



REQUEST FOR TENDER (RFT)

GOODS

RFT GOODS NUMBER: [PURCHASER to enter]

DESCRIPTION: [PURCHASER to enter]

PURCHASER: [PURCHASER to enter]

TENDER SUBMISSION ADDRESS: [PURCHASER to enter]

SUBMISSION DATE & TIME: [PURCHASER to enter]

OPENING DATE & TIME: [PURCHASER to enter]



REQUEST FOR TENDER

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LETTER OF INVITATION

| | | |
|---|-----------------------------------|----------------------|
| To: [PURCHASER to enter] | RFT Goods No. | [PURCHASER to enter] |
| | Date Issued | [PURCHASER to enter] |
| | Validity of Tender | [PURCHASER to enter] |
| | Delivery Location/s | [PURCHASER to enter] |
| | Goods to be Delivered by | [PURCHASER to enter] |
| Submission Date and Time (VANUATU Local Time) | | [PURCHASER to enter] |
| Goods Required [PURCHASER to enter description] | | |
| PURCHASER Project Code | [PURCHASER to enter project code] | |

You are invited to submit a Tender in response to this Request for Tender (RFT). The Goods are being procured by [PURCHASER to enter] (the "Purchaser"). The completed Tender must be signed by your authorised representative and must be valid for a minimum period as indicated above from the Submission Date of the RFT.

This Tender is open to all firms who wish to respond to the RFT. Tenderers may associate with each other either under a consortium, joint venture, or association relationship, or under a sub-contractual agreement to complement their respective areas of supply or to enhance their capacity to supply the Goods and any related Services.

This Invitation to Tender comprise of:

- Section 1 General Conditions of Tendering
- Section 2 Special Conditions of Tendering
- Section 3 Technical Specifications
- Section 4 Tender Response Schedules
- Section 5 General Conditions of Contract
- Section 6 Special Contracts of Contract
- Section 7 Forms

A Supplier will be selected using the evaluation procedure described in the RFT.

Payments made against any Contract arising from this Tender will be made in the currency of the Tender and the Contract.



The Purchaser reserves the right to accept or reject any Tender, and to cancel the Tender process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer(s).

Instructions on how to respond to the Tender are provided in this RFT.

Please submit your Tender by mail, courier or hand to the address stated on the cover page of the RFT in a sealed envelope/ package, marked as requested in this RFT. Your Tender must be received before the Closing Date and Time for submission of Tenders. Tenders received after this deadline shall not be considered and shall be rejected.

Signed:

Name:

Title/Position:

Address:

(For and on behalf of the Purchaser)



SECTION 1 GENERAL CONDITIONS OF TENDERING (GCT)

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1.1 PREPARATION OF TENDER

- 1.1.1. The Purchaser invites Tenders for the provision of Goods as described in the Technical Specifications (See Section 3) of this Request for Tender (**RFT**). The Tenderer shall inform itself fully of all circumstances and conditions relating to submitting a Tender, including site visits if appropriate, and shall satisfy itself as to the correctness and sufficiency of the **RFT** documentation.
- 1.1.2. The timeframe for the supply of the Goods is given in the Special Conditions of Tendering (**SCT**) (see Section 2).
- 1.1.3. The Tenderer shall prepare its Tender using the Tender Response Schedules (**TRS**) as detailed in the **SCT**. In case of a consortium, association or joint venture, each member shall complete the **TRS** as detailed in the **SCT**. The completed and signed **TRS**, together with the required supporting documentation, will form the Tender and shall be the basis on which the Tender will be evaluated. Samples if required shall be supplied as detailed in the **SCT**.
- 1.1.4. A Tenderer who submits or participates as a member of a Consortium, Joint Venture or association in more than one Tender will cause all the Tenders with that Tenderer's participation to be disqualified. However, any firm or organisation is permitted to be a sub-contractor to more than one Tenderer.
- 1.1.5. The Tenderer shall prepare one original and three copies of the **TRS**, prepared in the English language. The Tenderer shall enclose the original and the copies, attaching the required supporting documents, in one sealed envelope (or parcel) and clearly mark it with the **RFT Goods** number, Tender description and the name and address of the Purchaser, the submission time and date and the Tenderer's name and address. The outer envelope shall also bear the statement "Not to be opened before the tender opening session".
- 1.1.6. The Tenderer may withdraw its Tender before the deadline for submission of Tenders by submitting a notice of withdrawal. The notice must be submitted in an envelope identifying the RFT and clearly labelled "Withdrawal of Tender". The withdrawal will be announced at the Tender Opening, but the withdrawn Tender will not be opened nor further considered.
- 1.1.7. The Tenderer may amend its Tender before the deadline for submission of Tenders by submitting a Notice of Amendment. The Notice, and amended Tender, must be submitted in an envelope identifying the **Goods RFT** and clearly labelled "Amendment of Tender". The amended Tender will be opened and announced at the Tender Opening and considered in the subsequent evaluation of Tenders.



- 1.1.8. The Purchaser will not be responsible for, or pay for, any expense or loss, which may be incurred by a Tenderer in the preparation and submission of its Tender.
- 1.1.9. The Purchaser may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Document in accordance with Clause 1.6.3, in which case all rights and obligations of the Purchaser and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 1.1.10. An authorised representative of the Tenderer shall sign where so indicated in the **TRS** the original Tender. The authorisation shall be in the form of a written power of attorney accompanying the Tender or in any other form demonstrating that the representative has been duly authorised to sign and to legally bind the Tenderer.

1.2. VALIDITY OF TENDER

- 1.2.1 The Tender shall remain valid for the validity period stated in the **SCT** from the closing date for Tenders. In exceptional circumstances, the Purchaser may request that Tenderers extend the Tender validity period. The request and the Tenderer's response shall be made in writing. The Tenderer may refuse the request, but its Tender will no longer be considered. The Tenderer agreeing to the request will not be required or permitted to otherwise modify its Tender for the period of the extension.

1.3. ELIGIBILITY OF THE TENDERER, EQUIPMENT AND SERVICES

- 1.3.1. A Tenderer may be a natural person, private entity, or government-owned entity or any combination of them in the form of a joint venture, consortium or association, under an existing agreement, or with the intent to constitute a legally enforceable joint venture, consortium or association. Government-owned enterprises in VANUATU may only participate if they are legally and financially autonomous, operate under commercial law, and are not a dependent entity of the Government.
- 1.3.2. All members of a joint venture, consortium or association (other than sub-contractors) shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The joint venture, consortium or association agreement shall explicitly provide for the joint and several liability of the members towards the purchaser.
- 1.3.3. Except as provided for in Clause 1.3.4 Tenderers shall not be excluded from tendering on the basis of nationality, degree of foreign affiliation or ownership, location, size, race or other criterion, not having to do with their qualifications or decisions taken against any Tenderer under Clause 1.5.
- 1.3.4. The Tenderer, including all members constituting the Tenderer, shall not have the nationality of any country and Goods may not be supplied from those countries prohibited by the legislation of VANUATU or by any international Agreement of which VANUATU is a signatory, or by an Act of



Compliance with a Decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. These countries and any applicable conditions are listed in the **SCT**.

- 1.3.5. If the Tenderer is a joint venture, consortium or association (this does not include sub-contractors) all of the members shall appoint one member to act as the Member-in-Charge with authority to bind the joint venture, consortium or association. The composition or the constitution of the joint venture, consortium or association shall not be altered without the prior consent of Purchaser. Consortium arrangements shall be provided with the Tender.
- 1.3.6. The Tenderer must meet all the following eligibility criteria:
- (a) Must be registered in its country of origin;
 - (b) Be free from insolvency, bankruptcy or similar status;
 - (c) Have the legal capacity to enter into contract;
 - (d) Be current with payments of taxes;
 - (e) Not be ineligible pursuant to Clause 1.5
 - (f) The Tenderer and any director, officer, manager or supervisor of the Tenderer has not been, within a period of 3 years preceding the date of issuance of the invitation to Tender, been convicted of any criminal offence, whether in VANUATU or elsewhere:
 - (i) Relating to his professional conduct;
 - (ii) Relating to the making of false statements or misrepresentations as to his qualifications to enter into a procurement contract;
 - (iii) Involving dishonesty;
 - (iv) Under anti-corruption legislation; and
 - (g) Not be suspended or disbarred by administrative or judicial proceedings from participating in procurements, whether in VANUATU or elsewhere.

1.4. QUALIFICATIONS OF THE TENDERER

- 1.4.1. To qualify for an award of Contract, Tenderers shall demonstrate that they possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience in the procurement object, business reputation and personnel to perform the Contract.
- 1.4.2. Tenderers shall meet the following minimum qualifying criteria:
- (a) Have an average turnover of supply of goods in the last three years of at least the minimum amount stated in the **SCT**;
 - (b) Has completed in the last three years three contracts of a similar nature and complexity;
 - (c) Availability of minimum liquid assets or working capital or credit facilities from a Bank, as specified in the **SCT**.
 - (d) In the case of the Tenderer who does not manufacture or otherwise produce the goods offered in the Tender, the Tenderer shall submit a Manufacturer's Authorisation Letter, using the form included in Section



7, to demonstrate that it has been duly authorised by the manufacturer or producer to supply to VANUATU the Goods specified.

- (e) In the case of the Tenderer who is not registered in VANUATU, they are required to demonstrate that they are already, or will be, represented by an Agent registered in VANUATU who is equipped and able to carry out any maintenance, repair or spare parts stocking obligations prescribed in the Technical Specifications; and
- (f) Any other criteria specified the **SCT**.

1.4.3. The Purchaser shall disqualify a Tenderer:

- (a) If it finds that the information submitted in a Tender concerning its qualifications is false, misleading, inaccurate or materially incomplete, or
- (b) Whose Tender has previously been rejected by the Purchaser under Clause 1.5.3 below or under Clause 5.10.1 of the General Conditions of Contract (**GCC**).

1.5. CORRUPT OR FRAUDULENT PRACTICES

1.5.1. The Purchaser requires that Tenderers observe the highest standard of ethics during the procurement proceedings and the execution of contracts.

1.5.2. Should any corrupt or fraudulent practice of any kind come to the knowledge of the Purchaser, it shall, in the first place, allow the Tenderer to provide an explanation and shall take actions as below when a satisfactory explanation is not received.

1.5.3. In pursuance of this requirement, the Purchaser will, in the absence of a satisfactory explanation, reject a Tender if it determines that the Tenderer has, directly or through an agent or other third party, engaged in corrupt, fraudulent or other similar practices as defined above, in competing for the contract in question.

1.6. PRE-TENDER MEETING, CLARIFICATIONS AND ADDENDA

1.6.1. If any Pre-Tender/Site Meeting is to be held, the time, date and location will be stated in the **SCT**.

1.6.2. The Tenderer may seek clarifications of the **RFT** by contacting in writing the person named in the **SCT**, no later than 10 days before the Tender submission date. The Purchaser shall send its response simultaneously to all Tenderers in writing, without disclosing the identity of the Tenderer requesting the clarification, no later than 7 days before the Tender submission closing date.

1.6.3. If for any reason the **RFT** has to be amended, the Purchaser will modify it by issuing an Addendum in writing, which should be acknowledged in writing by the Tenderer. The Tenderer shall note that such an Addendum will form part of the **RFT** and may, if required, cause an extension of the **RFT** submission closing date.



1.7. TENDER PRICES, CURRENCIES, PAYMENTS AND TAXES

1.7.1. The Tenderer shall complete the Price Schedules as provided in the Tender Response Schedules (see Section 4).

1.7.2. Prices shall be stated in in Vanuatu Vatu (VUV) or, if requested in the **SCT** any freely convertible currency and all payments made under the Contract shall be made in the currency(ies) stated in the Tender.

1.7.3. Taxes and Duties shall be stated as detailed in the **SCT**.

1.8. SUBCONTRACTORS

1.8.1 If the Tenderer proposes to subcontract any supply of the Goods or Related Services then the Tenderer shall provide details of the proposed subcontractors, indicating the proposed part of the Goods or Related Services that would be subcontracted and the previous relevant experience of that subcontractor, including a statement that the proposed subcontractor(s) is/are eligible and qualified under the conditions of the **RFT**. Additionally, subcontractors shall complete the **TRS** and provide with the tender supporting documentation as detailed in the **SCT** (if these are not required of subcontractors, the **SCT** will explicitly state).

1.9. THE RIGHT TO VARY QUANTITIES

1.9.1 At the time the Contract is awarded the Purchaser reserves the right to increase or decrease the quantities of the Goods and related Services specified in the Technical Specifications (**TS**) provided this does not exceed the percentage stated in the **SCT**, and without any change in the unit costs quoted in the Tender, and in accordance with the other terms and conditions in the **RFT**.

1.10. SPARE PARTS, MAINTENANCE AND SUPPORT

1.10.1. Any requirement for Spare Parts, Maintenance and Support shall be stated in the **SCT** and the details will be described in the **TS**.

1.10.2. The Tenderer must provide details of their methods and support available to meet these requirements and, when such spare parts, maintenance or support are required, complete a costed spares schedule, on the form provided in the **TRS**.

1.11. TENDER SECURITY

1.11.1. If a Tender Security is required, it shall be in the amount and currency stated in the **SCT**. The Tenderer has the option of submitting it either by means of:

- (a) A bankers cheque or
- (b) An unconditional Bank Guarantee, in the format shown in Section 7.

1.11.2. The Tender Security shall be valid for 30 days beyond the original Tender validity period, or for (30) days beyond any extended Tender validity period, if one has been requested.



1.11.3. The original of the Tender Security shall be included with the **TRS**, photocopies will not be accepted. If a Tender Security is required, any Tender not accompanied by a Tender Security will be rejected by the Purchaser.

1.11.4. The Tender Security for the successful Tenderer will be discharged when the Tenderer has signed the Contract Agreement and the required Performance Security has been received.

1.11.5. The Tender Security for unsuccessful Tenderers will be returned upon expiry of the term of the security or formation of a contract with the successful tender and submission by the successful Tenderer of any required Performance Security, whichever is earlier.

1.11.6. The Tender Security may be forfeited if:

(a) Any Tenderer withdraws its Tender during the period of Tender validity specified in Clause 1.2; or does not accept the correction of arithmetical errors; or

(b) The successful Tenderer fails to provide a performance security in accordance with Clause 1.16; or to sign a contract in accordance with Clause 1.18.

1.12. TENDER SUBMISSION AND OPENING

1.12.1. Tenders may only be delivered by hand, mail or by courier service to the Purchaser in a sealed envelope/ package, marked as requested in the **SCT**, at the address and not later than the time and date stated on the cover page of the **RFT**.

1.12.2. Tenders shall be opened at the place of submission stated on the cover page of the **RFT**, immediately after the time for submission of Tenders, in the presence of the Tenderers and/or their representatives who choose to attend. In order to attend the tender opening representatives must present a written authorisation issued by a legal representative of the Tenderer (refer to Clause 1.1.10).

1.12.3. The name and address of the Tenderer submitting the Tender together with the tendered total price shall be read-out and recorded. The Tender will be checked to ensure all required documents are present. If required as per Clause 1.11.1 the presence of the Tender Security will also be checked.

1.12.4. A record of the Tender Opening will be prepared, including the information disclosed during the opening. Copies of the Record will be provided to all Tenderers who submitted a Tender.



1.12.5. A Tender received after the deadline for submission will remain unopened and may be collected by the Tenderer if it so wishes. If not collected within 3 months of the Tender closing date it will be disposed of.

1.13. EXAMINATION AND EVALUATION OF TENDERS

1.13.1. All Tenders properly received shall be evaluated by a Technical Officer appointed by the Chairperson of the Government of Vanuatu Central Tenders Board (CTB) on behalf of the Purchaser. The Technical Officer's determination of a Tender's compliance shall be based upon the contents of the Tender itself.

1.13.2. The Technical Officer shall evaluate the Tender on behalf of the Purchaser on the basis of its compliance to the Technical Specification (see Section 3).

1.13.3. To assist in the examination, evaluation and comparison of Tenders, the Technical Officer may:

(a) Ask Tenderers for written clarification of their Tenders including breakdown of costs, but no change in the cost or substance of the Tender will be sought, offered, or permitted except as required to confirm the correction of arithmetical errors discovered by the Technical Officer during the evaluation of Tenders. The Tenderer shall within the time specified comply with any such requests.

(b) Make corrections for any computational errors. When correcting computational errors, in case of discrepancy between a unit cost and the total cost, or between words and figures the unit cost and words will prevail. For purpose of evaluating Financial Proposals, and if prices are quoted in other currencies if and when required by this RFT, prices shall be converted into VANUATU Vatu (VUV) using the selling rate of the Reserve Bank of Vanuatu, at the date for submission of the Tenders.

1.13.4. Any attempt by a Tenderer to influence the Technical Officer's evaluation of Tenders or the CTB's award decisions will result in the rejection of its Tender.

1.13.5. Preliminary Examination

Prior to the detailed evaluation of Tenders, the Technical Officer will determine whether each Tender:

- (a) Has been properly signed;
- (b) Is from an eligible Tenderer;
- (c) Is accompanied by the required Tender security (if required)
- (d) Has been completed in accordance with the **RFT**.

1.13.6. Detailed Evaluation

(1) Each Tender will be subjected to a detailed examination to determine whether it is substantially responsive in that it adequately meets:

- (a) The specified qualifying criteria; and
- (b) The minimum technical specifications; and



(c) The completed Response Schedules provided in Section 4 of the **RFT**, as required in the **GCT** and **SCT**, accompanied by the required supporting documentation.

(2) A substantially responsive Tender is one which conforms to all the terms, conditions and specifications of the **RFT**, without material deviation or reservation. A material deviation or reservation is one that:

- (a) Affects in any substantial way the scope, quality, or technical specifications of the Goods specified in the **RFT**;
- (b) Limits in any substantial way the Purchaser's rights or the Tenderer's obligations under the Contract;
- (c) If rectified would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

(3) If a Tender is not substantially responsive, it will be rejected by the Technical Officer as non-compliant and may not subsequently be made compliant by the Tenderer by correction or withdrawal of the nonconforming deviation or reservation.

1.13.7. Financial Evaluation

(1) Only those Tenders that are considered substantially responsive will be considered for the financial evaluation.

(2) In the event of arithmetic errors this will be corrected as follows:

- i. Where there is a discrepancy between the amounts in figures and in words the amount in words will govern;
- ii. Where there is a discrepancy between the unit costs and the line item total resulting from multiplying the unit cost by the quantity, the unit cost quoted will prevail

(3) Following this the Technical Officer will compare all evaluated Tenders and rank them accordingly, with the lowest evaluated Tender price being ranked No. 1, and so on.

(4) For evaluation and comparison purposes only, and if multiple currencies were allowed in tendering, all prices quoted shall be converted into VUV using the VUV selling rate of the Reserve Bank of Vanuatu, at the closing date for submission of the Tenders.

1.14. ACCEPTANCE OR REJECTION OF ANY OR ALL TENDERS

1.14.1 The Purchaser reserves the right to accept or reject any Tender, and to cancel the Tender process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer(s).

1.15. APPROVAL AND NOTIFICATION OF CONTRACT AWARD

1.15.1. The Contract will be awarded to the Tenderer whose Tender is substantially responsive and offers the lowest price.



1.15.2. Following the approval of the award the award decision shall be notified to all participating tenderers and no contract may be entered before 10 days have elapsed from the date of such notification.

1.16. PERFORMANCE SECURITY

1.16.1. Together with the Contract, the successful Tenderer shall deliver, if required as per the **SCT**, to the Purchaser a Performance Security in the amount and for the period stated in the **SCT**, in the format specified in Section 7. The Performance Security shall be issued by an institution/authority acceptable to the Purchaser.

1.16.2. Failure of the successful Tenderer to submit a Performance Security, if required, will constitute sufficient grounds for the cancellation of the award.

1.16.3. In such an event, the Purchaser shall award the Contract to the next lowest price evaluated Tenderer whose Tender is substantially responsive and has been determined by the Purchaser to be qualified to satisfactorily perform the Contract, subject to the Purchaser's right to reject all Tenders in accordance with Clause 1.14.

1.17. DEBRIEFING OF UNSUCCESSFUL TENDERERS

1.17.1. Within 10 days of receipt of a written request by any unsuccessful Tenderer, but not before a contract is signed with the successful tenderer, the Purchaser shall communicate the reasons why its Tender was not successful.

1.18. SIGNING OF CONTRACT

1.18.1. 10 days after the notification of the award decision to all participating tenderers the Purchaser shall send to the successful Tenderer two (2) sets of the unsigned Contract.

1.18.2. The successful Tenderer may be required to provide documentation, or additional documentation, evidencing its qualifications prior to Contract signature.

1.18.3. Within 7 days of receipt of the two (2) sets of the Contract Agreement the successful Tenderer shall sign, date and return both to the Purchaser.

1.18.4. The delegated representative of the Government of Vanuatu on behalf of the Purchaser will sign both Contracts and return one to the Tenderer.

1.19. DISPUTES AND SETTLEMENT

1.19.1 Negotiated Settlement

(1) The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to negotiate all disputes arising out of, or in connection, with this Contract or its interpretation.

1.19.2 Failing successful negotiation any disputes will be settled by the courts in Vanuatu.



SECTION 2 SPECIAL CONDITIONS OF TENDERING (SCT)

These Special Conditions of Tendering apply to this RFT and supplement Section 1: General Conditions of Tendering.

| Clause Ref. | Heading | Description |
|-----------------|--|--|
| 1.1.2 | Timeframe for commencement and completion of supply of Goods | [PURCHASER to enter] |
| 1.1.3 1.13.6 | Tender Response Schedules | [PURCHASER to enter including details of which schedules are required to be completed by the Tenderer and other members in the case of a Consortium] |
| 1.1.3 | Samples Required for Assessment | [PURCHASER to delete whichever is not applicable] Samples of the Goods are not required [or] Samples of the Goods are required and must be delivered to [PURCHASER to enter details of required samples, name and address of recipient] by the Tender before [PURCHASER to enter closing date and time] |
| 1.2 | Validity of Tender | [Purchaser to enter validity period] |
| 1.3.4 | Prohibited countries | [Purchaser to enter prohibited countries and any applicable conditions at the time of issuing the RFT] |
| 1.4.2(a) | Qualification criteria | The least average turnover for the past 3 years shall be VUV [PURCHASER to enter number]. If the accounting system / financial accounts or reports of the tenderer are in a currency different from VUV, then the exchange rate(s) that shall be used by tenderers for conversion purposes shall be [PURCHASER to enter]. |
| 1.4.2(c) | Qualification criteria | The minimum amount of liquid asset or working capital or credit facility is VUV [PURCHASER to insert number]. If the amount is expressed in the accounting system / financial accounts or reports of the tenderer or any other relevant documents in a currency different from VUV, then the exchange rate(s) that shall be used by tenderers for conversion purposes shall be [PURCHASER to enter]. |
| 1.4.2(f) | Qualification criteria | The other qualification criteria to be applied will be: [PURCHASER to enter – PURCHASER may require samples in order to assess the qualifications of the Supplier] |
| 1.6.1 | Pre-Tender Meeting | [PURCHASER to delete whichever is not applicable] A Pre-Tender/Site Meeting will not be held. [or] A Pre-Tender/Site Meeting will held [PURCHASER to enter full details of date, time and location] |
| 1.6.2 | Clarifications | For clarifications of the content of the RFT, and any |



| | | |
|--------|--|--|
| | | further information contact: [PURCHASER to enter name of contact] [PURCHASER to enter contact details] |
| 1.7.2 | Currencies | The currency of the Tender shall be VUV (for international tenders allow any other freely convertible currency. [PURCHASER to specify as required] |
| 1.7.3 | Taxes and Duties | [PURCHASER to enter details] |
| 1.8 | Subcontracting | Subcontractors are required to fill in the following TRS [PURCHASER to enter] and provide with the tender the following supporting documents [PURCHASER to enter]. |
| 1.9 | The Right to Vary Quantities | The maximum percentage by which quantities may be increased is [PURCHASER to enter number] %. The maximum percentage by which quantities may be decreased is [PURCHASER to enter number] %. |
| 1.10.1 | Spare Parts, Maintenance and Support | [PURCHASER to delete whichever is not applicable] There is no requirement for spare parts, maintenance and support. [or] There is a requirement for spare parts, and/or maintenance and/or support as specified in the Technical Specifications. |
| 1.11.1 | Tender Security | [PURCHASER to delete whichever is not applicable] A Tender Security is not required. [or] A Tender Security of either percent(%) or a fixed amount in VUV [PURCHASER to enter whichever is considered to be appropriate] is required. This shall be provided in the currency of the financial offer and of the contract |
| 1.12.1 | Tender Submission | [PURCHASER to state requisite marking on Tender Envelope/ Package] |
| 1.16.1 | Performance Security | A Performance Security is required: [PURCHASER to enter: Yes or No] The amount of the Performance Security shall be [PURCHASER to enter number] % of the Contract value. This shall be provided in the currency of the financial offer and of the contract. The performance security shall be valid from its issuance and until 28 days after the warranty liability period as defined in the GCC and/or SCC, as applicable. |



SECTION 3 TECHNICAL SPECIFICATIONS

When proprietary names, brands, catalogues or reference numbers are specified they are intended to set a minimum standard, and preference for any particular material or equipment is not intended. The Tenderer may offer material or equipment of similar (or higher) characteristics, type, quality, appearance, finish, method of production and performance.

[PURCHASER to enter]

PURCHASER to include in this section the full technical specifications, applicable Incoterms¹, and, where applicable, details of packing, inspection, markings and any other appropriate information or requirements.

¹ As per the latest version published by the International Chamber of Commerce (ICC).



SECTION 4 TENDER RESPONSE SCHEDULES

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- 4 Price Schedule for Related Services (if required)
- 5 Price Schedule for Spare Parts and Maintenance (if required)
- 6 Price Schedule for Inspections and Tests (if required)
- 7 Technical Specification Compliance Statement
- 8 Delivery Schedule for Goods
- 9 Delivery Schedule for Related Services (if required)



RESPONSE TO REQUEST FOR TENDER

GOODS

[Tenderer to enter name of organisation(s) Tendering]

| | |
|------------------------------------|--|
| RFT NUMBER: | [Tenderer to enter tender number, as per Invitation to Tender] |
| DESCRIPTION: | [Tenderer to enter brief description of requirements, as per Invitation to Tender] |
| PURCHASER: | [Tenderer to enter name of Purchaser, as per Invitation to Tender] |
| SUBMISSION ADDRESS: | [Tenderer to enter submission address, as per Invitation to Tender] |
| SUBMISSION DATE & TIME: | [Tenderer to enter date and time, as per Letter of Invitation to Tender] |



TENDER RESPONSE SCHEDULE 1
TENDER SUBMISSION FORM
(The completed Tender form and attachments together will comprise the Tenderer's offer)

To:

We agree to be bound by the **General Conditions of Tendering, Special Conditions of Tendering, General Conditions of Contract and Special Conditions of Contract** and we hereby offer to supply the Goods and Related Services, in conformity with the Invitation to Tender (**RFT**) and in accordance with the Delivery Schedules specified in the Technical Specifications (**TS**), for the Contract Price offered below, of:

[Total Tender Price in words]

CURRENCY
& AMOUNT

[Tender price in figures]

This amount is

- Exclusive of VAT and duties
 Inclusive of VAT and duties

We confirm receipt of the Addendums and Variations to the Invitation to Tender listed below:

| Addendum/Variation Reference | Dated | Date Received |
|------------------------------|-------|---------------|
| | | |

Our Tender shall be valid for the period of time specified in the RFT, and it shall remain binding upon us and may be accepted at any time before the expiration of that period. If our Tender is accepted, we commit to obtaining a performance security in accordance with the RFT for the due performance of the Contract. Furthermore we warrant that we comply with all the eligibility and qualification criteria specified in the RFT.

We have no conflict of interest, and our firm, its affiliates and subsidiaries have not been declared ineligible under the laws of the Republic of VANUATU or in accordance with the RFT.



We further warrant that:

- (i) We are free from insolvency, bankruptcy or similar status;
- (ii) We have the legal capacity to enter into contract;
- (iii) We are current with payment of taxes;
- (iv) We and any director, officer, manager or supervisor of ours has not, within a period of three years preceding the date of issuance of the invitation to tender, been convicted of any criminal offence, whether in VANUATU or elsewhere:
 - Relating to professional conduct
 - Relating to the making of false statements or misrepresentations as to his eligibility or qualifications to enter into a procurement contract;
 - Involving dishonesty;
 - Under anti-corruption legislation;
- (v) We have not been suspended or disbarred by administrative or judicial proceedings from participating in procurements, whether in Vanuatu or elsewhere.

We understand that you are not bound to accept the lowest evaluated Tender or any other Tender that you may receive.

Signed:

Name:

Title/Position:

Authorised for and on behalf of:

Supplier:

Address:



**TENDER RESPONSE SCHEDULE 2
ELIGIBILITY AND QUALIFICATION INFORMATION**

The Tenderer must complete this schedule and attach relevant supporting documents

1.1 Status of Tenderer:

| | |
|---|--|
| Tenderer's Legal Name: | |
| Country of Registration: | |
| Address in Country of Registration: | |
| Year of Registration; | |
| Business Certificate Number | |
| VAT Registration Number (if applicable) | |

1.2 Annual turnover of Supply of Goods for the past 3 years

| Year | Total Amount for the Year in VUV/ equivalent |
|--|--|
| [Enter year] | |
| [Enter year] | |
| [Enter year] | |
| Average Annual Supply Turnover for these 3 years | |

1.3 Contracts performed as prime supplier in areas of a similar nature and volume over the past 3 years (maximum 3 examples)

| Contract No 1 of 3 | | |
|--|---|--|
| Contract Identification: | | |
| Award Date: | | |
| Completion Date: | | |
| Role in Contract: | [State: Supplier, Subcontractor, or party of joint venture] | |
| Total Contract Amount in VUV/ equivalent: | | |
| If partner in a JV or Subcontractor, specify participation of total contract amount: | Percentage of Total | |
| Purchaser's Name Address Telephone Number Fax Number E-mail address | | |
| Contract No 2 of 3 | | |
| Contract Identification: | | |
| Award Date: | | |
| Completion Date: | | |
| Role in Contract: | [State: Supplier, Subcontractor, or party of joint venture] | |



| | | |
|--|---|--------|
| Total Contract Amount in VUV/ equivalent: | | |
| If partner in a JV or Subcontractor, specify participation of total contract amount: | Percentage of Total | |
| Purchaser's Name Address Telephone Number Fax Number E-mail address | | |
| Contract No 3 of 3 | | |
| Contract Identification: | | |
| Award Date: Completion Date: | | |
| Role in Contract: | [State Supplier, Subcontractor, or party of joint venture] | |
| Total Contract Amount in VUV/ equivalent: | | Amount |
| If partner in a JV or Subcontractor, specify participation of total contract amount: | Percentage of Total | |
| Purchaser's Name Address Telephone Number Fax Number E-mail address | | |

1.4 Proposed Subcontractors

| Proposed role/input Subcontractors name & address | Amount of Subcontract proposed in VUV/ equivalent | Experience in similar supply contracts (project name and duration) |
|---|--|---|
| | | |
| | | |
| [Complete for each proposed Subcontractor] | | |



1.6 Documentation attached:

| Attached with our TRS are the Originals of the following documents: | Type |
|---|----------------------|
| Power of Attorney for the signatory to sign the Tender | Original |
| Tender Security (if required) | Original |
| Manufacturer's Authorisation Letter(s), if required | Original |
| Completed Schedules | Original |
| Enclosed with our TRS are copies of the following documents: | |
| Business Certificate | Copy |
| Latest Income Tax Clearance Certificate (if applicable – refer SCT) | Copy |
| In case of government owned entity in VANUATU, documents establishing legal and financial autonomy and compliance with commercial law. | Copy |
| Details of name, address, contact data of banks that may provide references if contacted by the Purchaser. | Copy |
| Financial statement (balance sheet including all related notes, and income statements) for the past financial year, or past 3 years if required (Purchaser to specify) complying with the following conditions: <ul style="list-style-type: none"> The financial statement must reflect the financial situation of the Tenderer and not sister or parent companies; The financial statement must be complete, including all notes to the financial statement The financial statement must correspond to the latest financial year already completed and audited (no statements for partial periods shall be requested or accepted). | Copy |
| Copies of similar contracts, or recommendations from Clients relating to the contracts described above in this document | Copy |
| Any other documents requested by this RFT | Copy |
| The following Schedules and/or documents are also attached: | |
| [PURCHASER to enter] | [PURCHASER to enter] |
| [PURCHASER to enter] | [PURCHASER to enter] |
| Etc. | |

Signed:
Name:
Title/Position:
Authorised for and on behalf of:
Supplier:
Address:



**TENDER RESPONSE SCHEDULE 3
PRICE SCHEDULE FOR GOODS TO BE SUPPLIED**

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---------------------------------------|----------------------|-------------------|----------|-------------------------------------|--|---|--|
| Line Item No° | Description of Goods | Country of origin | Quantity | Physical Unit(e.g. piece, box etc.) | Unit price delivered to final destination (Supplier to enter Currency of tender) | Total Delivered Cost (Supplier to enter Currency of tender) | INCOTERM 2010 [PURCHASER to enter required INCO terms] |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| TOTAL DELIVERED COST OF GOODS: | | | | | | | |

TOTAL COST OF FREIGHT ONLY FOR ALL OF THE ABOVE GOODS:

- Exclusive of VAT and duties
- Inclusive of VAT and duties

Signed:
Name:
Title/Position:
Authorised for and on behalf of:
Supplier:
Address:



**TENDER RESPONSE SCHEDULE 4
PRICE SCHEDULE FOR RELATED SERVICES (INCLUDING MAINTENANCE)**

| 1 | 2 | 3 | 4 |
|--|---------------------------------|---|--|
| Service No | Description of Related Services | Unit Cost (Supplier to enter Currency of tender) | Total Cost (Supplier to enter Currency of tender) |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| TOTAL COST OF RELATED SERVICES: | | | |

- Exclusive of VAT and duties
- Inclusive of VAT and duties

Signed:
 Name:
 Title/Position:
 Authorised for and on behalf of:
 Supplier:
 Address:



**TENDER RESPONSE SCHEDULE 5
PRICE SCHEDULE FOR SPARE PARTS**

| 1 | 2 | 3 | 4 | 5 | 6 | 8 |
|---|--|-------------------|----------|--------------------------------------|---|--|
| Line Item No° | Description of Spare Parts and Maintenance | Country of Origin | Quantity | Physical Unit (e.g. Piece, box etc.) | Unit Cost Delivered to Final Destination (Supplier to enter Currency of tender) | Total Delivered Price (Supplier to enter Currency of tender) |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| TOTAL COST OF DELIVERED SPARE PARTS: | | | | | | |

TOTAL COST OF FREIGHT ONLY FOR ALL OF THE ABOVE SPARE PARTS:

- Exclusive of VAT and duties
- Inclusive of VAT and duties

Signed:
 Name:
 Title/Position:
 Authorised for and on behalf of:
 Supplier:
 Address:



TENDER RESPONSE SCHEDULE 6
PRICE SCHEDULE FOR ADDITIONAL INSPECTION AND TESTS (WHERE APPLICABLE)

This Schedule applies to Inspections and Tests, if specified by the Purchaser in Section 3 Technical Specification, that are additional to the normal inspections/ tests required for acceptance of the specified Goods and Spare Parts included in the prices quoted in Schedules 3 and 5 above.

[The table for this has to be drafted based on the actual Inspections and Tests requested in the RFT]

| Inspections | Description | Frequency/Estimated Date | Cost (Supplier to enter Currency of tender) |
|--------------------|--------------------|---------------------------------|---|
| | | | |
| | | | |
| | | | |
| | | | |

Signed:

Name:

Title/Position:

Authorised for and on behalf of:

Supplier:

Address:



**TENDER RESPONSE SCHEDULE 7
TECHNICAL SPECIFICATION COMPLIANCE STATEMENT**

| Line Item N° | Purchaser's Required Technical Specification of Goods | Tenderer's Offered Technical Specification of Goods | Compliance (Yes/No) | Remarks (concerning variance with Purchaser's Technical Specification) |
|------------------------------|---|---|------------------------------------|--|
| [PURCHASER to enter item No] | [PURCHASER to enter description of Goods] | [Tenderer to enter specification offered] | [Tenderer to enter Yes or No ONLY] | [Tenderer to enter, if applicable] |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Signed:
 Name:
 Title/Position:
 Authorised for and on behalf of:
 Supplier:
 Address:



**TENDER RESPONSE SCHEDULE 8
DELIVERY SCHEDULE FOR THE GOODS**

| Line Item N° | Description of Goods | Quantity | Physical unit (e.g. Piece, Box etc.) | Final Destination and INCOTERM 2010 | Delivery Date to Final Destination |
|-----------------|------------------------------|---|--|--|------------------------------------|
| [enter item No] | [enter description of Goods] | [Enter quantity of item to be supplied] | [Enter physical unit for the quantity] | [Enter INCOTERM and place of delivery] | [Enter Date] |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Signed:
 Name:
 Title/Position:
 Authorised for and on behalf of:
 Supplier:
 Address:



**TENDER RESPONSE SCHEDULE 9
DELIVERY SCHEDULE FOR THE RELATED SERVICES**

| Service No. | Description of Related Service | Place where Services shall be performed | Date of Final Completion of Services |
|---------------------|--|---|--------------------------------------|
| [Insert Service No] | [Insert description of Related Services] | [Insert name of the Place] | [Insert Date] |
| | | | |
| | | | |
| | | | |
| | | | |

Signed:
 Name:
 Title/Position:
 Authorised for and on behalf of:
 Supplier:
 Address:



**SECTION 5
GENERAL CONDITIONS OF CONTRACT**

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SECTION 5 GENERAL CONDITIONS OF CONTRACT

5.1. GENERAL PROVISIONS

(1) The Purchaser is the Government of Vanuatu Procuring Entity stated in the Contract represented by the person named in the Special Conditions of Contract (**SCC**).

(2) The Supplier is the entity stated in the Contract Agreement, represented by the person named in the **SCC**.

(3) The Contract Documents listed in the Contract Agreement represent the entire and integrated Contract between the Purchaser and the Supplier. The Contract is governed by and shall be construed in accordance with the Laws of the Republic of Vanuatu, and the ruling language of the Contract is English.

(4) All prior negotiations, representations and agreements, both oral and written, are superseded by the Contract. All correspondence and documents relating to the Contract between the parties and their representatives shall be in English.

(5) Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under the Contract, except with the prior written consent of the other party.

(6) In these Conditions of Contract, unless the context otherwise requires:

Contact Person means the person named in the **SCC**, who manages the implementation of the Contract on behalf of the Purchaser;

Contract means the signed Contract Agreement, and the documentation specified therein, as entered into between the Purchaser and the Supplier for the provision of the Goods and related Services;

Contract Price means the price stated in the Contract;

Days mean calendar days;

Force Majeure means an event or situation beyond the control of either party that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of either party. Such events may include, but not be limited to, wars or revolutions, natural disasters (such as earthquakes, tsunamis, fires, floods etc.), epidemics, quarantine restrictions, and freight embargo;

In writing means communicated in written form (e.g. by letter, e-mail or fax);

Months mean calendar months;

Purchaser means the Government of Vanuatu Procuring Entity stated in the Contract;

Specification means the Specification of the Goods included in the Contract and any modification or addition made or approved by the Contact Person;

Subcontractor means any person or organisation that supplies goods, materials or services to the Supplier;



Supplier means the person or organisation stated in the Contract whose Tender to provide the Goods and related Services where applicable has been accepted by the Purchaser;

Variation is an instruction given by the Purchaser which varies the Contract.

Clause headings shall not be used in the interpretation of these Conditions.

Words in the singular also include the plural and vice versa when the context so requires.

Words indicating a gender include either gender.

5.2. OBLIGATIONS OF THE PURCHASER

5.2.1. Contact Person

- 1) The Purchaser shall appoint a Contact Person, as named in the **SCC**, to act on its behalf for the management of any queries arising during the supply and delivery period.
- 2) The Purchaser shall pay to the Supplier sums due under the Contract.

5.3. OBLIGATIONS OF THE SUPPLIER

5.3.1. Scope of Supply

- 1) The Supplier shall deliver the Goods to the location/s specified in the Contract, and shall obtain a signed 'Goods Delivery and Acceptance Note' from the organisation specified in the **SCC** (refer to sample attached).

5.3.2. Subcontracting

- 1) The Supplier shall obtain the Purchaser's prior approval in writing of all subcontractors, who are not specified in its Tender, with whom the Supplier wishes to engage under the Contract. Such approval shall not relieve the Supplier from any of its obligations, duties, responsibilities or liability under the Contract.

5.3.3. Specification and Standards

- 1) The Goods and related Services supplied under the Contract shall conform to the Technical Specifications and standards mentioned in the Technical Specifications and the Tender, and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate in the country of origin of the Goods.
- 2) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or of any modification thereof, provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.
- 3) Where references are made in the Contract to codes or standards, the edition or the revised version of such codes and standards shall be those specified in the Technical Specifications.

5.3.4. Copyright

- 1) The intellectual property and copyright (**IP**) in all drawings, documents and other materials containing data and information furnished to the Purchaser by the Supplier shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including



Suppliers of materials, the copyright in such materials shall remain vested in such third party save insofar as the Supplier shall grant to the Purchaser a world-wide, non-exclusive, irrevocable and royalty-free licence to use the IP to give effect to the provisions of this agreement.

5.3.5. Inspection and Tests

- 1) For the purposes of acceptance of the Goods the Supplier shall at its own expense and at no additional cost to the Purchaser arrange all such tests and/or inspections of the Goods and related Services as are specified in Technical Specifications.
- 2) At the option of the Purchaser, the inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place as specified in the Technical Specifications.
- 3) If conducted on the premises of the Supplier or its Subcontractor all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors and/or testers at no charge to the Purchaser.
- 4) The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections required for acceptance, provided that the Purchaser bears all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 5) The Supplier shall provide the Purchaser with a copy report of the results of any such test and/or inspection.
- 6) If specified in the Technical Specifications and confirmed in the **SCC**, the Purchaser may require additional tests, separate to normal acceptance tests. The cost of such additional tests will be borne by the Purchaser.

5.3.6. Packing and Documents

- 1) The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their Final Destination(s). The packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Final Destination(s) and the absence of heavy handling facilities at all points in transit.
- 2) Any special packing requirements additional to the foregoing shall be as specified in the **SCC**.
- 3) The marking and documentation inside and outside the packages shall comply with the instructions specified in the **SCC**.

5.3.7. Transportation and Insurance

- 1) Responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms, and the mode of transport and point(s) of final delivery shall be as specified in the Technical Specifications and the **SCC**.
- 2) Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured, in a freely convertible currency from an eligible country, against loss or damage incidental to manufacture or acquisition,



transportation, storage and delivery, in accordance with the applicable Incoterms specified in the Schedule of Requirements.

5.4. DELIVERY, ACCEPTANCE AND REJECTION

5.4.1. Delivery of Goods

- 1) The Supplier shall deliver the Goods within the time period, and to the place(s) specified in the Technical Specifications.
- 2) The Supplier shall provide to the Purchaser any shipping and other documents as specified in the **SCC**. If they are not received by the time specified in the **SCC** the Supplier shall be responsible for any consequent expenses.

5.4.2. Provision of Related Services

- 1) If there are Related Services included in the supply of the Goods these shall be as specified in the Technical Specifications. Inspection and Tests, if applicable, are as specified in the **SCC**.

5.4.3. Acceptance of the Goods and Related Services

- 1) Acceptance shall not be considered complete until receipt of the Goods and satisfactory testing, installation and commissioning, as applicable, has taken place. To certify acceptance the Supplier shall provide to the Purchaser a Goods Delivery and Acceptance Note signed and stamped by the organisation named in the **SCC** in the format attached.
- 2) Receipt of delivery, acceptance or payment shall not prejudice the right of the Purchaser to maintain an action for breach of condition or warranty should the Goods prove to be of inferior quality or in any respect contrary to the requirements of the Contract.

5.4.4. Rejection of the Goods

- 1) The Purchaser may reject Goods which are not in accordance with the Schedule of Requirements. The Purchaser shall, upon rejection of any Goods, notify the Supplier and may direct that the rejected Goods be removed and replaced or rectified at the Supplier's risk and expense within such reasonable time as the Purchaser may direct. Should the Supplier fail to remove or rectify the rejected Goods within the time directed the Purchaser may have the rejected Goods returned at the Supplier's risk and expense.

5.5. VARIATION ORDERS

- 1) The Purchaser may prepare a Variation Order making changes to the Goods, specifications, timing and/or cost of the Contract and submit it, with a brief justification for the variation, to the Supplier for acceptance and, if accepted, the Purchaser shall issue the Variation Order to the Supplier.
- 2) The Supplier may submit a written proposal to the Purchaser requesting a variation in the Supply. The proposal shall include a reasonable estimate of the time and/or cost of the variation, as well as a brief justification for the variation. If the Purchaser agrees to the proposal it shall prepare and issue the Variation Order to the Supplier.
- 3) By signing and returning a copy of the Variation Order, the Supplier agrees to the terms and conditions of the Variation Order.



5.6. TERMS OF PAYMENT

5.6.1. Contract Cost

- 1) Unit Costs charged by the Supplier for the Goods supplied and any Related Services provided under the Contract shall not vary from those stated in the Contract.
- 2) The total payments to be made against the Contract shall not exceed the Contract Cost stated in the Contract, except for changes made to the Contract as provided for in Clause 5.5.

5.6.2. Advance Payment

- 1) If specified in the **SCC**, the Purchaser will make an advance payment to the Supplier in the amount stated in the **SCC** against submission of an Advance Bank Guarantee to the full value of the advance, in the format attached.
- 2) The advance payment shall be repaid by deducting equal or proportionate amounts from payments otherwise due to the Supplier, to be recovered during the period of the Contract, as specified in the **SCC**.

5.6.3. Payment Provisions

- 1) Payment(s) to the Supplier shall be made as specified in the **SCC** and in the currency of the Contract.
- 2) Request(s) for payment(s) shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and any related Services performed, always provided that the documents submitted under Clause 5.4.1 (2) and other obligations stipulated in the Contract have been met.
- 3) Payments shall be made promptly by the Purchaser within 30 days after acceptance of the Invoice and other required documentation.

5.6.4. Payment on Termination

- 1) On Termination of the Contract the Purchaser shall pay to the Supplier the full value of all goods delivered and accepted by the Purchaser according to the Contract, less any payments previously made, and the full value of goods, less any installation or commissioning costs, for any goods delivered but not installed.
- 2) Should the Supplier have goods in shipment that form part of the Goods to be delivered under the Contract the Purchaser shall pay to the Supplier the value of these goods once they have been delivered and accepted by the Purchaser.

5.6.5. Taxes and Duties

- 1) Refer to SCC.

5.7. PERFORMANCE SECURITY

- 1) The proceeds of the Performance Security provided by the Supplier shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 2) The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than 30 days following the date of completion of the Supplier's obligations under the Contract, including any warranty



obligations (i.e. following the completion of the 12 month Warranty validity period – Refer 5.9 below).

5.8. LIQUIDATED DAMAGES

1) Liquidated Damages as applicable are as stated in the **SCC**.

5.9. SUPPLIER WARRANTY

1) The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Terms of Reference.

2) The Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials and workmanship, under normal use in the conditions prevailing in VANUATU.

3) Unless otherwise specified in the **SCC**, the warranty shall be provided within 10 days of shipment and remain valid for 12 months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination, or for 18 months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

4) If a defect (fair wear and tear excepted) appears in the Goods within the Warranty Period, the Supplier shall remedy such defect by either repairing or replacing the defective Goods without cost to the Purchaser within a period no longer than the original delivery schedule for that respective item and the Supplier shall obtain for the Purchaser the benefit of any manufacturer's warranty.

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

5.10. TERMINATION AND SUSPENSION

5.10.1. Termination for Default

1) The Purchaser may, without prejudice to any other remedy for breach of Contract and by written notice of default sent to the Supplier, terminate the Contract in whole or in part if the Supplier:

(a) Fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser on notification by the Supplier of the cause and its likely duration; or

(b) Fails to perform any other obligation under the Contract; or

(c) Has engaged in fraud, corruption, collusion, coercion and obstructive practise in competing for or in executing the Contract.

2) In the event the Purchaser terminates the Contract, in whole or in part, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.



5.10.2. Termination for Insolvency

1) The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, the Supplier shall be compensated for the Goods delivered up to the date of termination only, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.

5.10.3. Termination for Convenience

1) The Purchaser may, without cause, by written notice instruct the Supplier to terminate its engagement under the Contract. Upon such termination, the Supplier shall be paid for the Goods delivered up to the date of termination, provided that any such Goods were not late or otherwise overdue for delivery at the date of termination. The Supplier shall promptly make every reasonable effort to effect cancellation upon terms acceptable to the Purchaser of all outstanding subcontracts.

5.10.4. Termination by the Supplier

- 1) In the event that:
 - a) The Purchaser fails to pay any money due to the Supplier pursuant to this Contract and not subject to dispute pursuant to Clause 5.6.3 hereof within 45 days after receiving written notice from the Supplier that such payment is overdue.
 - b) As the result of an event of Force Majeure, the Supplier is unable to perform a material portion of the Supply for a period of not less than 60 days.
 - c) The Purchaser fails to comply with any Arbitral Award published as a result of arbitration pursuant to Clause 5.11.1 hereof. OR
- 2) The Supplier may terminate this Contract on the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause. The Supplier shall give a not less than 30 days' written notice of termination to Purchaser.

5.10.5. Suspension of Funding

1) In the event that funding is suspended, from which part of the payments to the Supplier are being made, the Purchaser is obliged to notify the Supplier of such suspension within 7 days of having received advice of the suspension of funding.

5.10.6. Suspension of the Supply

1) In the event that the Supplies are suspended due to circumstances beyond the control of the Purchaser or the Supplier, the Purchaser shall after due consultation with the Supplier, determine any extension of time and the amount that shall be added to the Contract Price to which the Consultant is entitled.



5.11. DISPUTES AND SETTLEMENT

5.11.1. Negotiated Settlement

- 1) The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to negotiate all disputes arising out of, or in connection, with this Contract or its interpretation.
- 2) Failing successful negotiation the courts in Vanuatu will settle any disputes in line with the laws of the Republic of Vanuatu.

5.12. FORCE MAJEURE

5.12.1. No Breach of Contract

- 1) The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as the inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract; and has informed the other Party as soon as possible about the occurrence of such an event

5.12.2. Extension of Time

- 1) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure

5.12.3. Payments

- 1) During the period of their inability to Supply the Goods or provide the Related Services as a result of an event of Force Majeure, the Supplier shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Contract and in reactivating the Contract after the end of such period.

5.13. INTEGRITY/ PROBITY

- 1) Neither the Contractor, nor any Representative of the Contractor will engage in fraud, corruption, collusion, coercion and/or obstructive practises in competing for, or in executing the contract. Should the Contractor, or any Representative of the Contractor engage in the above, they could face any, or all, of the following sanctions:
 - (a) Immediate termination of contract (refer Termination and Suspension above);
 - (b) Liability for damages to the Government of Vanuatu and other competing bidders;
 - (c) Debarment (blacklisting) for five years from engaging in any further contract with the Government of Vanuatu; and
 - (d) Public Prosecution under the Penal Code Act.
- 2) The Contractor, or any Representative of the Contractor, shall immediately report to the Police, Public Prosecutor and Chairman of the Public Service Commission any attempt by the Purchaser, or the Purchaser's Representative, to demand bribes or gifts in relation to this contract.



SECTION 6 SPECIAL CONDITIONS OF CONTRACT

These Special Conditions of Contract apply to this particular RFT and supplement Section 5 General: Conditions of Contract for Goods. The **SCC** will be updated and included in the Contract Documents when these are prepared for issue to the successful Tenderer.

| Clause Ref. | Heading | Description |
|-----------------------|---|--|
| 5.1 (1) | Purchaser's Representative | The Purchaser is represented by: |
| 5.1(2) | Supplier's Representative | The Supplier's representative is: |
| 5.1 (6) and 5.2.1 (1) | Contact Person | The Contact Person appointed by the Purchaser is: [PURCHASER to enter name of person] [PURCHASER to enter contact address] Tel: [PURCHASER to enter telephone number] Fax: [PURCHASER to enter fax number] Email: [PURCHASER to enter e-mail address] |
| 5.3.1 & 5.4.3 (1) | Organisation receiving the Goods | [PURCHASER to enter] |
| 5.3.5 (6) | Additional Tests | [PURCHASER to confirm additional tests required as stated in the Technical Specifications] |
| 5.3.6 (2) & (3) | Packing & Marking Requirements | [PURCHASER to enter] |
| 5.3.7 (1) | Transportation mode, points of final delivery and Incoterms | [PURCHASER to enter] |
| 5.3.7 (2) | Insurance | [PURCHASER to enter] |
| 5.4.1 (2) | Delivery of the Goods, Shipping and other Documentation | [PURCHASER to enter] |
| 5.4.2 | Related Services | [PURCHASER to enter] |
| 5.6.2 (1) | Advance Payment | [PURCHASER to enter] |
| 5.6.2 (2) | Repayment of advance | [PURCHASER to enter] |
| 5.6.3 (1) | Payment Provisions | [PURCHASER to enter] |
| 5.6.5 | Taxes and Duties | [PURCHASER to enter details] |
| 5.7 | Performance Security | [PURCHASER to enter] |
| 5.8 | Liquidated Damages | [PURCHASER to enter, if any] |
| 5.9 (3)& (5) | Warranty | [PURCHASER to enter] |



SECTION 7 FORMS

Sample forms are attached for use as applicable:

FORM 1 TENDER SECURITY (BANK GUARANTEE)

FORM 2 PERFORMANCE SECURITY (BANK GUARANTEE)

FORM 3 ADVANCE PAYMENT SECURITY (BANK GUARANTEE)

FORM 4 MANUFACTURER'S AUTHORISATION

FORM 5 CONTRACT AGREEMENT

FORM 6 ACCEPTANCE OF GOODS



Form 1- Tender Security (Bank Guarantee)

[To be provided on headed notepaper of the bank issuing the guarantee]

To:

Beneficiary: [Enter beneficiary]

Date: [Enter date]

TENDER SECURITY No: [Enter Bank Guarantee Number]

We have been informed that [Enter name of the Tenderer] ("the Tenderer") intends to submit to you its Tender ("the Tender") for the supply of [Enter name of contract] under RFT Goods No. [enter Tender number] ("the RFT").

Furthermore, we understand that, according to your conditions, the Tender must be supported by a Tender Security.

At the request of the Tenderer, we [Enter name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [Insert name of currency and amount in figures and in words]¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- (a) Has withdrawn its Tender during the period of Tender validity as specified in the Tendering Document; or
- (b) Does not accept the correction of arithmetical errors as specified in Tendering Document; or
- (c) Having been notified of the acceptance of its Tender by the Purchaser during the period of Tender validity, (i) fails to furnish the performance security, in accordance with the Tendering Document or, (ii) fails or refuses to execute the Contract Agreement.

This guarantee will expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the contract signed by the Tenderer and the Purchaser; or (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of your notification that the Tenderer's Tender has not been successful; or (ii) thirty days after the expiration of the Tenderer's Tender.

Consequently, we must receive any demand for payment under this guarantee at our offices on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[Seal of Bank and Signature(s)]

Note -

All text in [] is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹ Insert the amount specified in the Tender Documentation and denominate it either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.



Form 2 - Performance Security (Bank Guarantee)

[To be provided on headed notepaper of the bank issuing the guarantee]

To:

Beneficiary: [Enter beneficiary]

Date: [Enter date]

PERFORMANCE SECURITY No.: [Enter Guarantee Number]

We have been informed that [Enter name of the Supplier] (“the Supplier”) was awarded a Contract for the Supply of [Enter name of contract and brief description of Goods] (“the Contract”), as a result of RFT Goods No. [enter umber].

Furthermore, we understand that, according to the conditions of the Tender, a Performance Guarantee is required.

At the request of the Supplier, we [Enter name of the Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [Enter name of the currency and amount in figures] [Enter name of currency and amount in words]¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Supplier is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire no later than [Enter date]² and any demand for payment under it must be received by us at this office on or before that date. We agree to a one-time extension of this guarantee for a period not to exceed [enter number in words] months, in response to your written request for such extension, such request to be presented to us before the expiry of the guarantee.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

[Seal of Bank and Signature(s)]

Note

All text in [] is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹ Insert the amount specified in the Tender Documentation and denominate it either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date thirty days after the expected completion date, including any warranty periods. The Beneficiary should note that in the event of an extension of the time for completion of the Contract, the Beneficiary will need to request an extension of this guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the guarantee.



Form 3 - Advance Payment Security (Bank Guarantee)

[To be provided on headed notepaper of the bank issuing the guarantee]

To:

Beneficiary: [Enter beneficiary]

Date: [Enter date]

ADVANCE PAYMENT SECURITY No.: [Enter Guarantee Number]

We have been informed that [Enter name of the Supplier] (“the Supplier”) has entered into Contract No [Enter reference number of the Contract] dated [Enter date] with you, for the supply of [Enter name of contract and brief description of Supply] (hereinafter called “the Contract”).

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum of [enter name of currency and amount in figures in words]¹ is to be made against an advance payment guarantee.

At the request of the Supplier, we [Enter name of the Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [Enter name of the currency and amount in figures and in words]¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the Goods.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Supplier in its account number [enter Supplier’s account number] at [Enter name and address of the Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Supplier as stated in copies of submitted invoices which shall be presented to us. This guarantee shall remain valid and in full effect from the date the advance payment is received by the Supplier in its bank account until [Enter date]². Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date. We agree to a one-time extension of this guarantee for a period not to exceed [six months / one year – delete as applicable], in response to the Beneficiary’s written request for such extension, such request to be presented to us before the expiry of the guarantee.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[Seal of Bank and Signature(s)]

Note-

All text in [] is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

- 1 Insert an amount representing the amount of the advance payment, as stipulated in the Contract.
- 2 Insert the date stipulated in the Contract for completion of delivery and, if any, all associated services.



Form 4 - Manufacturer's Authorisation

[The Tenderer shall require the Manufacturer or its Authorised Representative to fill in this Form in accordance with the instructions indicated. This letter of authorisation will be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Tenderer shall include it in its Tender, if so indicated in the SCT.]

Date: [Enter date (as day, month and year) of Tender Submission]
Goods RFT No: [Enter number of RFT]

To:

WHEREAS

We [Enter complete name of Manufacturer], who are official manufacturers of [Enter type of goods manufactured], having factories at [Enter full address of Manufacturer's factories], do hereby authorise [Enter complete name of Tenderer] to submit a Tender the purpose of which is to provide the following Goods, manufactured by us [Enter name and or brief description of the Goods], and to subsequently sign the Contract, if awarded to them.

We hereby extend our full guarantee and warranty in accordance with the Conditions of Contract, with respect to the Goods offered by the above firm.

Signed: [Enter signature(s) of authorised representative(s) of the Manufacturer]

Name: [Enter complete name(s) of authorised representative(s) of the Manufacturer]

Title: [Enter title]

Duly authorised to sign this Authorisation on behalf of: [enter complete name of Tenderer]

Dated on _____ day of _____, _____ [Enter date of signing]



FORM 5 - Contract Agreement

| | |
|---------------------------|--|
| Contract No: | |
| Brief Description: | |

This Contract is made the day of **[Enter date]** by and between **[Enter name and address of Purchaser]** on the one part and **[Enter name and address of Supplier]** (the 'Supplier') on the other part;

Whereas the Purchaser has accepted the Tender of the Supplier **[Purchaser to enter reference number and date]** for the provision of Goods and related Services in the sum of:
[Purchaser to enter currency and amount in words and figures]

In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the Terms and Conditions of Contract hereinafter referred to.

The documents constituting the Contract are as shown below in order of precedence and shall be deemed to form and be read as part of this Agreement.

- (a) This Contract Agreement
- (b) Special Conditions of Contract
- (c) General Conditions of Contract
- (d) Technical Specifications
- (e) The Supplier's Tender and original Price Schedules
- (f) **[PURCHASER to add here any other document(s), or to adjust order of precedence of contractual documents as needed]**

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 in conformity in all respects with the provisions of the Contract.

The Purchaser hereby agrees to pay the Supplier in consideration of the successful delivery of the Goods and Services 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 of the aforesaid, the parties hereto have caused this Contract to be executed in accordance with the laws of the Republic of Vanuatu.

| For the Purchaser | | For the Supplier | |
|-------------------|--|-------------------|--|
| Signature: | | Signature: | |
| Date: | | Date: | |



RFQ Goods Number: [Purchaser to enter]

| FORM 6 - Goods Delivery and Acceptance Note | | | |
|---|--|----------------------|------------------------------|
| Contract No. | | Description | |
| Date of Contract | | Delivery Date | Date of Goods Receipt |
| Purchaser: | | Supplier: | Delivery Address/es: |
| Project Code: | | | |

| Item No. | Goods Description | Unit | Quantity Ordered | Quantity Received | Discrepancies |
|--|-------------------|------|------------------|--|---------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Goods Received | | | | Installation and commissioning (if applicable) | |
| I/We confirm having received in good condition the Goods listed above in the quantities stated in the 'Qty Received' column. Any discrepancies between quantities ordered and those delivered or between the specifications of the Goods ordered and also the Goods delivered are recorded in the "Discrepancies" column. Any further shortages that could not reasonably be noticed at the time of delivery and receipt will be notified in writing within 48 hours after the delivery. | | | | I/We confirm that installation and commissioning has been satisfactorily completed for the Goods listed above in the quantities stated in the 'Qty Received' column. Any discrepancies or shortages are recorded in the "Discrepancies" column. Any further shortages that could not reasonably be noticed at the time of installation and/or commissioning will be notified in writing within 48 hours after the installation and/or commissioning. | |
| Name: | | | | Name: | |
| Organization: | | | | Organization: | |
| Designation: | | | | Designation: | |
| Signature: | | | | Signature: | |
| Stamp: | | | | Stamp: | |
| Date: | | | | Date: | |