid Prices**

- 11.1 The bidder shall indicate the list of Goods to be supplied, breakdown prices and total price in the Schedule of Prices, in accordance to the requirements of the bidding documents and technical specifications.
- 11.2 The number or proportion for permitted missing or omitted items of Goods is indicated in the Bid Data Sheet. Missing or omitted items, if any, shall be dealt with as per the following stipulations:
- 1) In case the number or proportion for missing or omitted items exceed the permitted scope specified in the Bid Data Sheet, the bid will be treated as substantially non-responsive and rejected by the Bid Evaluation Committee.
  - 2) In case the number or proportion for missing or omitted items is permitted by the bidding documents, and after it is confirmed by the bidder that the price of missing or omitted items is included in the bid price, then when evaluation, the highest price of the same item among other effective bids shall be added into its total evaluated bid price (applicable to the Lowest Evaluated Price Method); or when evaluation, as per the stipulations in the Bid Data Sheet, its bid price evaluated value shall be lowered (applicable to the Comprehensive Evaluation Method). If the bidder confirms that the price of missing or omitted items is not included in its bid price, the bid will be rejected by the Bid Evaluation Committee.
  - 3) When signing the contract, the bid price shall prevail, and the price of missing or omitted items shall be included in the bid price.
- 11.3 The total bid price shall not include any items beyond the requirement of the bidding documents; otherwise, the price of such items shall not be deducted when evaluation.
- 11.4 Selective bid or bid price with additional condition shall not be accepted under this bidding project.
- 11.5 A ceiling price permitted or not shall be stipulated in the Bid Data Sheet. Provided that a ceiling price is permitted, the amount or calculation method of the ceiling price shall be stipulated in the Bid Data Sheet.
- 11.6 Prices indicated on the Bid Schedule of Prices shall be entered separately in the following manner:
- 11.6.1 For goods offered from within PRC customs territory:
- 1) For goods manufactured within PRC customs territory
    - a) The price of goods quoted EXW (ex-works, ex-factory, ex-warehouse, ex-showroom, or off-the-shelf, as applicable), including Value Added Tax(VAT) and other taxes already paid or payable to the government of PRC, as well as all customs duties, VAT and other taxes paid or payable on the components and raw material used in the manufacture or assembly of goods from outside PRC customs territory.
    - b) The price for transportation within customs territory, insurance, and

other local costs incidental to the goods to their final destination, if specified in the Bid Data Sheet.

c) The price of other incidental services, if any, as listed in the Bid Data Sheet.

2) For goods already imported prior to the deadline for submission of bids

a) The price of goods quoted ex-warehouse, ex-showroom, or off-the-shelf, as applicable), including Value Added Tax(VAT) and other taxes already paid or payable to the government of PRC, as well as all customs duties, VAT and other taxes paid or payable on the goods imported from outside PRC customs territory.

b) The price for transportation within customs territory, insurance, and other local costs incidental to the goods to their final destination, if specified in the Bid Data Sheet.

c) The price of other incidental services, if any, as listed in the Bid Data Sheet.

11.6.2 For goods offered from outside PRC customs territory:

1) The price of the goods quoted CIF named port of destination, or CIP named place of destination in PRC, as specified in the Bid Data Sheet.

2) The price of goods quoted FOB port of shipment, or FCA (free carrier), or other terms as the case may be, if specified in the Bid Data Sheet.

3) The price for transportation within customs territory, insurance, and other local costs incidental to delivery of the goods from the port of entry to their final destination, if specified in the Bid Data Sheet.

4) The price of other incidental services, if any, as listed in the Bid Data Sheet.

11.7 The terms EXW, CIF, CIP, etc., shall be governed by the rules prescribed in the current latest edition of Incoterms published by the International Chamber of Commerce (ICC).

11.8 The purpose of Bidder's price segments pursuant to ITB Clause 11.6 above is only to help the Tenderee compare bids. And this will not in any way limit the Tenderee's right to sign contract based on any of the terms offered above.

11.9 Except as otherwise specified in Bid Data Sheet, prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as substantially non-responsive and will be rejected.

## **12. Bid Currencies**

12.1 The prices shall be quoted in RMB for goods and services that the Bidder will supply from within PRC customs territory, unless specified or permitted otherwise.

12.2 The prices shall be quoted in any of the currencies defined in the Bid Data Sheet for goods and services that the Bidder will supply from outside PRC customs territory.

### **13. Documents Establishing Bidder's Eligibility and Qualifications**

- 13.1 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. The Joint Venture permitted or not, please refers to the Bid Data Sheet. In the case that the Joint Venture is permitted, the Bidder shall furnish Qualification Documents of all members, together with the Joint Venture Agreement stating the leading party, work scope and responsibility of each member, as well as the promise to undertake joint liability to the Tenderee by all members of the Joint Venture, if winning the bid. Otherwise, failure of doing so will lead to the rejection of its bid.
- 13.2 The documentary evidence of the Bidder's eligibility to bid shall establish that the Bidder, at the time of submission of its bid, is from an eligible country as defined under ITB Clause 2.2.
- 13.3 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish:
- 1) that, in the case of a Bidder offering to supply goods under the contract which the Bidder does not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or Producer to supply the goods in this bidding project, format as per Section 4 Form IV-9-4;
  - 2) that, the Bidder has the financial, technical and production capability necessary to perform the contract;
  - 3) that, the Bidder meets the qualification criteria listed in the Bid Data Sheet;
  - 4) that, the Bidder shall provide the bank reference letter issued within three (3) months prior to the time of bid opening in original or its copy;
  - 5) other documentary evidence of the Bidder's qualifications required in the bidding document.
- 13.4 During the process of bidding, any major change of the Bidder occurred such as merge, separation or insolvency, shall be notified the Tenderee in writing promptly.

### **14. Documents Establishing Goods' Eligibility and Conformity to Bidding Documents**

- 14.1 The Bidder shall furnish, as part of its bid, documents establishing the eligibility and conformity to the bidding documents of all goods and services which the Bidder proposes to supply under the contract.
- 14.2 The documentary evidence of the eligibility of the goods and services shall consist of a statement in the Bid Schedule of Prices of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 14.3 The documentary evidence of conformity of the goods and services to the bidding documents may be in the form of literature, drawings and data, and shall consist of:
- 1) a detailed description of the essential technical and performance

- characteristics of the goods; and
- 2) 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 for a period to be specified in the Bid Data Sheet, following commencement of the use of the goods by the Tenderee; and
- 3) an item-by-item commentary on the Technical Specifications of the bidding document demonstrating substantial responsiveness of the goods and services to those specifications, and a statement of deviations and exceptions to the provisions of the Technical Specifications. Particularly, to those specifications with specific parameters, the bidder shall furnish specific parameter value of offered goods.
- 4) supporting technical documents for key technical clauses or parameters with mark of asterisk (\*). Such supporting technical documents shall be printed literature publicly issued by the manufacturer of the supplied goods, or inspection report issued by an inspecting institution, or any other form permitted in the Bid Data Sheet. Any supporting technical document that cannot meet the above-mentioned requirements, shall be regarded as invalid.

14.4 For purposes of the commentary to be furnished pursuant to ITB Clause 14.3 3) above, the Bidder shall note that standards for workmanship, material and equipment, as well as references to brand names or catalogue numbers designated in the Technical Specifications of the bidding document, are intended to be descriptive only and not restrictive. The Bidder may substitute alternative standards, brand names, and/or catalogue numbers in its bid, provided that the substitutions ensure substantial equivalence to those designated in the bidding document.

## **15. Bid Security**

15.1 In the case that the bid security is required in the Bid Data Sheet by the Tenderee, the Bidder shall furnish, as part of its bid, a bid security in the amount specified in the Bid Data Sheet. The validity period of the security shall remain the same as that of the bid.

15.2 The bid security is required to protect the Tenderee against the risk of Bidder's conduct. The Tenderee or the Tendering Agent may forfeit bid security, pursuant to ITB Clause 15.8.

15.3 The bid security shall be denominated in the currency of the bid or in another currency acceptable to the Tendering Agent, and shall be in one of the following forms:

- 1) A bank guarantee or an irrevocable letter of credit issued by a reputable bank located in PRC or abroad, in the form provided in the bidding documents or another form acceptable to the Tendering Agent; or
- 2) Check for transfer, demand draft, or other forms stipulated in the Bid Data Sheet. In the case of projects that must adopt bidding as required by the law, for those domestic bidders, its bid security in the form of cash or check shall be transferred from its basic account.

15.4 In the case of a Joint Venture, the bid security shall be submitted as stipulated in the Joint Venture Agreement, by any party or jointly. If the bid security is

submitted in the name of one party, it is binding on all parties to the Joint Venture.

- 15.5 Any bid not accompanied by a bid security in accordance with ITB Clauses 15.1, 15.3 and 15.4, shall be rejected as substantially non-responsive, pursuant to ITB Clause 24.
- 15.6 Unsuccessful bidders' bid security will be discharged or returned in its original amount with bank deposit interest for the same period (if occurred) by the Tenderee, within five (5) days after signing and effectiveness of the written contract between the Tenderee and the successful bidder.
- 15.7 The successful Bidder's bid security with bank deposit interest for the same period (if occurred) will be discharged upon the Bidder signing the contract, pursuant to ITB Clause 34, and furnishing the performance security, pursuant to ITB Clause 35.
- 15.8 The bid security may not be discharged or returned:
- 1) if a Bidder withdraws its bid during the period of bid validity specified in the bidding documents; or
  - 2) if the successful Bidder fails to sign the contract in accordance with ITB Clause 34; or
  - 3) if the successful Bidder fails to furnish performance security in accordance with ITB Clause 35; or
  - 4) if the successful Bidder fails to pay the service charge for bidding in accordance with ITB Clause 36.

## **16. Period of Validity of Bids**

- 16.1 Bids shall remain valid for the period specified in the Bid Data Sheet from the date of bid opening specified in the Bid Data Sheet. A bid valid for a shorter period shall be rejected as substantially non-responsive.
- 16.2 In exceptional circumstances, prior to the expiry of the original bid validity period, the Tenderee may request the Bidder to extend the period of validity. The request and the responses thereto shall be made in writing. A Bidder may refuse the request without forfeiting its bid security, however, its bid will no longer be valid after the expiration of bid validity period. A Bidder agreeing to the request will not be required nor permitted to modify its bid, but will be required to extend the validity of its Bid Security correspondingly. The provisions of Clause 15 regarding discharge and forfeiture of Bid Security shall continue to apply during the extended period of bid validity.

## **17. Format and Signing of Bids**

- 17.1 The Bidder shall prepare an original and the number of copies of the bid indicated in the Bid Data Sheet, clearly marking each "ORIGINAL" or "COPY" of bid, as appropriate. In the event of any discrepancy between them, the original shall govern. The Bidder shall furnish electronic bid, if required in the Bid Data Sheet. The electronic bid has the same legal effect as the paper bid. Unless otherwise stipulated in the Bid Data Sheet, in the event of any discrepancy between them, the paper version shall govern.

- 17.2 The original bid shall be typed or written in indelible ink and shall be signed by person responsible of the Bidder or duly authorized representative. The authorization shall be indicated by written power of attorney accompanying the bid. Except as otherwise stipulated in the Bid Data Sheet, all pages of the bid, shall be initialed by the person responsible or authorized representatives signing the bid.
- 17.3 Any interlineation, erasures or overwriting shall be valid only if they are initialed by the person or persons signing the bid.

#### **D. Submission of Bids**

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

- 18.1 Summary Sheet for Bid Opening shall be included in the bid. For the convenience of Bid Opening, the Bidder is also required to submit the Summary Sheet for Bid Opening, together with the Bid Security, in a separate envelope and duly marking the envelope as "Summary Sheet for Bid Opening". The Bidder shall seal the original and each copy of the bid in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY". All these envelopes shall then be sealed in an outer envelope. The bid which is not sealed according to the requirement of the bidding document will be rejected to accept by the Tenderee.
- 18.2 The inner and outer envelope shall be:
- 1) addressed to the address given in the Bid Data Sheet; and
  - 2) bear the Project name indicated in the Bid Data Sheet, the Invitation for Bids (IFB) title and number indicated in the Bid Data Sheet, and the word "DO NOT OPEN BEFORE \_\_\_\_\_(*Bid opening time and date*)", followed by the time and date for bid opening specified in the Bid Data Sheet.
- 18.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared "late".
- 18.4 If the outer envelope is not sealed and marked as required by ITB Clause 18.2, the Tendering Agent will assume no responsibility for the bid's misplacement or premature opening.
- 18.5 The Bid Declaration including price modification etc., if furnished by the Bidder prior to the deadline for submission of bids, shall be sealed and clearly marked with Summary Sheet for Bid Opening or separately, in order to be read out at the bid opening.

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

- 19.1 Bids must be received by the Tenderee no later than the time and date specified in the Bid Data Sheet, at the address specified in the Bid Data Sheet.
- 19.2 The Tenderee may extend the deadline for the submission of according to

relevant stipulations, in which case all rights and obligations of the Tenderee, the Tendering Agent and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

## **20. Late Bids**

- 20.1 Any bid received by the Tenderee after the deadline for submission of bids, pursuant to ITB Clause 19, will be rejected and returned unopened to the Bidder.

## **21. Modification and Withdrawal of Bids**

- 21.1 The Bidder may modify or withdraw its bid after the bid's submission, provided that written notice of the modification from the Bidder, including substitution or withdrawal of the bids, is received by the Tenderee or the Tendering Agent prior to the deadline for submission of bids.
- 21.2 The Bidder's modification or withdrawal notice shall be prepared, signed, sealed, marked and dispatched in accordance with the provisions of ITB Clause 17 and 18.
- 21.3 No bid may be supplemented or modified after the deadline for submission of bids.
- 21.4 No bid may be withdrawn 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 Bid Form. Withdrawal of a bid during this interval may result in the Bidder's forfeiture of its bid security, pursuant to ITB Clause 15.8.

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

### **22. Opening of Bids**

- 22.1 The Tenderee or the Tendering Agent will open all bids in the presence of bidders' representatives who choose to attend, in the place and at the date and time specified in the Bid Data Sheet. The bidders' representatives who are present shall sign a register evidencing their attendance.
- 22.2 At the bid opening, the sealing of the bids shall be examined by bidders or their representatives, or examined and notarized by a notary institution entrusted by the Tenderee. After confirmation, the bids shall be opened in public by the staff, and the bidder's name, bid prices and other main contents shall be read out. Except for late bids returned unopened, pursuant to ITB Clause 20, the Tenderee or the Tendering Agent shall open and read out all received and properly sealed bids by the deadline for submission of bids. Summary Sheet for Bid Opening, Bid Declaration (price modification or others) shall be read out at the bid opening, otherwise the contents will not be considered further for evaluation.
- 22.3 Any objection to the bid opening shall be raised by the Bidder at the opening site. The Tenderee or the Tendering Agent shall promptly respond and make record.

22.4 The Tenderer or the Tendering Agent will prepare minutes of the bid opening.

### **23. Bid Evaluation Committee and Evaluation Method**

23.1 The bid evaluation will be taken charge by the Bid Evaluation Committee, established in accordance with relevant laws and regulations. The Bid Evaluation Committee will first make preliminary examination on the bids, pursuant to ITB Clause 24. Then those bids which pass preliminary examination will be evaluated further with adopted method, either the “Lowest Evaluated Price Method” or the “Comprehensive Evaluation Method”, specified in the Bid Data Sheet. If applicable to the “Lowest Evaluated Price Method”, price evaluation will be carried out, pursuant to ITB Clause 26; if applicable to the “Comprehensive Evaluation Method”, comprehensive evaluation will be carried out, pursuant to ITB Clause 27.

23.2 The “Lowest Evaluated Price Method” means that bids, substantially responsive on commercial and technical requirements of the bidding document, will be evaluated further to calculate evaluated price, rank from low to high, and then determine the successful bidder in accordance with the criteria and method stipulated in the bidding document.

The “Comprehensive Evaluation Method” means that bids, substantially responsive on commercial and technical requirements of the bidding document, will be evaluated comprehensively to get evaluation result, rank from superior to inferior, then determine the successful bidder in accordance with the criteria and method stipulated in the bidding document.

23.3 During evaluation of the bids, the Bid Evaluation Committee may ask the Bidder for 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. The Bidder’s clarification or explanation at its discretion shall not be accepted by the Bid Evaluation Committee.

### **24. Preliminary Examination**

24.1 The Bid Evaluation Committee will examine the bids to determine whether they are complete, whether the bids are generally in order, whether required securities have been furnished, whether the documents have been properly signed, and whether any computational errors have been made.

24.2 Arithmetical errors will be rectified as the following:

- 1) If there is a discrepancy between words and figures, the amount in words will prevail.
- 2) If there is a discrepancy between the total price and that obtained by summing up the breakdown price, the breakdown price shall prevail, and the total price shall be corrected accordingly.
- 3) If point of the breakdown price is obviously misplaced, the total price shall prevail and the breakdown shall be corrected accordingly.
- 4) If the bidder fails to accept the correction of its arithmetical errors, its bid will be rejected.

- 24.3 The Bid Evaluation Committee may waive any minor informality, nonconformity, or irregularity in a bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 24.4 Prior to the detailed evaluation, the Bid Evaluation Committee will determine the substantial responsiveness of each bid to the bidding documents. For purposes of these clauses, a substantially responsive bid is one which conforms to the terms and conditions of the bidding documents without material deviations. Deviation from, or objections or reservations to critical provisions, such as those concerning Bid Security, Applicable Law, and Taxes and Duties, as well as contents with the mark of asterisk (\*), will be deemed to be a material deviation. The Bid Evaluation Committee's determination of a bid's responsiveness is to be based on the true and correct contents of the bid itself without recourse to extrinsic evidence, unless the bid contains untrue and incorrect contents.
- 24.5 If a bid is not substantially responsive, it will be rejected and may not subsequently be made responsive by the Bidder having corrected or withdrawn the non-conforming deviation or reservation. If required in the bidding document, originals shall be furnished. Otherwise, the bid will be rejected.
- 24.5.1 The bid will be rejected as non-responsive, if it is found having any of the following when commercial evaluation:
- 1) The Bidder or the Manufacturer has conflict of interest with the Tenderer and such relationship may affect the fairness of the bidding.
  - 2) The Bidder has participated in consulting service at the preliminary stage of the project or preparing the bidding document.
  - 3) Different bidders have the same person in charge or have relationship of share-holding or management.
  - 4) The bid is not signed in compliance with the requirements of the bidding document.
  - 5) The Joint Venture fails to submit Joint Venture Agreement.
  - 6) The Bid Form or Qualification Documents are not submitted or not in compliance with the requirements of the State or the bidding document.
  - 7) The same bidder submits two or more alternative proposal or bid prices, except for the case that alternative proposal permitted in the bidding document.
  - 8) The bid is not accompanied with a bid security, or, in the case the submitted bid security with insufficient amount, or with shorter validity than required, or not conforming to the requirements of the bidding document in its form and issuing bank.
  - 9) The bid does not meet the requirement of key commercial clauses with the mark of asterisk (\*) in the bidding document.
  - 10) The bid price is higher than the permitted ceiling price in the bidding

document.

- 11) The bid validity offered by the Bidder is shorter than that stipulated in the bidding document.
- 12) The bidder has illegal behavior of collusive bid or false or bribery ect.
- 13) The bid meets, in commercial aspects, other clauses stipulated in the bidding document.

24.5.2 The bid will be rejected as non-responsive, if it is found having any of the following when technical evaluation:

- 1) The bid does not meet the key parameters with the mark of asterisk (\*) in the Technical Specifications of the bidding document, or the key parameters with the mark of asterisk (\*) are not accompanied by the supporting technical documents.
- 2) The specifications without the mark of asterisk (\*) which are not key in the Technical Specifications of the bid, have exceeded the acceptable range or the maximum deviation items.
- 3) The content in the Technical Specifications of the bid does not conform to the fact or it is a false bid.
- 4) The Bidder has copied relevant part of Technical Specifications in the bidding document as a part of its bid.
- 5) The bid does not meet, in technical aspects, other clauses stipulated in the bidding document.

## **25. Conversion to Single Currency**

25.1 For the purpose of evaluation and comparison, if expressed in multiple currencies, the bid price shall be converted into evaluation currency stipulated in the Bid Data Sheet at the selling rate of foreign currency to RMB Yuan first issued by Bank of China on the date of bid opening.

## **26. Price Comparison (applicable to the Lowest Evaluated Price Method)**

26.1 The Bid Evaluation Committee will carry out price comparison to those projects adopting the Lowest Evaluated Price Method as stipulated in the Bid Data Sheet. The Bid Evaluation Committee will only evaluate and compare the bids which have passed preliminary examination. The Bid Evaluation Committee will calculate evaluated bid prices pursuant to ITB Clause 26.2-26.4 and get final evaluated bid price.

26.2 The total Evaluated Bid Price (EBP) will be calculated on the basis that the goods are delivered to the designated place. If there is any price adjustment, the total EBP shall include deviation additions. When calculating deviation additions of goods within customs territory, relevant taxes and fees shall be deducted in the bid price. The method to calculate the total EBP as follows:

- 1) For goods from outside PRC customs territory  
CIF price + import-related duties and taxes + cost for transportation and insurance within PRC customs territory + price additions for missing or

omitting items + commercial and technical deviation additions + other costs (also applicable to CIP and DDP etc. terms).

2) For goods within PRC customs territory

EXW price (including VAT) + consumption tax (if applicable) + transportation and insurance cost + price additions for missing or omitting items + commercial and technical deviation additions + other costs.

3) For goods already imported

sale price (including import-related duties and taxes, sale-related VAT) + transportation and insurance cost + price additions for missing or omitting items + commercial and technical deviation additions + other costs.

26.3 When evaluation, the Bid Evaluation Committee will take into account, in addition to the bid price quoted in accordance with ITB Clause 11.6, the following factors to be calculated in accordance with the bidding document:

- 1) Cost of transportation, insurance and others within PRC customs territory incidental to delivery of the goods to their final destination;
- 2) Delivery schedule offered in the bid;
- 3) Deviations in payment schedule from that specified in the Terms and Conditions of Contract;
- 4) The cost of components, spare parts and incidental services;
- 5) The availability within PRC customs territory of spare parts and after-sales services for the equipment offered in the bid;
- 6) The projected operating and maintenance costs during the life of the equipment;
- 7) The performance and productivity of the equipment offered;
- 8) Other additional factors and criteria indicated in the Bid Data Sheet and/or in the Technical Specifications.

26.4 For factors retained in the Bid Data Sheet pursuant to ITB 26.3, one or more of the following quantification methods will be applied, as detailed in the Bid Data Sheet:

26.4.1 Cost of inland transportation, insurance, and incidentals occurred within PRC customs territory.

- 1) Inland transportation, insurance and other incidental costs for delivery of the goods from EXW/port of entry/border point to Project Site named in the Bid Data Sheet will be computed for each bid by the Bid Evaluation Committee on the basis of published tariffs by the rail or road transport agencies, insurance companies, and/or other appropriate sources. To facilitate such computation, bidder shall furnish in its bid the estimated dimensions and shipping weight and the approximate EXW/CIF/CIP value of each package. The above costs will be added by the Bid Evaluation Committee to EXW/CIF/CIP price.
- 2) If the Bid Data Sheet requires that the bidder should quote the costs of inland transport, insurance, and incidental services in its bid price of EX-works/ import port to the project site named in the Bid Data Sheet, the Bid Evaluation Committee will add such costs to the price of EXW/CIF/CIP.

#### 26.4.2 Delivery schedule.

- 1) The goods covered under the Invitation for Bids are required to be delivered (or shipped) at the time specified in the Schedule of Requirements. Taking this delivery requirement as the base, a delivery “adjustment” will be calculated for each bid by applying a percentage, specified in the Bid Data Sheet, of the EXW/CIF/CIP price for each week of delay beyond the base, and this will be added to the bid price for evaluation. No credit shall be given to early delivery. or
- 2) The goods covered under this invitation are required to be delivered (shipped) within an acceptable range of weeks specified in the Schedule of Requirement. No credit will be given to earlier deliveries, and bids offering delivery beyond this range will be treated as non-responsive. Within this acceptable range, an adjustment per week, as specified in the Bid Data Sheet, will be added for evaluation to the bid price of bids offering deliveries later than the earliest delivery period specified in the Schedule of Requirements. or
- 3) The goods covered under this invitation are required to be delivered (shipped) in partial shipments, as specified in the Schedule of Requirements. Bids offering deliveries earlier or later than the specified deliveries will be adjusted in the evaluation by decreasing from or adding to the bid price a factor equal to a percentage, specified in the Bid Data Sheet, of EXW/CIF/CIP price per week of variation from the specified delivery schedule.

#### 26.4.3 Deviation in payment schedule.

- 1) Bidders shall state their bid price for the payment schedule outlined in the Terms and Conditions of Contract. Bids will be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer for such alternative payment schedule. The Bid Evaluation Committee may consider the alternative payment schedule offered by the selected Bidder. or
- 2) The Terms and Conditions of Contract stipulate the payment schedule offered by the Tenderee. If a bid deviates from the schedule and if such deviation is considered acceptable to the Bid Evaluation Committee, the bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the bid as compared with those stipulated in this invitation, at a rate per annum as specified in the Bid Data Sheet.

#### 26.4.4 Cost of components and spare parts.

- 1) The list of items and quantities of components and selected spare parts, likely to be required during the initial period of operation specified in the Bid Data Sheet, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each bid, will be added to the bid price. or
- 2) The Tenderee will draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in the Bid Data Sheet. The total cost of these items and quantities will be

computed from spare parts unit prices submitted by the Bidder and added to the bid price. or

- 3) The Tenderee will estimate the cost of spare parts usage in the initial period of operation specified in the Bid Data Sheet, based on information furnished by each Bidder, as well as on past experience of the Tenderee or other purchasers in similar situations. Such costs shall be added to the bid price for evaluation.

26.4.5 Spare parts and after-sale service facilities in the PRC customs territory.

If there is no maintenance service facilities and parts inventories, the cost of establishing the minimum service facilities and parts inventories by the Tenderee, as outlined in the Bid Data Sheet or elsewhere in the bidding document, shall be added to the bid price.

26.4.6 Operating and maintenance costs.

Since the operating and maintenance costs of the goods under procurement form a major part of the life cycle cost of the equipment, these costs will be evaluated in accordance with the criteria specified in the Bid Data Sheet or in the Technical Specifications.

26.4.7 Performance and productivity of the equipment.

- 1) Bidders shall state the guaranteed performance or efficiency in response to the Technical Specifications. No credit shall be given to better performance and higher productivity. For each drop (of 1%) in the performance or efficiency below the norm of one hundred percent (100%), an adjustment for an amount specified in the Bid Data Sheet will be added to the bid price, representing the capitalized cost of additional operating costs over the life of the plant, using the methodology specified in the Bid Data Sheet or in the Technical Specifications. or
- 2) Goods offered shall have a minimum productivity specified under the relevant provision in the Technical Specifications to be considered responsive. Evaluation shall be based on the cost per unit of the actual productivity of goods offered in the bid, and adjustment will be added to the bid price using the methodology specified in the Bid Data Sheet or in the Technical Specifications.

26.4.8 Other Additional Factors and Criteria

Other additional factors and criteria shall be detailed in the Bid Data Sheet and/or in the Technical Specifications.

26.5 Recommendation of Successful Candidates

To those bids which substantially responsive on commercial and technical parts of the bidding document, the Bid Evaluation Committee will, pursuant to ITB Clause 26.2-26.4, calculate the final evaluated bid price for bidders, and rank from low to high, then determine successful candidates in accordance with the candidates quantity stipulated in the Bid Data Sheet. The bid with the lowest EBP ranks the first successful candidate.

**27. Comprehensive Evaluation (applicable to the Comprehensive Evaluation Method)**

27.1 The Bid Evaluation Committee will carry out comprehensive evaluation to those projects adopting the Comprehensive Evaluation Method as stipulated in the Bid Data Sheet. The Bid Evaluation Committee will only comprehensively evaluate the bids which have passed preliminary examination. The Tenderer shall determine the evaluation factor and its weight, evaluation criteria, evaluation procedure and principles for determining successful bidder, as detailed in the Bid Data Sheet.

27.2 The terms and definitions of the Comprehensive Evaluation Method

27.2.1 Evaluation Factors refer to detailed contents of evaluation, such as all kinds of indicators, parameters, specifications, performance and conditions etc. For the convenience of weight distribution and evaluation, the evaluation factors are divided into several categories in accordance to their features, such as Price Factor, Commercial Factor, Technical Factor and Service Factor. Each category is regarded as the first-stage Evaluation Factor under which a certain number of second-stage evaluation factors can be defined, and so forth. For various stages of evaluation factors, please refer to the Bid Data Sheet.

27.2.2 Evaluation Factor Responsive Value refers to the bid's responsiveness on Evaluation Factor, including figures, conditions and explanations etc.

27.2.3 Evaluated Value refers to the result assessed on Evaluation Factor Responsive Value by the Bid Evaluation Committee. Independent Evaluated Value refers to the result assessed on Evaluation Factor Responsive Value by each member from the Bid Evaluation Committee.

Evaluated Value = Sum of effective Independent Evaluated Value of members from the Bid Evaluation Committee / Number of effective members.

Relevant stipulation on Independent Evaluated Value please refers to the Bid Data Sheet.

The most superior Evaluation Factor Responsive Value is the highest Evaluated Value, and such highest Evaluated Value is called Benchmark Evaluated Value. The other Evaluation Factor Responsive Value will get corresponding Evaluated Value compared with Benchmark. Accurate number of digits after decimal point please refers to the Bid Data Sheet.

27.2.4 Weight of Evaluation Factor refers to comparative importance level of some certain Evaluation Factor. The sum of weights for all first-stage Evaluation Factor is 1. The sum of weights for second-stage Evaluation Factor under the same first-stage Evaluation Factor is 1, and so forth.

27.2.5 The Evaluated Value after Weight = Evaluated Value \* Weight.

### 27.3 Evaluation on Price Factor

#### 27.3.1 Examination, Correction or Adjustment on bid prices

- 1) If any arithmetical error, the bid price will be corrected pursuant to ITB Clause 24.2.
- 2) If any Declaration on price modification, the bid price will be adjusted accordingly.
- 3) If any different currencies, the bid price will be converted into single evaluation currency.
- 4) If any other price terms, adjustment will be made on the basis that the goods are delivered to the designated place.
  - a) For goods from outside PRC customs territory  
CIF price + import-related duties and taxes + consumption tax (if applicable) + cost for transportation and insurance within PRC customs territory + other cost (also applicable to CIP and DDP terms).
  - b) For goods within PRC customs territory  
EXW price (including VAT) + consumption tax (if applicable) + transportation and insurance cost + other costs.
  - c) For goods already imported  
sale price (including import-related duties and taxes, sale-related VAT) + transportation and insurance cost + other costs.

#### 27.3.2 Calculation of Evaluated Value on Price Factor

- 1) Evaluation Factor on bid price is calculated based on price evaluation function (evaluation criteria) stated in the Bid Data Sheet.
- 2) The ceiling price permitted or not, please refers to the Bid Data Sheet. If permitted, the amount or calculation method of the ceiling price, please refers to the Bid Data Sheet. If the bidder's bid price exceeds the ceiling price, its bid will be rejected.

### 27.4 Evaluation on Commercial Factor

#### 27.4.1 Comprehensive Evaluation only on First-stage Commercial Evaluation Factor

If stipulated in the Bid Data Sheet, comprehensive evaluation only on first-stage commercial Evaluation Factor will be made directly by the Bid Evaluation Committee members: the most superior Evaluation Factor is Benchmark Evaluated Value, and the other Evaluation Factor will get corresponding Evaluated Value compared with Benchmark.

#### 27.4.2 If the Bid Data Sheet stipulates to evaluate secondary-stage Evaluation Factor

separately, evaluation will be made as the following:

1) Delivery Schedule

- a) The bid with the delivery schedule satisfying the requirement in the bidding document will get Benchmark Evaluated Value. On this basis, each one-week delay will get corresponding Evaluated Value in accordance with the stipulations in the Bid Data Sheet.
- b) If the goods are delivered (shipped) within the range of weeks acceptable specified in the Bid Data Sheet, early delivery will get Benchmark Evaluated Value. Bids offered delivery schedule earlier or later than this range of weeks acceptable will be rejected. Within the range of weeks acceptable, for each week later than the earliest delivery schedule stipulated in the Schedule of Requirements will get corresponding Evaluated Value in accordance with the stipulations in the Bid Data Sheet.

2) Terms of payment

- a) The bid with the payment terms satisfying the requirement in the bidding document will get Benchmark Evaluated Value. On this basis, interest for earlier payment and potential added risk on the Tenderee will be calculated and get corresponding Evaluated Value in accordance with the stipulations in the Bid Data Sheet.
- b) In the case that the Bid Data Sheet stipulates maximum deviation scope or no deviation allowed, any bid exceeding maximum deviation scope or with deviation will be regarded as substantially non-responsive to be rejected.

3) Evaluation on other Second-stage Evaluation Factor

For evaluation on other second-stage commercial Factor (if any), please refers to the Bid Data Sheet.

27.5 Evaluation on Technical Factor

27.5.1 Comprehensive Evaluation only on First-stage Technical Evaluation Factor

If stipulated in the Bid Data Sheet, comprehensive evaluation only on first-stage technical Evaluation Factor will be given directly by the Bid Evaluation Committee members: the most superior Evaluation Factor is Benchmark Evaluated Value, and the other Evaluation Factor will get corresponding Evaluated Value compared with Benchmark.

27.5.2 If the Bid Data Sheet stipulates to evaluate second-stage Evaluation Factor separately, evaluation will be made as the following:

1) Evaluation on Second-Stage Evaluation Factor with Specific Figures

Evaluated Value will be calculated according to formula stipulated in the Bid Data Sheet, or given directly by the Bid Evaluation Committee

members: the most superior Evaluation Factor gets Benchmark Evaluated Value, the other Evaluation Factors will get corresponding Evaluated Value compared with Benchmark.

- 2) Evaluation on Second-stage Evaluation Factor without Specific Figures
  - a) Evaluated Value will be given directly by the Bid Evaluation Committee members. The most superior Evaluation Factor gets Benchmark Evaluated Value, the other Evaluation Factors will get corresponding Evaluated Value compared with Benchmark.
  - b) Evaluated Value on the bid without a certain function is zero.

#### 27.5.3 Minimum Evaluated Value for First-stage Evaluation Factor

As stipulated, provided that the Evaluated Value on first-stage Evaluation Factor is more than a certain specified percentage lower than average Evaluated Value of total effective bidders, its bid will be rejected. Such percentage specified in the Bid Data Sheet.

#### 27.5.4 Setting up and evaluation method of the other stages of technical Evaluation Factor, please refers to the Bid Data Sheet.

#### 27.6 Evaluation on Service Factor

##### 27.6.1 Comprehensive Evaluation only on First-stage Service Evaluation Factor

If stipulated in the Bid Data Sheet, comprehensive evaluation only on first-stage service Evaluation Factor will be given directly by the Bid Evaluation Committee members: the most superior Evaluation Factor is Benchmark Evaluated Value, and the other Evaluation Factor will get corresponding Evaluated Value compared with Benchmark.

##### 27.6.2 If the Bid Data Sheet stipulates to evaluate second-stage Evaluation Factor separately, evaluation will be made as the following:

###### 1) Evaluation on Quantifiable Second-Stage Evaluation Factor

Evaluated Value will be calculated according to formula stipulated in the Bid Data Sheet, or given directly by the Bid Evaluation Committee members: the most superior Evaluation Factor gets Benchmark Evaluated Value, the other Evaluation Factors will get corresponding Evaluated Value compared with Benchmark.

###### 2) Evaluation on Unquantifiable Second-stage Evaluation Factor

Evaluated Value will be given directly by the Bid Evaluation Committee members: the most superior Evaluation Factor gets Benchmark Evaluated Value, the other Evaluation Factors will get corresponding Evaluated Value compared with Benchmark. Evaluated Value on the bid without service is zero. [no a) b) as 27.5.2]

27.6.4 Setting up and evaluation method of the other stages of service Evaluation Factor, please refers to the Bid Data Sheet.

27.7 Calculation of Comprehensive Evaluated Value

27.7.1 In the case of first evaluation then weighting, bid comprehensive Evaluated Value is equal to sum of weighted Evaluated Value of first-stage evaluation factors.

27.7.2 In the case of first weighting then evaluation, bid comprehensive Evaluated Value is equal to sum of evaluated value of first-stage evaluation factors after weight.

27.8 Recommendation on Candidates for Successful Bidders

27.8.1 The Bid Evaluation Committee will rank from high to low according to Bid Comprehensive Evaluated Value. In the case of the same comprehensive Evaluated Value, ranking will be made from high to low according to first-stage factor priority as Price, Technical, Commercial and Service. The first candidate for successful bidders is the one with the most superior comprehensive Evaluated Value. The number of recommended candidates for successful bidders, please refers to the Bid Data Sheet.

27.8.2 The other method and number of recommended candidates for successful bidders, please refers to the Bid Data Sheet.

## **28. Publication of Evaluation Result**

28.1 After evaluation of bids, for the project under which bidding must be adopted according to the Law, the evaluation result will be publicized on the Website with the duration of three (3) days. If no objection on evaluation results, after publication duration, the evaluation result will be automatically effective and publicize result of winning bid. Bidders who have successfully registered may browse the publication of evaluation result and of winning bid.

28.2 If a bidder has objection on the evaluation results, he shall submit to the Tenderee or the Tendering Agent within publication period, and upload the objection to the Website. Upon receipt of Objection, the Tenderee or the Tendering Agent will respond within three (3) days, and upload response to the Website.

## **29. Contacting the Tenderee or the Tendering Agent**

29.1 With exception for ITB Clause 23.2, no Bidder shall contact the Tendering

Agent, the Tenderee and the Bid Evaluation Committee on any matter relating to its bid, from the time of the bid opening to the time the contract is awarded.

- 29.2 Any effort by a Bidder to influence the Tendering Agent, the Tenderee and the Bid Evaluation Committee in their decisions on bid evaluation or contract award may result in the rejection of the Bidder's bid.

## **F. Award of Contract**

### **30. Examination on Performance Capability**

- 30.1 In the case that the candidate for successful bidders undergoes major change on business operation and financial standing or has illegal behavior and the Tenderee may deem to affect its performance capability, the original Bid Evaluation Committee will examine and confirm in accordance with the stipulations of the bidding document prior to issuing Notification of Award.
- 30.2 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Bid Evaluation Committee will proceed to the next lowest evaluated bid or the next most superior comprehensive evaluated value to make a similar determination of that Bidder's capabilities to perform satisfactorily.

### **31. Determination of Successful Bidder**

- 31.1 The Tenderee will determine the successful bidder in accordance with the written Bid Evaluation Report and recommended candidates provided by the Bid Evaluation Committee. The Tenderee may also authorize the Bid Evaluation Committee to directly determine the successful bidder.
- 31.2 For projects with the state capital controlling stocks or taking the lead under which bidding must be adopted by law, and for projects using foreign loans and assistance funds, the Tenderee should determine the first ranking candidate to be the successful bidder. But if the first candidate withdraws, or is unable to execute contract due to Force Majeure, or cannot furnish performance security according to the requirement of the bidding document, or is verified to have illegal behavior affecting the bidding result, then the Tenderee may determine the next bidder as the successful bidder from the candidate ranking list provided by the Bid Evaluation Committee, or may organize re-bidding.
- 31.3 The other method to determine successful bidder except for the above Clause 31.2, please refers to the Bid Data Sheet.

### **32. Right to Reject any or All Bids**

- 32.1 For the project under which bidding must be adopted by law, in the course of bidding, if the tenderer's procurement plan has undergone major changes and

other Force Majeure, upon approval by authorities in charge and filing to relevant authorities for record, the Tenderer may re-organize bidding. The Tenderer will issue notice timely or notify in writing those invited bidders or prospective bidders who have purchased the bidding document. In case the bidding document has been sold or bid security has been received, the Tenderer will refund the cost of the bidding document and discharge the bid security together with bank deposit interest for the same period.

- 32.2 After evaluation, if all bids are considered by the Bid Evaluation Committee not to comply with the requirements of the bidding document, all the bids shall be rejected by the Bid Evaluation Committee. For projects under which bidding must be adopted by law, the Tenderer reserves the right to re-bidding.

### **33. Notification of Award**

- 33.1 Once the successful Bidder has determined, the Tenderee will issue a Notification of Award to the Successful Bidder within twenty (20) days after publication of winning bid.

33.2 The Notification of Award will constitute the formation of the Contract.

- 33.3 Upon the successful Bidder's furnishing of performance security pursuant to ITB Clause 35, the Tenderee will promptly discharge all bid security, pursuant to ITB Clause 15.

### **34. Signing of Contract**

- 34.1 Within thirty (30) days after the issuance of Notification of Award, written Contract shall be signed in accordance with the bidding document and the bid of the successful bidder. The successful bidder shall not sign any agreements against the substantial content of the contract.

### **35. Performance Security**

- 35.1 Within thirty (30) days of the receipt of notification of award from the Tenderee, the successful Bidder shall furnish the performance security in accordance with the Special Conditions of Contract in the bidding document, in the Performance Security Form provided in the bidding documents, or in another form acceptable to the Tenderee.

- 35.2 Failure of the successful Bidder to comply with the requirement of ITB Clause 34 or Clause 35.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security.

### **36. Service Charge for Bidding**

- 36.1 The successful bidder shall pay the service charge for bidding as stipulated in the Bid Data Sheet. Failure of the successful bidder to pay the service charge for

bidding as required shall result in forfeiture of its bid security.



# **Section 2**

## **General Conditions of Contract**

# General Conditions of Contract

## 1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated:

- 1) “The Contract” means the agreement entered into between the Purchaser and Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 2) “The Contract Price” means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- 3) “The Goods” means all of the equipment, machinery, and/or other materials which the Supplier is required to supply to the Purchaser under the Contract.
- 4) “The Incidental Services” means those services ancillary to the supply of the Goods, such as transportation and insurance, installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- 5) “GCC” means the General Conditions of Contract contained in this section.
- 6) “SCC” means the Special Conditions of Contract contained in Section 7.
- 7) “The Purchaser” means the organization purchasing the Goods and Services, as named in SCC.
- 8) “The Supplier” means the individual or firm supplying the Goods and Services under this Contract, as named in SCC.
- 9) “The Project Site” means the location where the Goods are to be installed and operated as named in SCC.
- 10) “Day” means calendar day.

## 2. Application

2.1 These Terms and Conditions shall apply to the extent that they are not superseded by provisions in other parts of the Contract.

## 3. Country of Origin

3.1 All Goods and Services supplied under the Contract shall have their origin in the People’s Republic of China (hereinafter referred to as “the PRC”) or in the countries/areas which have regular trade relations with the PRC (hereinafter called “eligible source countries/areas”).

3.2 For purposes of this Clause, “origin” means the place where the Goods were mined, grown, or produced, or from which the Services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

3.3 The origin of Goods and Services is distinct from the nationality of the Supplier.

## 4. Standards

4.1 The Goods supplied under this Contract shall conform to the standards mentioned in

the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the concerned institution.

- 4.2 All measurements shall be the measuring unit officially published by the government of the PRC, unless otherwise specified in the Technical Specifications.

## **5. Use of Contract Documents and Information**

- 5.1 The Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information enumerated in GCC Clause 5.1 except for purposes of performing the Contract.
- 5.3 Any document, other than the Contract itself, enumerated in GCC Clause 5.1 shall remain the property of the Purchaser and shall be returned (in all copies) to the Purchaser on completion of the Supplier's performance under the Contract if so required by the Purchaser.

## **6. Intellectual Property Rights**

- 6.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, copyright or other intellectual property rights arising from use of the Goods or any part thereof in the PRC.

## **7. Performance Security**

- 7.1 Within thirty (30) days of receipt of the notification of Contract award, the Supplier shall furnish to the Purchaser the performance security in the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a currency acceptable to the Purchaser and shall be in one of the following forms:
- 1) a bank guarantee or an irrevocable letter of credit issued by: (i) a reputable bank located in the PRC or, (ii) a reputable bank abroad acceptable to the Purchaser through a reputable Bank located in the PRC, in the form provided in the bidding documents or another form acceptable to the Purchaser; or
  - 2) a cashier's check, certified check or cash.
- 7.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than thirty (30) days following the date of completion of the

Supplier's performance obligations under the Contract, including any warrant obligations.

## **8. Inspections and Tests**

- 8.1 The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Purchaser. GCC and the Technical Specifications shall specify what inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor (s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, shall be furnished to the inspectors at no charge to the Purchaser.
- 8.3 Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser.
- 8.4 The Purchaser's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival at the port of destination and/or the site shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by the Purchaser or its representative prior to the Goods' shipment from the country/area of origin.
- 8.5 The Supplier shall have the manufacturer, before making delivery, carry out a precise and comprehensive inspection of the Goods regarding quality, specification, performance, quantity and weight and issue a quality certificate certifying that the Goods are in conformity with the stipulations in the Contract. The quality certificate shall form an integral part of the documents to be presented to the negotiating bank for payment, but shall not be regarded as final with respect to quality, specification, performance, quantity and weight. Particulars and results of the tests made by the manufacturer shall be shown in a statement to be attached to the quality certificate.
- 8.6 After arrival of the Goods at the port of destination and/or the site, the Purchaser shall apply for State Administration for Entry-Exit Inspection & Quarantine of the People's Republic of China (SAIQ) (hereinafter called the "Administration") for inspection of the Goods with respect to quality, specification, quantity etc. and a post-delivery inspection certificate shall be issued thereof. If discrepancies are found by the Administration regarding quality, specification or quantity etc., the Purchaser shall have the right to claim against the Supplier within ninety (90) calendar days after arrival of the Goods at the site.
- 8.7 If, during the warranty period specified in GCC Clause 18 and as a result of inspection by the Administration or other organization, otherwise, it is found that the quality or specifications of the Goods are not in conformity with the Contract or if the Goods are proven to be defective for any reason, including latent defects or the use of unsuitable materials, the Purchaser shall promptly notify the Supplier of the existence of a claim.
- 8.8 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.

## **9. Packing**

- 9.1 The Supplier shall have the Contract Goods packed strongly and shall take measure to protect the Contract Goods from moisture, rain, rust, corrosion and shock, etc. According to their different shape and special features as to withstand numerous handling, loading and unloading as well as long-distance sea and inland transportation and to ensure the safe arrival of the Goods at the Contract site without any damage or corrosion. The Supplier shall be liable for any rust, damage and loss caused by inadequate or improper packing provided by the Supplier. For those wooden packages, fumigation treatment shall be conducted in compliance with the requirement of AQSIQ, and a special mark of IPPC shall be affixed. Otherwise a statement shall be furnished to confirm that non-wooden materials have been used.

## **10. Marking for Shipment**

- 10.1 The Supplier shall mark the following on the four adjacent sides of each package with indelible paint in conspicuous English printed words:
- 1) CONSIGNEE
  - 2) CONTRACT NUMBER
  - 3) SHIPPING MARK
  - 4) CONSIGNEE CODE
  - 5) PORT OF DESTINATION
  - 6) NAME OF GOODS AND ITEM NO., CASE NO.
  - 7) GROSS/NET WEIGHT (KG)
  - 8) MEASUREMENT ( LENGTH×WIDTH×HEIGHT IN CM )
- 10.2 If any package weighs two (2) tons or more, the Supplier shall mark on two sides of each package in English and with appropriate transportation marks common in international trade, the “center of gravity” and “points of slinging” in order to facilitate loading, discharging and handling. According to the characteristics of the Goods and the different requirements in transportation, packages shall be marked legibly by the Supplier with words “handle with Care”, “Right side Up”, “Deep Dry”, etc. and with other terms appropriate in international trade.

## **11. Terms of Shipment**

- 11.1 In the case of CIF/CIP Contract:
- 1) The Supplier shall be responsible for booking shipping space and arranging the shipment and shall pay for the freight, so as to ensure that the Goods will be delivered according to the time schedule stipulated in the Contract.
  - 2) The date of the Bill of Lading/Airway Bill shall be considered as the actual date of delivery of the Goods.
  - 3) Unless otherwise agreed, shipment of the Goods on desk and transshipment of the Goods from the country of origin of the Goods shall not be acceptable.
  - 4) The shipment shall be carried by conveyance belonging to eligible source countries/areas.
  - 5) The port of destination/project site shall be that specified in the SCC.
- 11.2 In the Case of EX-Works Contract:
- 1) The Supplier shall arrange the inland transportation at the Purchaser’s expense.

- 2) The date of the receipt issued by the transportation department concerned shall be regarded as the date of delivery of the Goods.
- 11.3 In the case of FOB/FCA Contract:
- 1) The Supplier may book shipping space and arrange the shipment at the Purchaser's expense.
  - 2) The date of the Bill of Lading/Airway Bill shall be considered as the actual date of delivery of the Goods.
  - 3) Unless otherwise agreed, shipment of the Goods on desk and transshipment of the Goods from the country of origin of the Goods shall not be acceptable.
  - 4) The shipment shall be carried by conveyance belonging to eligible source countries/areas.
  - 5) The port of destination/project site shall be that specified in the SCC.
- 11.4 The Supplier shall not ship more than the contracted quantity or weight. If so, the Purchaser shall not be responsible for any cost or other consequences arising from shipment of excess quantities or weight.

## **12. Shipping Advice**

- 12.1 In the Case of CIF/CIP Contract:
- 1) The Supplier shall, thirty (30) calendar days in the case of sea shipment or seven (7) days in the case of air shipment, before the date of shipment stipulated in the Contract, notify the Purchaser by cable or telex or fax of Contract No., name of Goods, quantity, number of packages, total gross weight, total volume (m<sup>3</sup>) in cubic meters and the date of readiness for shipment at the port of loading. At the same time, the Supplier shall send to the Purchaser by airmail a detailed list of the Goods to be delivered in five (5) copies including Contract No., name of Goods, specification, quantity, total volume (m<sup>3</sup>) and dimension of each package (length × width × height), unit and total price, port of shipment and date of readiness for shipment, and any special requirements or attention needed for the Goods during transportation and storage.
  - 2) The Supplier shall, not later than twenty four (24) hours after completing of loading of the Goods, notify the Purchaser by fax of Contract No., name of Goods, quantity, gross weight, volume (m<sup>3</sup>) in cubic meters, invoiced value, name of carrying vessel/aircraft, date of its sailing/flight, and estimated arrival date. If an package weighs more than twenty (20) metric tons, and dimensions reach or exceed twelve (12) meters in length, two point seven (2.7) meters in width and three (3) meters in height, the Supplier shall advise the Purchaser of the weight and measurement of each package. The details of flammable and dangerous Goods, if any, shall also be indicated.
- 12.2 In the Case of EX-Works Contract:
- 1) The Supplier shall, thirty (30) days in the case of railway/road/water shipment or seven (7) days in the case of air shipment before the date of delivery stipulated in the Contract, notify the Purchaser by cable or telex or fax of the Contract No., name of Goods, quantity, number of packages, total gross weight, total volume (m<sup>3</sup>) in cubic meters and the date of readiness for delivery. At the same time, the Supplier shall send to the Purchaser by registered letter a detailed list of the Goods to be delivered in five (5) copies including Contract No., name of Goods, specification, quantity, total gross weight, total volume (m<sup>3</sup>) in cubic meters and

dimensions of each package (length × width × height), unit and total prices and the date of readiness for delivery and any special requirements or attention needed for the Goods during transportation and storage.

- 2) The Supplier shall, no later than twenty four (24) hours after completion of loading of the Goods, notify the Purchaser by cable or telex or fax of Contract No., name of Goods, quantity, gross weight, volume (m<sup>3</sup>) in cubic meters, invoiced value, means of transports (railway/road/water/air), details of carrying train/vehicle/vessel/aircraft, date of departure, and estimated arrival date. If a package weighs more than twenty (20) metric tons, and dimensions reach or exceed twelve (12) meters in length, two point seven (2.7) meters in width and three (3) meters in height, the Supplier shall advise the Purchaser of the weight and measurement of each package. The details of flammable and dangerous Goods, if any, shall also be indicated.
- 3) If the Purchaser fails to arrange for insurance coverage in the time under the terms of an Ex-works contract, due to the Supplier's delay in notifying the above to the Purchaser by telex or cable or fax, all losses thus incurred shall be born by the Supplier.

#### 12.3 In the Case of FOB/FCA Contract:

- 1) The Supplier shall, thirty (30) calendar days in the case of sea shipment or seven (7) days in the case of air shipment, before the date of shipment stipulated in the Contract, notify the Purchaser by cable or telex or fax of Contract No., name of Goods, quantity, number of packages, total gross weight, total volume (m<sup>3</sup>) in cubic meters and the date of readiness for shipment at the port of loading. At the same time, the Supplier shall send to the Purchaser by airmail a detailed list of the Goods to be delivered in five (5) copies including Contract No., name of Goods, specification, quantity, total volume (m<sup>3</sup>) and dimension of each package (length x width x height), unit and total price, port of shipment and date of readiness for shipment, and any special requirements or attention needed for the Goods during transportation and storage.
- 2) The Supplier shall, not later than twenty four (24) hours after completing of loading of the Goods, notify the Purchaser by fax of Contract No., name of Goods, quantity, gross weight, volume (m<sup>3</sup>) in cubic meters, invoiced value, name of carrying vessel/aircraft and date of its sailing/flight, date of its sailing/flight, and estimated arrival date. If an package weighs more than twenty (20) metric tons, and dimensions reach or exceed twelve (12) meters in length, two point seven ( 2.7) meters in width and three (3) meters in height, the Supplier shall advise the Purchaser of the weight and measurement of each package. The details of flammable and dangerous Goods, if any, shall also be indicated.
- 3) If the Purchaser fails to arrange for insurance coverage in the time under the terms of FOB/FCA, due to the Supplier's delay in notifying the above to the Purchaser by telex or cable or fax, all losses thus incurred shall be born by the Supplier.

### 13. Delivery and Documents

13.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are specified in GCC Clauses 9, 10, 11 and 12.

13.2 For purposes of the Contract, "EXW", "FOB", "FCA", "CIF", "CIP", and other

trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current latest edition of Incoterms published by the International Chamber of Commerce, Paris.

- 13.3 Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by fax of the full details of shipment, including Contract number, date and No. of Bill of Lading, description of Goods, quantity, name of the carrying vessel, date of shipment, name of shipping port, name of unloading port, estimated date of arrival of the vessel at port of destination, etc. For the purpose of contract payment, the Supplier shall present through Supplier's bank (when applicable) the relevant "Payment-Documents" to the Purchaser in accordance with the requirements stipulated in Clause 20 hereunder.

#### **14. Insurance**

- 14.1 The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in GCC.
- 14.2 Where delivery of the Goods is required by the Purchaser on a CIF or CIP basis, the Supplier shall arrange and pay for cargo insurance, naming the Purchaser as the beneficiary. Insurance is to be effected by the Supplier in a freely convertible currency for one hundred and ten percent (110%) invoiced value on an "all risks" and "war risk" basis. Where delivery is on an FOB or FCA basis, insurance shall be the responsibility of the Purchaser.
- 14.3 In the case of an Ex-works Contract, insurance is to be effected by the Purchaser after loading.

#### **15. Transportation**

- 15.1 Where the Supplier is required under the Contract to deliver the Goods FOB, transport of the Goods, up to and including the point of putting the Goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price. Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Purchaser or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
- 15.2 Where the Supplier is required under the Contract to deliver the Goods CIF or CIP, transport of the Goods to the port of destination or such other named place of destination, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
- 15.3 Where the Supplier is required under the Contract to deliver the Goods CIF or CIP, the selected carrier shall have the prior approval of the Purchaser. Where the Supplier is required under the Contract (a) to deliver the Goods FOB or FCA, and (b) to arrange on behalf and at the expense of the Purchaser for international transportation on specified carriers or on national flag carriers of the PRC, the Supplier may arrange for such transportation on alternative carriers if the specified carriers or with the PRC national flag carriers are not available

to transport the Goods within the period(s) specified in the Contract.

## **16. Incidental Services**

- 16.1 The Supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC and/or Technical Specifications:
- 1) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
  - 2) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
  - 3) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
  - 4) 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
  - 5) training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.
- 16.2 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 for other parties by the Supplier for similar services.
- 16.3 The Supplier shall provide all the services as specified in SCC/Technical Specifications. The price quoted in the bid or agreed upon by the Parties for performing the required incidental services shall be included in the Contract Price.

## **17. Spare Parts**

- 17.1 As specified in GCC, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts:
- 1) such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
  - 2) advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements, in the event of termination of production of the spare parts; and
  - 3) furnishing at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if requested, following the termination of the spare parts.
- 17.2 The Supplier shall provide necessary spare parts as specified in SCC and Technical Specifications.

## **18. Warranty**

- 18.1 The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and /or material is required by the Purchaser's specifications) or from any

act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.

- 18.2 This warranty shall remain valid for number of months as specified in SCC after the date of final acceptance of the goods for this Contract, or number of months as specified in SCC after the date of arrival of the last shipment of the goods at the port of destination, whichever occurs earlier.
- 18.3 The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 18.4 Upon receipt of such notice, the Supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Purchaser.
- 18.5 If the Supplier, having been notified, fails to remedy the defect(s) within the period specified, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## **19. Claims**

- 19.1 In case the Supplier is liable for the discrepancies and a claim is lodged by the Purchaser within the time limit of inspection, erection, commissioning, acceptance test and the warranty period as stipulated in GCC Clause 18 or elsewhere in the Contract, the Supplier shall settle the claim with the agreement of the Purchaser in one or a combination of the following ways:
- 1) Agree to the rejection of the Goods and refund to the Purchaser the value of the Goods so rejected in the same currency as specified in the Contract and to bear the losses and expenses incurred including interest, accrued banking charges, freight and insurance premiums, inspection charges, storage, stevedore charges and other necessary expenses required for the custody and protection of the rejected Goods.
  - 2) Devalue the Goods according to the degree of inferiority, extent of damage and amount of losses suffered by the Purchaser, as agreed between the Purchaser and the Supplier.
  - 3) Replace the defective Goods with new parts, components and/or equipment which conform to the specifications, quality and performance as specified in the Contract, and/or repair the defective Goods at the Supplier's expenses and risks and bear all directly related expenses sustained by the Purchaser. The Supplier shall at the same time guarantee the quality of there placed Goods for a further corresponding period according to GCC Clause 18.
- 19.2 In case the Supplier fails to reply within thirty (30) calendar days after notification of the Purchaser's claim, the above mentioned claims shall be regarded as being accepted by the Supplier. If the Supplier fails to resolve the claim in any of the ways described above as agreed with the Purchaser within thirty (30) days after notification of the claim(s) by the Purchaser or longer period of time agreed upon by the Purchaser, the Purchaser will proceed to recover the claim amount from the payment under negotiation or from the performance security established by the Supplier.

**20. Payment**

20.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in SCC.

**21. Prices**

21.1 Prices charged by the Supplier for Goods delivered and incidental Services performed under the Contract are shown in Contract Form.

**22. Change Orders**

22.1 The Purchaser may at any time, by a written order given to the Supplier pursuant to GCC Clause 35, make changes within the general scope of the Contract in any one or more of the following:

- 1) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- 2) the method of shipment or packing;
- 3) the place of delivery; and/or
- 4) the incidental services to be provided by the Supplier.

22.2 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 delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Purchaser's change order.

**23. Contract Amendments**

23.1 Subject to GCC Clause 22, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

**24. Assignment**

24.1 The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Purchaser's prior written consent.

**25. Subcontracts**

25.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract. Such notification shall not relieve the Supplier from any liability or obligation under the Contract.

25.2 Subcontracts must comply with the provisions of GCC Clause 3.

**26. Delays in the Supplier's Performance**

26.1 Delivery of the Goods and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Purchaser in the

## Schedule of Requirements.

- 26.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 26.3 Except as provided under GCC Clause 29, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless the extension of time is agreed upon pursuant to GCC Clause 26.2 without the application of liquidated damages.

## **27. Liquidated Damages**

- 27.1 Subject to GCC Clause 29, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to zero point five percent (0.5%) 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 five percent (5%) of Contract Price. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to GCC Clause 28.

## **28. Termination for Default**

- 28.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:
- 1) if the Supplier fails to deliver any or all of the Goods, within the period(s) specified in the Contract or within any extension thereof granted by the Purchaser pursuant to GCC Clause 26; or
  - 2) if the Supplier fails to perform any other obligation(s) under the Contract.
  - 3) if the Supplier, in the judgment of the Purchaser has engaged in corrupt or fraudulent practices in competing for or in executing the contract. For the purpose of this clause:
    - a) "corrupt practices" means the offering, giving, receiving or soliciting of any thing of value to influence the action of the Purchaser in the procurement process or in contract execution.
    - b) "fraudulent practices" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the purchaser.
- 28.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 28.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such

similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

## **29. Force Majeure**

29.1 If either of the parties to the Contract be prevented from executing the Contract by such cases of Force Majeure as war, serious fire, flood, typhoon and earthquake and other cases agreed upon by both parties as cases of Force Majeure, the time for execution of the contract shall be extended by a period equal to the effect of those causes. An event of Force Majeure means the event that the parties could not foresee at the time of conclusion of the Contract and its occurrence and consequences can not be avoided and cannot be overcome.

29.2 The prevented party shall notify the other party by cable/fax/telex within the shortest possible time of the occurrence of the Force Majeure event and within fourteen (14) days thereafter send by special courier or registered airmail to the other party, a certificate for evidence issued by the relevant authorities for confirmation. Should the effect of Force Majeure continue for more than one hundred and twenty (120) consecutive days, both parties shall settle the further execution of the Contract through friendly negotiation and reach an agreement with a reasonable time.

## **30. Termination for Insolvency**

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

## **31. Termination for Convenience**

31.1 The Purchaser, by written 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 Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

31.2 The Goods that are complete and ready for shipment within thirty (30) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may select:

- 1) to have any portion completed and delivered at the Contract terms and prices; and/or
- 2) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.

## **32. Resolution of Disputes**

32.1 All disputes arising from the execution of or in connection with the Contract

shall be settled through amicable consultation by both parties. In case no settlement can be reached within sixty (60) days after commencement of such consultation, the disputes shall be submitted for arbitration.

32.2 Any dispute which is referred to formal arbitration under sub-clause 32.1 shall finally be settled by arbitration in Beijing or other location in China, under the China International Economic and Trade Arbitration Commission (CIETAC) in accordance with its arbitration rules/procedures. Unless otherwise agreed, the official language of Arbitration shall be Chinese.

32.3 The arbitration award shall be final and binding on both parties.

32.4 The arbitration fee shall be borne by the losing party except as otherwise awarded by the Arbitration Commission.

32.5 In the course of arbitration, the Contract shall be continuously executed except the part which is under arbitration.

### **33. Governing Language**

33.1 Unless otherwise agreed, the Contract shall be written in Chinese language. If the contract is written in both Chinese and English, two languages have the same effectiveness legally. Unless otherwise agreed, in the event of any discrepancies between them, the Chinese version shall govern. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in the same language.

### **34. Applicable Law**

34.1 The Contract shall be interpreted in accordance with the current laws of the People's Republic of China.

### **35. Notices**

35.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing to the other party's address specified in SCC.

35.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

### **36. Taxes and Duties**

36.1 All taxes in connection with the execution of this Contract levied by the Chinese Government on the Purchaser in accordance with the tax laws in effect shall be borne by the Purchaser.

36.2 In case a Chinese Supplier is awarded the Contract, all taxes in connection with the execution of this Contract levied by the Chinese Government on the Chinese Supplier in accordance with the tax laws in effect shall be borne by the Chinese Supplier.

In case a foreign Supplier is awarded the Contract, and if some incidental

services named in SCC are required to be performed by the foreign Supplier in the People's Republic of China, all taxes in connection with the execution of those incidental services levied by the Chinese Government on the foreign Supplier in accordance with the tax laws in effect and the agreement (if such an agreement may exist), named in SCC, shall be borne by the foreign Supplier.

36.3 All taxes arising outside of the People's Republic of China in connection with the execution of this Contract shall be borne by the Supplier.

**37. Effectiveness of the Contract and Miscellaneous**

37.1 The Contract shall become effective after its signing by both parties and upon the Purchaser's receipt of performance security from the Supplier.

37.2 It is the responsibility of the Supplier to arrange export license(s), if required for the Goods covered by this Contract from his own country at his own expense.

37.3 Following Annexes under this Contract shall form an integral part of this Contract and shall have the same force as the Contract itself:

Annex 1 - The Scope of Supply and Itemized Price

Annex 2 - Technical Specifications

Annex 3 - Shipping Lots and Delivery Time

Annex 4 - Performance Security (Format as per Form III-2)

Annex 5 - Letter of Guarantee for Advance Payment (Format as per Form III-3)

Annex 6 - Letter of Credit (Format as per Form III-4)



# **Section 3**

# **Contract Form**

## Form III-1 Form of Contract Agreement

### CONTRACT AGREEMENT

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ between  
(*name of the Purchaser*) of (*country of the Purchaser*)(hereinafter called "the Purchaser")  
of the one part and (*name of the Supplier*) of (*city and country/area of the Supplier*)  
(hereinafter called "the Supplier") of the other part:

**WHEREAS** the Purchaser invited bids for certain goods and ancillary services, viz.,  
(*brief description of goods and services*) and has accepted a bid by the Supplier for the  
supply of those goods and services in the sum of (*contract price in words and figures*)  
(hereinafter called "the Contract Price").

#### **NOW THIS AGREEMENT WITNESSED AS FOLLOWS:**

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.,:
  - 1) The General Conditions of Contract;
  - 2) The Special Conditions of Contract;
  - 3) Annexes to the Contract:
    - Annex 1 - The Scope of Supply and Itemized Price
    - Annex 2 - Technical Specifications
    - Annex 3 - Shipping Lots and Delivery Time
    - Annex 4 - Performance Security (Format as per Form III-2)
    - Annex 5 - Letter of Guarantee for Advance Payment (Format as per Form III-3)
    - Annex 6 - Letter of Credit (Format as per Form III-4)
  - 4) The Purchaser's Notification of Award.
3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser 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 the day and year first above written.

**SIGNED BY**

Name of representative of  
the Purchaser

Name of representative of  
the Supplier

\_\_\_\_\_

\_\_\_\_\_

Signature of representative of  
the Purchaser

Signature of representative of  
the Supplier

\_\_\_\_\_

\_\_\_\_\_

The Purchaser

The Supplier

\_\_\_\_\_

\_\_\_\_\_

**Form III-2 Form for Performance Security**

**Performance Security**

Issuing Date: \_\_\_\_\_

To: (name of the Purchaser)

**Performance Security of Contract No.**

This Guarantee is hereby issued to serve as the performance security of (name of the Supplier) (hereinafter called the "Supplier"), for Contract No. \_\_\_\_\_ dated \_\_\_\_\_

between you and the Supplier for supply of \_\_\_\_\_ for \_\_\_\_\_ Project (hereinafter call the "Project").

The (name of bank) (hereinafter called the "Bank") hereby unconditionally and irrevocably guarantees and binds itself, its successors and assigns to pay you, without recourse, up to the total amount of (currency used in the Contract) representing ten percent (10%) of the Contract Price in (name of currency) and accordingly covenants and agrees as follows:

- (1) On the Supplier's failure of the faithful performance of all the Contract Documents, agreed modifications, amendments, additions and alternations thereto that may hereinafter be made including replacement and/or making good of defective Goods (hereinafter called the "failure of performance") and determined by you and notwithstanding any objection by the Supplier, the Bank shall immediately, on your demand in a written notification stating the failure of performance by the Supplier, pay you such amount or amounts as required by you not exceeding the aggregate total as stated above in the manner specified in the said notification.
- (2) Any payment hereunder shall be made free and clear of and without deduction for or on account of any present or future taxes, duties, charges, fees, deductions or withholding of any nature whatsoever and by whoever imposed.
- (3) The covenants herein contained constitute an unconditional and irrevocable direct obligation of the Bank. No alteration in the terms of the Contract to be performed thereunder and no allowance of time by you or any other act or omission by you which but for this provision might exonerate or discharge the Bank shall in any way release the Bank from any liability hereunder.
- (4) This guarantee shall remain valid and in full force and effect until the expiration of the warranty period specified in the Terms and Conditions of Contract.

Very truly yours,

Issuing Bank: \_\_\_\_\_

Signed by: \_\_\_\_\_

(Printed name and designation of officials authorized to sign on behalf of issuing bank)

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

Official Seal: \_\_\_\_\_

**Form III-3 Bank Guarantee Form for Advance Payment**

**Bank Guarantee for Advance Payment**

To: (name of the Purchaser)  
(name of the Contract)

Gentlemen and/or Ladies:

In accordance with the provision of Clause 20 of the Terms and Conditions of Contract, (name and address of the Supplier) (hereinafter called "the Supplier") shall deposit with the Purchaser a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of (amount of guarantee in figures and words).

We, (name of bank), as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Purchaser on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding (amount of guarantee in figures and words).

We further agree that no change or addition to or other modification of the terms of the Contract to be performed thereunder or of any of the Contract Documents which may be made between the Purchaser and the Supplier, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee expires 30 days after the last contractual delivery date.

Yours truly,

Name and Position of Guarantors: \_\_\_\_\_

Signature and seal of Guarantors: \_\_\_\_\_

Name of Bank: \_\_\_\_\_

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

**Form III-4-1 Specimen of Letter of Credit**

**(in case 100% payment is made at one time)**

**Letter of Credit**

Date: \_\_\_\_\_

To: (The Supplier)

This Letter of Credit is forward through (name of bank)

We open an irrevocable Letter of Credit No. \_\_\_\_\_ in your favor by Order of (name of the Purchaser) for account of \_\_\_\_\_, to the extent of available against your draft(s) drawn at sight on (name of the Purchaser) for 100% of the invoice value, accompanied by the following documents:

1. Four (4) copies of commercial invoice (indicating Contract No.).
2. Clean on board Ocean Bills of Lading marked "freight prepaid" and made out to order, blank endorsed and notifying \_\_\_\_\_.
3. Four (4) copies of Packing List and/or weight Memo showing quantity and gross and net weight of each package.
4. Four (4) copies of Certificate of quality issued by the manufacturer.
5. Your letter stating that extra bills have been dispatched according to contract terms.
6. Your certified copy of fax dispatched to the account within forty-eight (48) hours after shipment advising name of vessel, quantity, weight, value and date of shipment.
7. Your letter stating prior approval of the nationality of the vessel by the Purchaser.
8. Insurance policy or certificate covering one hundred and ten percent (110%) of invoice value against all risks and war risks.
9. Five (5) copies of certificate of country of origin.
10. Sight drafts to be drawn on the Purchaser to (name of bank).

EVIDENCING SHIPMENT OF:

Goods under the Contract No. \_\_\_\_\_

Price Terms: \_\_\_\_\_

An extra certificate should be issued by you confirming that all the contents in the bills under this letter of credit comply with the above-mentioned contract terms.

Shipment from \_\_\_\_\_ to \_\_\_\_\_

Not later than \_\_\_\_\_

Partial shipment \_\_\_\_\_ allowed Transshipment \_\_\_\_\_ allowed

This Credit remains valid in \_\_\_\_\_ until \_\_\_\_\_ (inclusive) and all draft(s) must be marked that they are drawn under this Letter of Credit.

We hereby undertake that against presentation of the drafts and shipping documents drawn under and in compliance with the terms of this Credit, the same shall be negotiated subject to special instructions item 1 and 2 stated hereunder.

**SPECIAL INSTRUCTIONS:**

1. Negotiations of drafts under this Credit are restricted to the above-mentioned advising bank \_\_\_\_\_. On negotiation, the negotiating bank should claim reimbursement from \_\_\_\_\_ by cable provided all terms and conditions stipulated herein have been complied with and simultaneously the negotiation bank should dispatch all documents to us in One Lot by first available airmail.
2. All banking charges outside of the PRC and interest charges for negotiation are to be borne by the beneficiary.

## Form III-4-2 Specimen of Letter of Credit

(in case installment payment is made)

### Letter of Credit

Date: \_\_\_\_\_

To: *(the Supplier)*

This Letter of Credit is forwarded through *(name of bank)*.

We open an irrevocable Letter of Credit No. \_\_\_\_\_ in your favor by order of *(name of the Purchaser)* for account of \_\_\_\_\_ to the extent of \_\_\_\_\_ available against your drafts drawn at sight on *(name of the Purchaser)* and permit the payments as follows:

A. Payment of \_\_\_\_\_% of the total Contract Price on presentation of the following documents:

1. One photostated copy of valid export license issued by the relevant authorities of the Supplier's country authorizing the Supplier to export the Goods of the Contract or a certificate issued by the Supplier stating that an export license is not necessary;
2. An irrevocable Bank Guarantee for Advance Pavement issued by the Supplier's Bank in favor of the Purchaser, covering \_\_\_\_\_% of the total price of the Contract;
3. Five (5) copies of proforma invoice covering the total price of the Contract;
4. Sight draft to be drawn on the Purchaser to *(name of bank)*.
5. Five (5) copies of commercial invoice.

B. Payment of \_\_\_\_\_% of the total Contract Price prorate \_\_\_\_\_% of the value of each shipment on presentation of the following documents:

1. Three (3) original and two (2) copies of clean on board Ocean Bills of Lading marked "freight prepaid" in CIF Contract and made out to order, blank endorsed and notifying \_\_\_\_\_.
2. Five (5) copies of commercial invoice covering \_\_\_\_\_% of the relevant amounts for the delivered Goods for the Contract.
3. Five (5) copies of Packing List showing contents of the Goods.
4. Five (5) copies of Certificate of quality issued by the manufacturer.
5. Sight drafts to be drawn on the Purchaser to *(name of bank)*.
6. A copy of telex advising shipment according to SCC Clause 7 of this Contract.
7. A Supplier's letter attesting that the name and nationality of the carrying vessel have

been approved by the Purchaser.

8. Insurance policy or certificate covering one hundred and ten percent (110%) of invoiced value against all risks and war risks in one (1) original and four (4) copies.

9. Five (5) copies of certificate of country of origin.

C. Payment of \_\_\_\_\_% of the total Contract Price after the acceptance of all Contract Goods on presentation of the following documents:

1. Five (5) copies of commercial invoice;

2. Five (5) copies of acceptance certificate of the Contract Goods signed by the Purchaser and Supplier;

3. Sight draft to be drawn on the Purchaser to (name of bank)

EVIDENCING SHIPMENT OF: Goods under the Contract No.: \_\_\_\_\_

Price Terms:

An extra certificate should be issued by you confirming that all the contents in the bills under this letter of credit comply with the above-mentioned contract terms.

Shipment from \_\_\_\_\_ to \_\_\_\_\_

Not later than \_\_\_\_\_

Partial shipment \_\_\_\_\_ allowed. Transshipment \_\_\_\_\_ allowed

This Credit remains valid in \_\_\_\_\_ until \_\_\_\_\_ and all drafts must be marked that they are drawn under this Letter of Credit.

We hereby undertake that against presentation of the drafts and shipping documents drawn under and in compliance with the terms of this Credit, the same shall be negotiated subject to special instructions item 1 and 2 stated hereunder.

**SPECIAL INSTRUCTIONS:**

1. Negotiations of drafts under this Credit are restricted to the above-mentioned advising bank \_\_\_\_\_. On negotiation, the negotiating bank should claim reimbursement from \_\_\_\_\_ by cable provided all terms and conditions stipulated herein have been complied with and simultaneously the negotiation bank should dispatch all documents to us in One Lot by first available airmail.

2. All banking charges outside of the PRC and interest charges for negotiation are to be borne by the beneficiary.



# **Section 4**

## **Formats of Bids**

## Form IV-1 Bid Form

### Bid Form

Date: \_\_\_\_\_

To: (*name of Tendering Agent*)

In compliance with your IFB No. \_\_\_\_\_ for (*Goods to be supplied*) for the \_\_\_\_ Project, the undersigned representative (*full name and title*) duly authorized to act in the name and for the account of the Bidder (*name and address of the Bidder*) hereby submit the following in one original and \_\_\_\_ copies:

1. Summary Sheet for Bid Opening;
2. Bid Schedule of Prices;
3. Brief Descriptions of the Goods;
4. Responsiveness/Deviation Form for Technical Specifications;
5. Responsiveness/Deviation Form for Commercial Terms
6. All other documents required in response to Instructions To Bidders and Technical Specifications;
7. Qualification Documents;
8. Bid Security in the amount of \_\_\_\_\_ issued by (*name of issuing bank*).

By this letter, the undersigned representative hereby declares and agrees:

1. That the Total Bid Price for the supply and delivery of the Goods specified in the attached Bid Schedule of Prices is (*specify currency or currencies*), that is (*in words*).
2. That the Bidder will take full responsibility for performance of the Contract in accordance with all provisions of the Bidding Documents.
3. That the Bidder has examined in detail all the documents including amendments (if any) and all information furnished for reference as well as relevant attachments and that he is perfectly aware that he must renounce all right of invoking ambiguities or misunderstandings in this respect.
4. That his bid is valid for a period of \_\_\_\_\_ calendar days from the date of bid opening.
5. That, pursuant to ITB Clause 15.8, its Bid Security may be forfeited.
6. That, pursuant to ITB Clause 2, he declares that, he is not associated with a firm or any its affiliates which have been engaged by the Tendering Agent/the Purchaser to provide consulting services for this Project, and we are not a dependent agency of the Purchaser.
7. That he agrees to furnish any other data or information pertinent to its Bid that might be requested by (*the Tendering Agent*) and that he understands that you are nor bound to accept the lowest or any bid you may receive.

8. That all official correspondence pertinent to this bid shall be addressed to:

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

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Name of representative: \_\_\_\_\_

Name of the Bidder: \_\_\_\_\_

Official Seal: \_\_\_\_\_

**Form IV-2 Summary Sheet for Bid Opening**

**Summary Sheet for Bid Opening**

Name of Bidder: \_\_\_\_\_ IFB No.: \_\_\_\_\_ Package No.: \_\_\_\_\_

Country /Area of Origin of Bidder: \_\_\_\_\_

Serial No.	Item/ Package No.	Name of Goods	Model/ Specification	Quantity	Name and Country/Area of Origin of Manufacturer	Price Terms	Currency	Bid Price	Bid Security	Time of Delivery	Remarks

Signature of Bidder: \_\_\_\_\_

*Note: The Summary Sheet for Bid Opening shall be not only bound up in the bid, but also submitted separately in a sealed envelope together with the Bid Security according to ITB Clause 18.*

**Form IV-3 Bid Schedules of Prices****Form IV-3-1 Bid Schedule of Prices***(Goods Offered from within PRC Customs Territory)*

Name of Bidder: \_\_\_\_\_ IFB No.: \_\_\_\_\_ Package No.: \_\_\_\_\_

Item	Name of Goods	Model/ Specification	Quantity	Country of Origin and Name of Manufacturer	Unit Price (specify loading place)	Total Price	Cost for Insurance and Inland Transportation to the Final Destination
1.	the Basic Machine and Standard Accessories						
2.	Spare Parts						
3.	Special Tools						
4.	Installation, Commissioning, Inspection						
5.	Training						
6.	Technical Services						
7.	Others						
<b>Total</b>							

Signature of Bidder: \_\_\_\_\_

*Note 1: In case of discrepancy between unit price and total, the unit price shall prevail.**Note 2: A bid without itemized prices required shall be considered as non-responsive.*

**Form IV-3-2 Bid Schedule of Prices**

*(Goods Offered from outside PRC Customs Territory)*

Name of Bidder: \_\_\_\_\_ IFB No: \_\_\_\_\_ Package No.: \_\_\_\_\_

Item	Name of Goods	Model/ Specification	Quantity	Country of Origin and Name of Manufacturer	Unit Price FOB/FAC (specify port or place of loading)	Unit Price CIF/CIP (specify port or place of destination)	Total CIF/ CIP Price	Cost for Insurance and Inland Transportation to the Final Destination
1.	the Basic Machine and Standard Accessories							
2.	Spare Parts							
3.	Special Tools							
4.	Installation Commissioning, Inspection							
5.	Training							
6.	Technical Services							
7.	Others							
Total								

Signature of Bidder: \_\_\_\_\_

*Note 1: In case of discrepancy between unit price and total, the unit price shall prevail.*

*Note 2: A bid without itemized price required shall be considered as non-responsive.*

## Form IV-4 Brief Description of the Goods

**Brief Description of the Goods**

Name of Bidder: \_\_\_\_\_ IFB No.: \_\_\_\_\_ Package No.: \_\_\_\_\_

Item No.	Name of Goods	Main Specifications	Quantity	Time of Delivery	Port of Shipment	Port of Destination

Signature of Bidder: \_\_\_\_\_

*Note: Detailed technical performance of each item of goods shall be described separately.*

**Responsiveness/Deviation Form  
for Technical Specifications**

Name of Bidder: \_\_\_\_\_ IFB No.: \_\_\_\_\_ Package No.: \_\_\_\_\_

Item No.	Name of Goods	Ref. No	Specifications Required	Specifications Provided	Responsiveness /Deviation	Remarks

Signature of Bidder: \_\_\_\_\_

*Note: The Bidder shall complete an item-by-item commentary on the Technical Specifications of the bidding document demonstrating substantial responsiveness of the goods and services to those specifications, and a statement of deviations and exceptions to the provisions of the Technical Specifications. Particularly, to those specifications with specific parameters, the bidder shall furnish specific parameter value of offered goods.*

**Form IV-6 Responsiveness/Deviation Form for Commercial Terms**

**Responsiveness/Deviation Form for Commercial Terms**

Name of Bidder: \_\_\_\_\_ IFB No.: \_\_\_\_\_ Package No.: \_\_\_\_\_

Serial No.	Ref. No	Commercial Terms in Bidding Documents	Commercial Terms Offered by the Bidder	Remarks

Signature of Bidder: \_\_\_\_\_

## Form IV-7 Form of Bid Security

### Bid Security

Issuing Date: \_\_\_\_\_

To: (Name of Tendering Agent)

This Guarantee is hereby issued to serve as a Bid Security of (name of Bidder) (hereinafter call as the "bidder") for Invitation for Bid IFB No. \_\_\_\_\_ for supply of (name of Goods) to (name of Tendering Agent).

(name of issuing bank) hereby unconditionally and irrevocably guarantees and binds itself, its successors and assigns to pay you immediately without recourse, the sum of (currency and figure in words) upon receipt of your written notification stating any of the following:

- 1). The Bidder has withdrawn his bid after the time and date of the deadline for submission of bids and before the expiration of its validity period; or
- 2). The Bidder has failed to enter into Contract with you within thirty (30) calendar days after the receipt of Notification of Award; or
- 3). The Bidder has failed to establish acceptable Performance Security within thirty (30) calendar days after receipt of the Notification of Award;
- 4) The Bidder has failed to pay the service charge for bidding within fifteen (15) days after effectiveness of contract in accordance with the stipulation in the bidding document, after receipt of the Notification of Award.

It is fully understood that this guarantee takes effect from the time and date of the deadline for submission of bids and shall remain valid for a period of \_\_\_\_\_ calendar days thereafter, and during the period of any extension thereof that may be agreed upon between you and the Bidder with notice to us, unless sooner terminated and or released by you.

Issuing Bank: \_\_\_\_\_

Signed by: \_\_\_\_\_

*(Printed name and designation of officials authorized to sign on behalf of issuing bank)*

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

Official Seal: \_\_\_\_\_

**Form IV-8 Form of Power of Attorney**

**Power of Attorney**

KNOW ALL MEN by these presents that the undersigned *(name) (title)* of *(firm)* lawfully authorized to represent and act on behalf of the said company, whose registered address is do hereby appoint *(name) (title)* of *(firm)*, whose signature appears below to be true and lawful attorney, and authorize the said attorney to execute all the necessary matters related thereto, in the name and on behalf of the said company in connection with the Contract \_\_\_\_\_ of \_\_\_\_\_ Project.

In witness thereof, we have hereto set out respective hands this \_\_\_\_\_ day *(month and year)*

Signature of Legal Person: \_\_\_\_\_

Signature of Attorney: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Name and Title of Witness: \_\_\_\_\_

Name of Firm of Witness: \_\_\_\_\_

Address of Witness: \_\_\_\_\_

## **Form IV-9 Qualification Documents**

### **Qualification Documents**

#### Instructions to Applicants

- (1) The applicants who are manufacturers shall fill out and submit Forms IV-9-1, Form IV-9-2 and Form IV-9-5 specified hereafter as well as other information concerned. The applicants who are Trading Companies (or Agent) shall fill out and submit all the Forms specified hereafter and other information concerned.
- (2) Positive answers should be given to all questions and/or information required in the attached Forms.
- (3) The signatory of the qualification information shall guarantee the truth and accuracy of all Statements and all answers to questions made therein.
- (4) The qualification information submitted by the applicants shall be used by the Bid Evaluation Committee in determining, according to the judgment and discretion of the Purchaser, the eligibility and competence of the Bidders to perform the contract.
- (5) Documents submitted by the applicants will be treated as confidential but will not be returned.
- (6) All qualification documents shall be made out in the Language in one original and number of copies as defined in Bid Data Sheet.

**Form-IV-9-1      Statement Concerning Qualification**

To: (name of Tendering Agent)

**Statement Concerning Qualification**

Dear Sirs,

In connection with your Invitation for Bid IFB No. \_\_\_\_\_ dated \_\_\_\_\_, the undersigned would like to participate in the bid for supply of (Item No. and name of Goods) which are specified in the Schedule of Requirements and submit the following documents and certified that all statements are true and correct.

- (1) Letter of Authority issued by (name of Manufacturer) for supply of (Item No. and name of Goods) to the effect that we are authorized to represent and bind the said manufacturer in one original and \_\_\_\_\_ copies *(when the Bidder acting as an agent)*.
- (2) Ours and the manufacturer's Qualification Statement, each in one original and copies.
- (3) A certificate in which the undersigned certifies that the statements made in the Qualification Documents are true and correct, together with a Letter of Reference from our Bank (name of bank).

Name and Address of Bidder  
(Manufacturer or as an agent)

Person Authorized to Sign  
This Qualification Documents

Name: \_\_\_\_\_

Printed Name and Designation of Person

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

\_\_\_\_\_

Fax No.: \_\_\_\_\_

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

Postcode: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

**Form-IV-9-2      Manufacturer's Qualification Statement**

**Manufacturer's Qualification Statement**

(1) Name and Other Information:

(a) Name of Manufacturer \_\_\_\_\_

(b) Address of Head Office \_\_\_\_\_

Telex/Fax/Telephone No. \_\_\_\_\_

(c) Date Established and/or Registered \_\_\_\_\_

(d) Paid-Up Capital \_\_\_\_\_

(e) Latest Balance Sheet (as of) \_\_\_\_\_

(i) Fixed Assets \_\_\_\_\_

(ii) Current Assets \_\_\_\_\_

(iii) Long Term Liabilities \_\_\_\_\_

(iv) Current Liabilities \_\_\_\_\_

(v) Net Worth \_\_\_\_\_

(f) Name of Principal Officer (Optional) \_\_\_\_\_

(g) Name and Address of the manufacturer's representatives in the PRC, if  
any \_\_\_\_\_

(2) Facilities and other information for the manufacturer of the Goods Proposed:

(a) Facilities and other information for the manufacturer of the Goods of the proposal

Name and Location of Factory	Items being Produced	Annual Production Capacity	Number of Employees
---------------------------------	-------------------------	-------------------------------	---------------------

_____	_____	_____	_____
_____	_____	_____	_____

(b) Component parts which shall not be made by the principal manufacturer but shall be secured from other manufacturers

Name and Address of Manufacturer	Items
----------------------------------	-------

\_\_\_\_\_

\_\_\_\_\_

(3) Experience (number of years) of the Manufacturer in the Production of the Goods Proposed (including project owner, rated capacity, date of initial commercial operation, etc.)

\_\_\_\_\_

\_\_\_\_\_

(4) Name and Address of Domestic and Foreign Firms to Whom the Goods Have Been Mainly Sold in the Last Three Years.

(a) Export Sales

Name and Address	Item Sold
_____	_____

(b) Domestic Sales

Name and Address	Item Sold
_____	_____

(5) Yearly Total Volume of Business for the Last Three Years:

Year (currency)	Domestic (currency)	Export (currency)	Total
_____	_____	_____	_____
_____	_____	_____	_____

(6) Name and Address of Supplier of Easily Worn-out Parts:

Name of Parts	Supplier's Address
_____	_____
_____	_____

(7)The Goods proposed in the Bid previously Supplied to China directly or Through Trading Companies in the Last Three Years, if any:

Contract No.	_____	_____	_____
Signature Date	_____	_____	_____
Item Name	_____	_____	_____
Quantity	_____	_____	_____

Contract Amount \_\_\_\_\_

(8) Name and Address of Bank Reference: \_\_\_\_\_

(9) Coporate Group to Which manufacturer Belongs, if any: \_\_\_\_\_

(10) Other Information: \_\_\_\_\_

We hereby certify to the best of our knowledge that the foregoing statements are true and correct, that all available information and data have been supplied herein, and that we agree to show you documentary proof thereof upon your request.

Name and Position of  
Authorized Representative \_\_\_\_\_

Signature of Authorized  
Representative \_\_\_\_\_

Fax Number \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail \_\_\_\_\_

Date \_\_\_\_\_

**Form-IV-9-3 Bidder(as an agent)'s Qualification Statement**

**Bidder(as an agent)'s Qualification Statement**

(1) Name and Other Information:

(a) Name of Trading Company \_\_\_\_\_

(b) Address of Head Office \_\_\_\_\_

Telex/Fax/Telephone No. \_\_\_\_\_

(c) Date Established and/or Registered \_\_\_\_\_

(d) Paid-Up Capital \_\_\_\_\_

(e) Latest Balance Sheet (as of) \_\_\_\_\_

(i) Fixed Assets \_\_\_\_\_

(ii) Current Assets \_\_\_\_\_

(iii) Long Term Liabilities \_\_\_\_\_

(iv) Current Liabilities \_\_\_\_\_

(v) Net Worth \_\_\_\_\_

(f) Name of Principal Officer (Optional) \_\_\_\_\_

(g) Name and address of the Trading Company's representatives in PRC, if any

(2) Yearly Total Volume of Business for the Last Three years:

Year	Domestic	Export	Total
_____	_____	_____	_____
_____	_____	_____	_____

(3) Name and Address of Domestic and Foreign Firms to Whom the Goods have Been Mainly Sold in the Last Three Years:

(a) Export Sales

Name and Address

Item Sold

\_\_\_\_\_

(b) Domestic Sales

Name and Address

Item Sold

(4) Manufacturers Who Have Agreed with the Trading Company to Manufacture the Goods (attach manufacturer's qualification statements):

Name and Address of Manufacturers

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(5) Component Parts of the Goods Proposed to be Supplied and Manufactured by Other Manufacturers, if any:

Items to be manufactured

Names and Address of Manufacturers

\_\_\_\_\_  
\_\_\_\_\_

(6) Goods Previously Sold to Chinese Business Corporations in the Last Three years, if any

Contract No. \_\_\_\_\_

Signature Date \_\_\_\_\_

Item Name \_\_\_\_\_

Quantity \_\_\_\_\_

Contract Amount \_\_\_\_\_

(7) Name and Address of Bank Reference:

(8) Corporate Group to Which other Manufacturer(s) belongs, if any: \_\_\_\_\_

(9) Other Information: \_\_\_\_\_

We hereby certify to the best of our knowledge that the foregoing statements are true and correct, that all available information and data have been supplied, and that we agree to show you documentary proof thereof upon your request.

Name and Position of

Authorized Representative \_\_\_\_\_

Signature of Authorized

Representative \_\_\_\_\_

Fax Number \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail \_\_\_\_\_

Date \_\_\_\_\_

**Form-IV-9-4 Letter of Authority from Manufacturer**

**Letter of Authority from Manufacturer**

To: (name of the Tenderee/Tendering Agent)

We (name of the Manufacturer), a manufacturer duly organized under the laws of (name of country) and having its principle place of business at (address of Manufacturer), hereby make, constitute and appoint (name of Bidder), a company duly organized under the laws of (name of Eligible Source Country) and having its principle place of business at (address of Bidder), to be our true and lawful attorney in fact to do the following:

- (1) To represent and bind us in the People's Republic of China for the Tendering Agent's Invitation for Bid (IFB) No. \_\_\_\_\_ for supply of the Goods proposed in the bid which we manufacture or produce.
- (2) That, as a manufacturer, we bind ourselves as co-maker of the bid and are jointly and severally responsible for the compliance of the said bid.
- (3) That we hereby give and grant to the said (name of Bidder) full power and authority to do and perform all and every act and thing whatsoever, requisite, necessary and proper to be done in the premises, as fully, to all intents and purposes as we might or could do, with full power of substitution and revocation, hereby ratifying and confirming all that (name of Bidder (as an Agent)) or its duly authorized representative shall lawfully do, or cause to be done by virtue hereof.

IN TESTIMONY WHEREOF We have hereto signed this document on\_\_\_\_\_. Accepted on\_\_\_\_\_.

Name of Bidder (as an Agent)	Name of Issuing Manufacturer
_____	_____
Position of duly authorized representative	Position of duly authorized representative
_____	_____
Name of duly authorized representative	Name of duly authorized representative
_____	_____
Signature of duly authorized representative	Signature of duly authorized representative
_____	_____

**Form-IV-9-5      Certificate**

**9-5. Certificate**

The undersigned hereby certifies that the statement made in the Qualification Documents and in the required forms are true and correct.

The undersigned hereby authorizes and requests any bank to furnish any pertinent information requested by the Tendering Agent / Purchaser deemed necessary to verify this statement or regarding my (our) competence and general reputation. In support of this application, attached is a letter of reference from (*name of Applicant's Bank*).

The undersigned understands that further qualifying information may be requested and agrees to furnish any such information at the request of the Purchaser.

Name and Address of Manufacturer  
Or Bidder (as an agent)

Signature and Designation of Person  
Authorized to Sign this  
Qualification Documents

Name \_\_\_\_\_

Printed Name and Designation

Address \_\_\_\_\_

\_\_\_\_\_

Fax No. \_\_\_\_\_

Signature \_\_\_\_\_

Postcode \_\_\_\_\_

Telephone No. \_\_\_\_\_