

**DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
MINISTRY OF IRRIGATION**



**ADB FUNDED
MAHAWELI WATER SECURITY INVESTMENT
PROGRAM (MWSIP) – TRANCHE 2
(ADB LOAN 3625-SRI)**

**Supply of Muriate of Potash (MOP)
for 2022/23
Maha Season Paddy Cultivation**

CONTRACT NO. MI/MWSIP/ADB/GDS/MOP FERTILIZER/OCB/2022/037

BIDDING DOCUMENT

SINGLE STAGE - ONE ENVELOPE BIDDING PROCEDURE

July 2022



Invitation for Bids

Date	27 July 2022
Loan No. and Title	Loan 3625-SRI Mahaweli Water Security Investment Program (MWSIP) – Tranche 2
Contract No. and Title:	MI/MWSIP/ADB/GDS/MOP FERTILIZER/OCB/2022/037 Supply of Muriate of Potash (MOP) for 2022/23 Maha Season Paddy Cultivation
Deadline for Submission of Bids:	17 August 2022 – 10:00 Hrs. (local time)

1. The Democratic Socialist Republic of Sri Lanka has received financing from the Asian Development Bank (ADB) towards the cost of the Mahaweli Water Security Investment Program (MWSIP), and it intends to apply part of the proceeds of this financing to payments under the contract named above. Bidding is open to Bidders from eligible source countries of the ADB.
2. The **Ministry of Irrigation (MOI)**, represented by the Program Director of Program Management Unit (PMU) of MWSIP (“the Purchaser”) on behalf of the Chairman, Standing Cabinet Appointed Procurement Committee (SCAPC), invites sealed bids from eligible Bidders for the Supply of 40,000 MT of Muriate of Potash (MOP) for 2022/23 Maha Season Paddy Cultivation.
3. **Open Competitive Bidding (OCB)** will be conducted in accordance with ADB’s Single-Stage, One-Envelope Bidding Procedure and is open to all Bidders from eligible countries as described in the Bidding Document.
4. Only eligible Bidders with the following key qualifications defined in the Bidding Document may participate in this bidding:
 - The Bidder shall have minimum average annual turnover of **US\$ 100 million**, calculated as total certified payments received for the supply of fertilizer, within the immediate past three (3) years.
 - The Bidder shall have participated, as a supplier, Joint Venture partner or subcontractor, in at least two (2) contracts within the immediate past three (3) years that have been successfully completed, where the value of the Bidder’s participation of valued at **US\$ 40 million or equivalent** in each case with nature, and complexity similar to the scope of supply.
 - The Bidder shall demonstrate that the goods offered have been in production for at least three (3) years and been sold a minimum of **40,000 MT of Muriate of Potash (MOP)** of similar type and specification over the last three (3) years.
 - The Bidder or manufacturer shall demonstrate that it can supply the type, size and quantity of the goods as required by Purchaser in accordance with the Delivery and Completion Schedule.
 - The Bidder must demonstrate access to, or availability of, liquid assets, lines of credit or other financial resources (other than any contractual advance payments) to meet the Bidder’s

financial resources requirement indicated in Form FIN-3.

5. For the complete eligibility and qualification requirements, Bidders should refer to the Bidding Document.
6. A soft copy of the Bidding Document in PDF format is available for inspection by any interested Bidder from the link of www.mwsip.lk → [Information](#) → [Procurements of MWSIP](#) website.
7. Interested Bidders shall notify the Employer of their intention to purchase the Bidding Document and interest to submit a bid by emailing the Program Director (email address: ebid.mwsip@gmail.com) and attaching the scanned notification. Such notifications shall strictly be written under the Bidder's official letterhead and signed by the Bidder's authorised representative indicating the name and address of the Bidder, contact number, fax number and email address to receive the digital copies of the Bidding Document, further clarifications, and Addenda that may be issued during the bidding process. Upon receipt of the Bidder's letter, the Employer will provide the Bidder, its bank account details for the payment of the non-refundable fee of **LKR 100,000.00 or US\$ 290.00**. Bidders shall send the transfer confirmation of this non-refundable payment also to the Program Director as soon as such payment is done. Upon the confirmation of non-refundable payment made by the Bidder, the Employer will send the link to the full set of the Bidding Document for the Bidder to download. Bidder shall be responsible to ensure it downloads the full set of documents and the Employer shall take no responsibility for any consequence under this procurement process or thereafter of the Bidder's failure to do so.
8. A pre-bid meeting with the Bidders will be held at the Office of the Program Director on **03rd August 2022 at 10:00 AM** (local time) at the address provided below. Bidders may attend this pre-bid meeting in person (by up to a maximum of two representatives, subject to prior registration with the Purchaser). Bidders may also attend the meeting virtually. Bidders shall request via an email to the Program Director on or before 01st August 2022 in order to be provided the link to the online conferencing facility.
9. Sealed Bids addressed to the Chairman, SCAPC shall be delivered to the office of the Program Director, Program Management Unit (PMU), Mahaweli Water Security Investment Program (MWSIP), No. 493 1/1, T.B. Jayah Mawatha, Colombo 10, Sri Lanka on or before **10:00 Hrs.** (local time) on **17th August 2022** together with a Bid Security in the amount as specified in the Bidding Document or Bid Security Declaration (Section 2 – Bid Data Sheet, ITB 21.1). The Bids will be opened immediately after the deadline in the presence of the Bidder's representatives who choose to attend. Bidders may also attend the bid opening virtually. Bidders shall request via an email to the Program Director on or before 15th August 2022 in order to be provided the link to the online conferencing facility.
10. The Purchaser will not be responsible for any cost or expense incurred by the Bidders in connection with the preparation, attending pre-bid meeting and delivery of bids.

**Program Director,
Program Management Unit (PMU),
Mahaweli Water Security Investment Program (MWSIP),
No. 493 1/1, T. B. Jayah Mawatha,
Colombo 10,
Sri Lanka.
Tel.No : +94 11 2675810
Fax No: +94 11 2675227
E-mail address: ebid.mwsip@gmail.com**

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BIDDING DOCUMENT

SINGLE STAGE - ONE ENVELOPE BIDDING PROCEDURE

July 2022

FOR INSPECTION PURPOSES ONLY

BIDDING DOCUMENT

Procurement of Goods

Single-Stage: One-Envelope
Bidding Procedure

Supply of Muriate of Potash (MOP)

for 2022/23

Maha Season Paddy Cultivation

Issued on: 27 JULY 2022

Invitation for Bids No.: IFB/MI/MWSIP/ADB/GDS/MOP FERTILIZER/OCB/2022/037

Contract No.: MI/MWSIP/ADB/GDS/MOP FERTILIZER/OCB/2022/037

Purchaser: Ministry of Irrigation (MOI) or its legal successor of Government of Sri Lanka, represented by the Program Management Unit (PMU) of the Mahaweli Water Security Investment Program (MWSIP)

Country: Sri Lanka

Preface

This Bidding Document for Procurement of Goods has been prepared by **Ministry of Irrigation (MOI)** and is based on the Standard Bidding Document for the Procurement of Goods issued by the Asian Development Bank dated **December 2021**.

This document reflects the structure and the provisions of the Master Procurement Document for the Procurement of Goods, except where specific considerations within the Asian Development Bank have required a change.

FOR INSPECTION PURPOSES ONLY

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Section 1: Instructions to Bidders

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A. General

- 1. Scope of Bid**
- 1.1 In connection with the Invitation for Bids (IFB) indicated in the Bid Data Sheet (BDS), the Purchaser, as indicated in the BDS, issues this Bidding Document for the supply of Goods and Related Services incidental thereto as specified in Section 6 (Schedule of Supply). The name, identification, and number of lots of the open competitive bidding (OCB) are provided in the BDS.
- 1.2 Throughout this Bidding Document,
- (a) the term “in writing” means communicated in written form and delivered against receipt;
 - (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
 - (c) “day” means calendar day.
- 2. Source of Funds**
- 2.1 The Borrower or Recipient (hereinafter called “Borrower”) indicated in the BDS has applied for or received financing (hereinafter called “funds”) from the Asian Development Bank (hereinafter called “ADB”) toward the cost of the project named in the BDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
- 2.2 Payments by ADB will be made only at the request of the Borrower and upon approval by ADB in accordance with the terms and conditions of the Financing Agreement between the Borrower and ADB (hereinafter called the Financing Agreement), and will be subject in all respects to the terms and conditions of that Financing Agreement. No party other than the Borrower shall derive any rights from the Financing Agreement or have any claim to the funds.
- 3. Fraud and Corruption**
- 3.1 ADB requires Borrowers (including beneficiaries of ADB-financed activity) and their personnel, as well as firms and individuals participating in an ADB-financed activity, including but not limited to, Bidders, Suppliers, and Contractors, agents, subcontractors, sub consultants, service providers, sub suppliers, manufacturers (including their respective officers, directors, employees and personnel) under ADB-financed contracts to observe the highest standard of ethics during the procurement and execution of such contracts in accordance with ADB’s Anticorruption Policy (1998, as amended from time to time). In pursuance of this policy, ADB
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

- (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
 - (v) “abuse” means theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard;
 - (vi) “conflict of interest” means any situation in which a party has interests that could improperly influence that party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations; and
 - (vii) “integrity violation” is any act, as defined under ADB’s Integrity Principles and Guidelines (2015, as amended from time to time), which violates ADB’s Anticorruption Policy, including (i) to (vi) above and the following: obstructive practice, violations of ADB sanctions, retaliation against whistleblowers or witnesses, and other violations of ADB’s Anticorruption Policy, including failure to adhere to the highest ethical standard.
- (b) will reject a proposal for award if it determines that the Bidder recommended for award or any of its officers, directors, employees, personnel, sub consultants, subcontractors, service providers, suppliers or manufacturers has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;
 - (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation, including by failing to inform ADB in a timely manner at the time they knew of the integrity violations;
 - (d) will impose remedial actions on a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate¹ in ADB-financed, -administered, or -supported activities or to benefit from an ADB-financed, -administered, or -supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices

¹ Whether as a Contractor, Subcontractor, Consultant, Manufacturer or Supplier, or Service Provider; or in any other capacity (different names are used depending on the particular Bidding Document).

or other integrity violations; and

- (e) will have the right to require that a provision be included in bidding documents and in contracts financed administered, or supported by ADB, requiring Bidders, suppliers and contractors consultants, manufacturers, service providers and other third parties engaged or involved in ADB-related activities, and their respective officers, directors, employees and personnel to permit ADB or its representative to inspect the site and their assets, accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.

3.2 All Bidders, consultants, contractors, suppliers, manufacturers, service providers, and other third parties engaged or involved in ADB-related activities, and their respective officers, directors, employees and personnel, are obliged to cooperate fully in any investigation when requested by ADB to do so. As determined on a case by case basis by ADB, such cooperation includes, but is not limited to, the following:

- (a) being available to be interviewed and replying fully and truthfully to all questions asked;
- (b) providing ADB with any items requested that are within the party's control including, but not limited to, documents and other physical objects;
- (c) upon written request by ADB, authorizing other related entities to release directly to ADB such information that is specifically and materially related, directly or indirectly, to the said entities or issues which are the subject of the investigation;
- (d) cooperating with all reasonable requests to search or physically inspect their person and/or work areas, including files, electronic databases, and personal property used on ADB activities, or that utilizes ADB's Information and Communications Technology (ICT) resources or systems (including mobile phones, personal electronic devices, and electronic storage devices such as external disk drives);
- (e) cooperating in any testing requested by ADB, including but not limited to, fingerprint identification, handwriting analysis, and physical examination and analysis; and
- (f) preserving and protecting confidentiality of all information discussed with, and as required by, ADB.

3.3 All Bidders, consultants, contractors and suppliers shall their officers, directors, employees, personnel, agents to ensure that, in its contract with its sub-consultants, Subcontractors and other third parties engaged or involved in ADB-related activities, such sub-consultants, Subcontractors and other third parties similarly are obliged to cooperate fully in any investigation when requested by ADB to do so.

3.4 The Purchaser hereby puts the Bidder on notice that the Bidder or any joint venture partner of the Bidder (if any) may not be able to receive any payments under the Contract if the Bidder or any of its joint venture partners, as appropriate, is, or is owned (in whole or in part) by a person or entity subject to applicable sanctions.

- 3.5 Furthermore, Bidders shall be aware of the provision stated in Subclause 3.2 and Subclause 35.1 (a) (iii) of the General Conditions of Contract.
- 4. Eligible Bidders**
- 4.1 A Bidder may be a natural person, private entity, or government-owned enterprise subject to ITB 4.5-or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture. In the case of a Joint Venture,
- (a) all parties to the Joint Venture shall be jointly and severally liable; and
 - (b) the Joint Venture shall nominate a representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the Joint Venture during the bidding process and, in the event the Joint Venture is awarded the Contract, during contract execution.
- 4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of an eligible country, in accordance with Section 5 (Eligible Countries). A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract, including related services.
- 4.3 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of interest with one or more parties in this bidding process if any of, including but not limited to, the following apply:
- (a) they have controlling shareholders in common; or
 - (b) they receive or have received any direct or indirect subsidy from any of them; or
 - (c) they have the same legal representative for purposes of this Bid; or
 - (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to material information about or improperly influence the Bid of another Bidder, or influence the decisions of the Purchaser regarding this bidding process; or
 - (e) a Bidder participates in more than one bid in this bidding process, either individually or as a partner in a Joint Venture, except for alternative offers permitted under ITB 13. This will result in the disqualification of all Bids in which it is involved. However, subject to any finding of a conflict of interest in terms of ITB 4.3(a)–(d) above, this does not limit the participation of a Bidder as a subcontractor in another bid or of a firm as a subcontractor in more than one Bid; or
 - (f) a Bidder, Joint Venture partner, associates, parent company or any affiliated entity, participated as a consultant in the

preparation of the design or technical specifications of the goods and services that are the subject of the Bid; or

- (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Purchaser or Borrower as Project Manager for the contract; or
 - (h) a Bidder would be providing goods, works, or nonconsulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm.
 - (i) A Bidder that has a financial or familial relationship with staff of the Purchaser including project implementing/executing agency, or of a recipient of a part of the loan who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to ADB throughout the procurement process and execution of the contract.
- 4.4 A firm shall not be eligible to participate in any procurement activities under an ADB-financed, -administered, or -supported project while under temporary suspension or debarment by ADB pursuant to its Anticorruption Policy (see ITB 3), whether such debarment was directly imposed by ADB, or enforced by ADB pursuant to the Agreement for Mutual Enforcement of Debarment Decisions. A bid from a temporary suspended or debarred firm will be rejected and such bid may be in breach of debarment conditions, thereby subject to further ADB's investigation.
- 4.5 Government-owned enterprises in the Purchaser's country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Purchaser.
- 4.6 A Bidder shall not be under suspension from Bidding by the Purchaser as a result of the execution of a Bid-Securing Declaration.
- 4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 4.8 Bidders shall be excluded if, by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods from, or payments to, a particular country, person or entity in respect of goods or services originating in that country. Where the Borrower's country prohibits payments to a particular person or entity or for particular goods or services by such an act of compliance, that firm shall be excluded.

5. Eligible Goods and Related

- 5.1 All Goods and Related Services to be supplied under the Contract and financed by ADB, shall have their country of origin in eligible

- Services** source countries as defined in ITB 4.2, and all expenditures under the Contract will be limited to such Goods and Related Services.
- 5.2 For purposes of this clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, transportation, installation, commissioning, training, and initial maintenance.
- 5.3 The term “country of origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components.
- 5.4 The nationality of the firm that produces, assembles, distributes, or sells the goods shall not determine their origin.

B. Contents of Bidding Document

6. **Sections of the Bidding Document** 6.1 The Bidding Document consists of Parts I, II, and III, which include all the sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB 8.
- PART I Bidding Procedures**
- Section 1 Instructions to Bidders (ITB)
 - Section 2 Bid Data Sheet (BDS)
 - Section 3 Evaluation and Qualification Criteria (EQC)
 - Section 4 Bidding Forms (BDF)
 - Section 5 Eligible Countries (ELC)
- PART II Supply Requirements**
- Section 6 Schedule of Supply (SS)
- PART III Conditions of Contract and Contract Forms**
- Section 7 General Conditions of Contract (GCC)
 - Section 8 Special Conditions of Contract (SCC)
 - Section 9 Contract Forms (COF)
- 6.2 The IFB issued by the Purchaser is not part of the Bidding Document.
- 6.3 The Purchaser is not responsible for the completeness of the Bidding Document and its addenda, if they were not obtained directly from the source stated by the Purchaser in the IFB.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document, may result in the rejection of the Bid.
7. **Clarification of Bidding Document** 7.1 A prospective Bidder requiring any clarification on the Bidding Document shall contact the Purchaser in writing at the Purchaser's address indicated in the BDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than 21 days prior to the deadline for submission of Bids. The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source.

Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB 8 and ITB 24.2.

- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of the Bids, the Purchaser may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Purchaser in accordance with ITB 6.3.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of the Bids, pursuant to ITB 24.2.

C. Preparation of Bids

- 9. Cost of Bidding** 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Purchaser shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid** 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid** 11.1 The Bid shall comprise the following:
- (a) Bid Submission Sheet and the applicable Price Schedules, in accordance with ITB 12, ITB 14, and ITB 15;
 - (b) Bid Security or Bid-Securing Declaration, in accordance with ITB 21;
 - (c) alternative Bids, if permissible, in accordance with ITB 13;
 - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 22;
 - (e) documentary evidence in accordance with ITB 16, establishing the Bidder's eligibility to bid;
 - (f) documentary evidence in accordance with ITB 17, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
 - (g) documentary evidence in accordance with ITB 18 and ITB 31, that the Goods and Related Services conform to the Bidding Document;
 - (h) documentary evidence in accordance with ITB 19, establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
 - (i) any other document required in the BDS.

- 12. Bid Submission Sheet and Price Schedules**
- 12.1 The Bidder shall submit the Bid Submission Sheet using the form furnished in Section 4 (Bidding Forms). This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 12.2 The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section 4 (Bidding Forms) and as required in the BDS.
- 13. Alternative Bids**
- 13.1 Unless otherwise indicated in the BDS, alternative Bids shall not be considered.
- 14. Bid Prices and Discounts**
- 14.1 The prices and discounts quoted by the Bidder in the Bid Submission Sheet and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All items in the Schedule of Supply must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedule shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment shall be applied in accordance with ITB 32.3. Unit rates and prices for all items in the Schedule of Supply shall be expressed in positive values. If unit rates and prices are expressed in negative values, the bid will be rejected.
- 14.3 The price to be quoted in the Bid Submission Sheet shall be the total price of the Bid excluding any discounts offered. Absence of the total bid price in the Bid Submission Sheet may result in the rejection of the Bid.
- 14.4 The Bidder shall quote discounts and the methodology for their application in the Bid Submission Sheet.
- 14.5 The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce, at the date of the Invitation for Bids or as specified in the BDS.
- 14.6 Prices shall be quoted as specified in each Price Schedule included in Section 4 (Bidding Forms). The disaggregation of price components is required solely for the purpose of facilitating the comparison of Bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered
- (a) for Goods offered from within the Purchaser's country:
- (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly

of goods quoted ex works or ex factory, or on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf;

- (ii) sales tax and all other taxes applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder; and
 - (iii) the total price for the item.
- (b) for Goods offered from outside the Purchaser's country:
- (i) the price of the goods quoted CIF (named port of destination), or CIP (border point), or CIP (named place of destination), in the Purchaser's country, as specified in the BDS;
 - (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), if specified in the BDS; and
 - (iii) the total price for the item.
- (c) for Related Services whenever such are specified in the Schedule of Supply:
- (i) the local currency cost component of each item comprising the Related Services; and
 - (ii) the foreign currency cost component of each item comprising the Related Services, inclusive of all customs duties, sales and other similar taxes applicable in the Purchaser's country, payable on the Related Services, if the Contract is awarded to the Bidder.

14.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A Bid submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITB 31. If in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract in accordance with Clause 15.2 of the General Conditions of Contract in Section 7, a Bid submitted with a fixed price will also be treated as non-responsive and be rejected.

14.8 If so indicated pursuant to ITB 1.1, Bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the BDS, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price discount for the award of more than one Contract shall specify in their bid the price discount applicable to each package, or alternatively, to individual Contracts within the package. Price discounts shall be submitted in accordance with ITB 14.4, provided the bids for all lots are submitted and opened at the same time.

15. Currencies of Bid

15.1 Bid prices shall be quoted in the following currencies:

- (a) Bidders may express their bid price in any fully convertible currency. If a Bidder wishes to be paid in a combination of

- amounts in different currencies, it may quote its price accordingly.
- (b) If some of the expenditures for the Related Services are to be incurred in the borrowing country, such expenditures should be expressed in the Bid and will be payable in the Purchaser's currency.
- 16. Documents Establishing the Eligibility of the Bidder**
- 16.1 To establish their eligibility in accordance with ITB 4, Bidders shall
- (a) complete the eligibility declarations in the Bid Submission Sheet, included in Section 4 (Bidding Forms); and
- (b) if the Bidder is an existing or intended Joint Venture in accordance with ITB 4.1, submit a copy of the Joint Venture Agreement, or a letter of intent to enter into such an agreement. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended Joint Venture, as appropriate.
- 17. Documents Establishing the Eligibility of the Goods and Related Services**
- 17.1 To establish the eligibility of the Goods and Related Services, in accordance with ITB 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms included in Section 4 (Bidding Forms).
- 18. Documents Establishing the Conformity of the Goods and Related Services to the Bidding Document**
- 18.1 To establish the conformity of the Goods and Related Services to the Bidding Document, the Bidder shall furnish as part of its Bid documentary evidence that the Goods and Related Services conform to the requirements specified in Section 6 (Supply of Supply).
- 18.2 The documentary evidence may be in the form of literature, drawings, or data, and shall consist of a detailed item-by-item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to those requirements, and if applicable, a statement of deviations and exceptions to the provisions of Section 6 (Schedule of Supply).
- 18.3 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in Section 6 (Schedule of Supply), are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in Section 6 (Schedule of Supply).
- 19. Documents Establishing the Qualifications of the Bidder**
- 19.1 The documentary evidence of the Bidder's qualifications to perform the contract, if its bid is accepted, shall establish to the Purchaser's satisfaction that the Bidder meets each of the qualification criterion specified in Section 3 (Evaluation and Qualification Criteria).
- 19.2 If so required in the BDS, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section 4 (Bidding Forms) to

demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's country.

- 19.3 If so required in the BDS, a Bidder that does not conduct business within the Purchaser's country shall submit evidence that it will be represented by an agent in the country equipped and able to carry out the Supplier's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.
- 20. Period of Validity of Bids**
- 20.1 Bids shall remain valid for the period specified in the BDS. The bid validity period starts from the date fixed for the bid submission deadline date prescribed by the Purchaser in accordance with ITB 24.1. A Bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 21, it shall also be extended 28 days beyond the deadline of the extended bid validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 21. Bid Security/ Bid-Securing Declaration**
- 21.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, in original form, either a Bid-Securing Declaration or a bid security as specified in the BDS. In the case of a bid security, the amount and currency shall be as specified in the BDS.
- 21.2 If a Bid-Securing Declaration is required pursuant to ITB 21.1, it shall use the form included in Section 4 (Bidding Forms). The Purchaser will declare a Bidder ineligible to be awarded a Contract for a specified period of time, as indicated in the BDS, if a Bid-Securing Declaration is executed.
- 21.3 If a bid security is specified pursuant to ITB 21.1, the bid security shall be, at the Bidder's option, in any of the following forms:
- (a) an unconditional bank guarantee (hard copy of the bank guarantee or in the form of SWIFT message MT760), or
 - (b) an irrevocable letter of credit,
 - (c) a cashier's or certified check.
- all from a reputable source from an eligible country as described in Section 5 (Eligible Countries). In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section 4 (Bidding Forms), or another form acceptable to the Purchaser. The form must include the complete name of the Bidder. The bid security shall be valid for 28 days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 20.2.

- 21.4 Unless otherwise specified in the BDS, any bid not accompanied by a substantially compliant bid security or Bid-Securing Declaration, if one is required in accordance with ITB 21.1, shall be rejected by the Purchaser as nonresponsive.
- 21.5 If a bid security is specified pursuant to ITB 21.1, the bid security of unsuccessful Bidders shall be returned promptly upon the successful Bidder's furnishing of the performance security pursuant to ITB 45.
- 21.6 If a bid security is specified pursuant to ITB 21.1, the bid security of the successful Bidder shall be returned promptly once the successful Bidder has signed the Contract Agreement and furnished the required performance security.
- 21.7 The bid security may be forfeited or the Bid-Securing Declaration executed, if
- (a) notwithstanding ITB 26.3, a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB 20.2; or
 - (b) the successful Bidder fails to
 - (i) sign the Contract Agreement in accordance with ITB 44;
 - (ii) furnish a performance security in accordance with ITB 45; or
 - (iii) accept the arithmetical corrections of its bid in accordance with ITB 33.
- 21.8 If the bid security is required as per ITB 21.1, the bid security of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the bid security shall be in the name of any or all of the Joint Venture partners. If the Bid-Securing Declaration is required as per ITB 21.1, the Bid-Securing Declaration of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the Bid-Securing Declaration shall be in the names of all future partners as named in the letter of intent mentioned in ITB 4.1.

22. Format and Signing of Bid

- 22.1 The Bidder shall prepare one original set of the documents comprising the Bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. If a Bidder submits a deficient authorization, the Bid shall not be rejected in the first instance. The Purchaser shall request the Bidder to submit an acceptable authorization within the number of days as specified in the

BDS. Failure to provide an acceptable authorization within the period stated in the Purchaser's request shall cause the rejection of the Bid. If either the Bid Submission Sheet or the Bid-Securing Declaration (if applicable) is not signed, the Bid shall be rejected.

- 22.3 Any amendments such as interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

- 23. Sealing and Marking of Bids**
- 23.1 Bidders shall submit their bids as specified in the BDS. Procedures for submission, sealing and marking are as follows:
- (a) Bidders submitting Bids by mail or by hand shall enclose the original and each copy of the Bid, including alternative Bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL", "ALTERNATIVE" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 23.2 and ITB 23.3.
 - (b) Bidders submitting Bids electronically shall follow the electronic bid submission procedures specified in the BDS.
- 23.2 The inner and outer envelopes shall
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Purchaser in accordance with ITB 24.1;
 - (c) bear the specific identification of this bidding process pursuant to ITB 1.1 and any additional identification marks as specified in the BDS; and
 - (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB 27.1.
- 23.3 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the Bid.
- 24. Deadline for Submission of Bids**
- 24.1 Bids must be received by the Purchaser at the address and no later than the date and time indicated in the BDS.
- 24.2 The Purchaser may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 25. Late Bids**
- 25.1 The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 24. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.

- 26. Withdrawal, Substitution, and Modification of Bids**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 22.2 (except for withdrawal notices, which do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be
- (a) prepared and submitted in accordance with ITB 22 and ITB 23 (except for withdrawal notices, which do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
 - (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB 26.1 shall be returned unopened to the Bidders.
- 26.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Sheet or any extension thereof.
- 27. Bid Opening**
- 27.1 The Purchaser shall open the Bids in public at the address, on the date, and time specified in the BDS in the presence of Bidders' designated representatives and anyone who chooses to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 23.1, shall be as specified in the BDS.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened, read out, and recorded, and the envelope containing the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened, read out, recorded, and exchanged for the corresponding Bid being substituted. The substituted Bid shall not be opened, but returned unopened to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out and recorded at bid opening. Envelopes marked "MODIFICATION" shall be opened, read out, and recorded with the corresponding Bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out, and recorded at bid opening shall be considered further.
- 27.3 All other envelopes shall be opened one at a time, reading out the name of the Bidder and whether there is a modification; the Bid Prices (per lot if applicable), discounts, and alternative offers; the presence of a bid security or a Bid-Securing Declaration, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out and recorded at bid opening shall be considered for evaluation. Unless otherwise

specified in the BDS, all pages of the Bid Submission Sheet and Price Schedules are to be initialed by at least three representatives of the Purchaser attending the bid opening. No Bid shall be rejected at bid opening except for late bids, in accordance with ITB 25.1.

- 27.4 The Purchaser shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, any discounts, and alternative offers if they were permitted; and the presence or absence of a bid security or Bid-Securing Declaration, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted bids on time, and posted online if electronic bidding was permitted.

E. Evaluation and Comparison of Bids

- 28. Confidentiality**
- 28.1 Information relating to the examination, evaluation, comparison, and postqualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until the publication of Contract award.
- 28.2 Any attempt by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and postqualification of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB 28.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.
- 29. Clarification of Bids**
- 29.1 To assist in the examination, evaluation, comparison and post-qualification of the Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder with regard to its Bid and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Bids, in accordance with ITB 33.
- 29.2 If a Bidder does not provide clarifications on its Bid by the date and time set in the Purchaser's request for clarification, its bid may be rejected.
- 30. Deviations, Reservations, and Omissions**
- 30.1 During the evaluation of Bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;
 - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
 - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.

- 31. Determination of Responsiveness**
- 31.1 The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.
- 31.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would
 - (i) affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in Section 6 (Schedule of Supply); or
 - (ii) limits in any substantial way, inconsistent with the Bidding Document, the Purchaser's rights or the Bidder's obligations under the proposed Contract; or
 - (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.
- 31.3 The Purchaser shall examine the technical aspects of the Bid in particular, to confirm that all requirements of Section 6 (Schedule of Supply) have been met without any material deviation, reservation, or omission.
- 31.4 If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Purchaser and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 32. Nonmaterial Nonconformities**
- 32.1 Provided that a Bid is substantially responsive, the Purchaser may waive nonconformities in the bid that do not constitute a material deviation, reservation, or omission.
- 32.2 Provided that a Bid is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 32.3 Provided that a Bid is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities or omissions related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section 3 (Evaluation and Qualification Criteria).
- 33. Correction of Arithmetical Errors**
- 33.1 Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.

- (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.
- (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 33.2 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected, and its bid security may be forfeited, or its Bid-Securing Declaration executed.
- 34. Conversion to Single Currency** 34.1 For evaluation and comparison purposes, the currency (ies) of the Bid shall be converted into a single currency as specified in the BDS.
- 35. Domestic Preference** 35.1 Unless otherwise specified in the BDS, domestic preference shall not apply.
- 36. Evaluation and Comparison of Bids** 36.1 The Purchaser shall use the criteria and methodologies indicated in this clause. No other criteria or methodologies shall be permitted.
- 36.2 To evaluate a Bid, the Purchaser shall consider the following:
- (a) the bid price as quoted in accordance with ITB 14;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB 33.1;
 - (c) price adjustment due to discounts offered in accordance with ITB 14.4;
 - (d) adjustment for nonmaterial nonconformities in accordance with ITB 32.3;
 - (e) assessment whether the bid is abnormally low in accordance with ITB 37; and
 - (f) price adjustment due to application of the evaluation criteria specified in Section 3 (Evaluation and Qualification Criteria). These criteria may include factors related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services which shall be expressed to the extent practicable in monetary terms to facilitate comparison of bids unless otherwise specified in Section 3; and
 - (g) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 34.
- 36.3 The Purchaser's evaluation of a bid will exclude and not take into account,
- (a) in the case of Goods offered from within the Purchaser's country, all sales tax and all other taxes, applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder;
 - (b) in the case of Goods offered from outside the Purchaser's

37. Abnormally Low Bids

- country, all customs duties, sales tax, and other taxes, applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder; and
- (c) any allowance for price adjustment during the period of performance of the Contract, if provided in the Bid.
- 36.4 If the Bidding Document allows Bidders to quote separate prices for different lots (contracts), and the award to a single Bidder of multiple lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Bid Submission Sheet, is specified in Section 3 (Evaluation and Qualification Criteria).
- 36.5 The Purchaser shall compare all substantially responsive Bids to determine the lowest evaluated bid, in accordance with ITB 36.2.
- 37.1 An abnormally low bid is one where the bid price, in combination with other elements of the bid, appears to be so low that it raises concerns as to the capability of the Bidder to perform the contract for the offered bid price.
- 37.2 When the offered bid price appears to be abnormally low, the Purchaser shall undertake a three-step review process as follows:
- (a) identify abnormally low costs and unit rates by comparing them with the engineer's estimates, other substantially responsive bids, or recently awarded similar contracts;
- (b) clarify and analyze the bidder's resource inputs and pricing, including overheads, contingencies and profit margins; and
- (c) decide whether to accept or reject the bid.
- 37.3 With regard to ITB 37.2 (b) above, the Purchaser will seek a written explanation from the bidder of the reasons for the offered bid price, including a detailed analysis of costs and unit prices, by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities. This may also include information regarding the economy of the manufacturing process; the services to be provided, or the construction method to be used; the technical solutions to be adopted; and any exceptionally favorable conditions available to the bidder for the goods or services proposed.
- 37.4 After examining the explanation given and the detailed price analyses presented by the bidder, the Purchaser may:
- (a) accept the bid, if the evidence provided satisfactorily accounts for the low bid price and costs, in which case the bid is not considered abnormally low;
- (b) accept the bid, but require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect the Purchaser against financial loss. The amount of the performance security shall generally be not more than 20% of the contract price; or
- (c) reject the bid if the evidence provided does not satisfactorily account for the low bid price, and make a similar determination for the next lowest

evaluated bid, if required

- 38. Post-qualification of the Bidder**
- 38.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid is qualified to perform the Contract satisfactorily.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 19. Unless permitted in the BDS, the determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. The Purchaser reserves the right to reject the bid of any bidder found to be in circumstances described in GCC 35.2. A negative determination shall result in disqualification of the Bid, in which event the Purchaser shall proceed to the next lowest evaluated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids**
- 39.1 The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders. In case of annulment, all Bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.
- 40. Notice of Intention for Award of Contract**
- 40.1 If Standstill provisions apply as specified in the BDS, the standstill period shall be defined in the BDS to specify the duration subsequent to notification of intention for award of contract (before making the actual contract award) within which any unsuccessful bidder can challenge the proposed award.

F. Award of Contract

- 41. Award Criteria**
- 41.1 The Purchaser shall award the Contract to the Bidder whose offer has been determined, in line with ITB 36 to ITB 38 above, to be the lowest evaluated Bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 42. Purchaser's Right to Vary Quantities at Time of Award**
- 42.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section 6 (Schedule of Supply), provided this does not exceed the percentages indicated in the BDS, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.
- 43. Notification of Award**
- 43.1 Prior to the expiration of the period of bid validity and upon expiry of the standstill period specified in ITB 40.1, or upon satisfactory resolution of a complaint filed within standstill period, if applicable, the Purchaser shall transmit the Notification of Award using the form included in Section 9 (Contract Forms) to the successful Bidder, in writing, that its Bid has been accepted. At the same time, the Purchaser also notify all other Bidders of the results of the bidding.

- 43.2 Unless standstill period applies, upon notification of award, unsuccessful Bidders may request in writing to the Purchaser for a debriefing seeking explanations on the grounds on which their Bids were not selected. The Purchaser shall promptly respond in writing and/or in a debriefing meeting to any unsuccessful Bidder who, after publication of contract award, requests a debriefing.
- 43.3 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 43.4 Within 2 weeks of the award of contract or expiry of the standstill period, where such period applies, or, if a complaint has been filed within the standstill period, upon receipt of ADB's confirmation of satisfactory resolution of the complaint, the Borrower shall publish in an English language newspaper or well-known freely accessible website the results identifying the Bid and lot or package numbers as applicable and the following information:
- (a) name of each Bidder who submitted a Bid;
 - (b) bid prices as read out at bid opening;
 - (c) name and evaluated prices of each Bid that was evaluated;
 - (d) name of Bidders whose Bids were rejected and the reasons for their rejection; and
 - (e) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.
- 44. Signing of Contract**
- 44.1 Promptly after notification, the Purchaser shall send to the successful Bidder the Contract Agreement.
- 44.2 Within 28 days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Purchaser.
- 45. Performance Security**
- 45.1 Within 28 days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, subject to ITB 37, using for that purpose the Performance Security Form included in Section 9 (Contract Forms), or another form acceptable to the Purchaser. If the bank issuing the performance security is located outside the Purchaser's country, it shall be counter-guaranteed or encashable by a bank in the Purchaser's country.
- 45.2 Failure of the successful Bidder to submit the abovementioned Performance Security or sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security or execution of the Bid-Securing Declaration. In that event, the Purchaser may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.
- 46. Bidding-Related Complaints**
- 46.1 The procedures for dealing with Bidding-Related Complaints arising out of this bidding process are specified in the BDS.

Section 2: Bid Data Sheet

A. General	
ITB 1.1	The number of the Invitation for Bids (IFB) is: IFB/MI/MWSIP/ADB/GDS/MOP FERTILIZER /OCB/2022/037
ITB 1.1	The Purchaser is: Ministry of Irrigation (MOI) or its legal successor of Government of Sri Lanka, represented by the Program Management Unit (PMU) of the Mahaweli Water Security Investment Program (MWSIP)
ITB 1.1	The name of the open competitive bidding (OCB) is: Supply of Muriate of Potash (MOP) for 2022/23 Maha Season Paddy Cultivation The identification number of the OCB is: MI/MWSIP/ADB/GDS/MOP FERTILIZER/OCB/2022/037
ITB 2.1	The Borrower is: Democratic Socialist Republic of Sri Lanka
ITB 2.1	The name of the Project is: Mahaweli Water Security Investment Program (MWSIP) – Tranche 2 (ADB LOAN 3625-SRI)
B. Contents of Bidding Document	
ITB 7.1	For clarification purposes only, the Purchaser's address is: Attention: Program Director, Program Management Unit (PMU), Mahaweli Water Security Investment Program (MWSIP), Address: Program Management Unit (PMU), No, 493 1/1, T. B. Jayah Mawatha, Colombo 10, Sri Lanka. Telephone No: +94 11 2675810 Facsimile No: +94 11 2675227 E-mail: ebid.mwsip@gmail.com
ITB 7.1	A pre-bid meeting shall take place at the following date, time and place: Date : 03rd August 2022 Time: 10:00 AM (local time) Place: Program Director's Office, Program Management Unit (PMU), Mahaweli Water Security Investment Program (MWSIP), No, 493 1/1, T. B. Jayah Mawatha, Colombo 10, Sri Lanka. Bidders may attend this pre-bid meeting in person (by up to a maximum of two representatives, subject to prior registration with the Purchaser). Bidders may also attend the meeting virtually. Bidders shall request via an email to the Program Director on or before 01st August 2022 in order to be provided the link to the online conferencing facility.

	Telephone No: +94 11 2675810 Facsimile No: +94 11 2675227 E-mail: ebid.mwsip@gmail.com
C. Preparation of Bids	
ITB 10.1	The language of the Bid is: English
ITB 11.1 (i)	The Bidder shall submit with its Bid the following additional documents: <ul style="list-style-type: none"> ➤ In respect of domestic Bidders only: <ul style="list-style-type: none"> - a copy of VAT registration certificate; - a written authority to seek references from the Bidder's bankers; ➤ In respect of any agent, representative or nominee on behalf of the Bidder, a Certificate of Registration issued by the Registrar of Contracts in Sri Lanka and the Successful Bidder shall be registered with the Registrar of Contracts in Sri Lanka prior to the award of the Contract, in accordance with Public Contract Act No. 3 of 1987 of the Government of Sri Lanka, subsequent gazette notification and paper advertisement published in 'Daily News' dated 16 October 2018. ➤ In case of a single entity Bidder, certified/attested articles of incorporation of constitution of the legal entity in accordance with ITB-4.1 and 4.2. ➤ Authorization to represent the firm or Joint Venture, in accordance with ITB 22.2. ➤ In case the Bidder is a Joint Venture, certified/attested letter or intent to form the Joint Venture, or the Joint Venture agreement, in accordance with ITB 4.1. ➤ In case of a government-owned entity, any additional documents not covered above required to comply with ITB 4.5. All the documents relating to sub clause 11.1 shall be endorsed as either "Certified Original" or "Certified True Copy" by an official Notary Public.
ITB 12.2	The units and rates in figures entered into the Price Schedules should be typewritten or if written by hand, must be in print form. Price Schedules not presented accordingly may be considered nonresponsive.
ITB 13.1	Alternative Bids shall not be permitted.
ITB 14.5	The Incoterms edition is: Year 2010
ITB 14.6 (b) (i)	For Goods offered from outside the Purchaser's country, the Bidder shall quote prices using the following Incoterms: CIF (Colombo)
ITB 14.6 (b) (ii)	In addition to the above, the Bidder shall quote prices for Goods offered from outside the Purchaser's country using the following Incoterms: FOB
ITB 14.7	The prices quoted by the Bidder shall not be adjustable.
ITB 14.8	Prices quoted for each lot shall correspond to 100 % of the items specified.
ITB 19.2	The Bidder is required to submit documentation to substantiate that it is a manufacturer, authorized dealer, distributor or reseller of the goods being procured.

ITB 19.3	The Bidder is not required to include with its bid, evidence that it will be represented by an Agent in the Purchaser's country.
ITB 20.1	The bid validity period shall be 21 days .
ITB 21.1	<p>Either a Bid Securing Declaration or A bid security shall be provided.</p> <p>The amount and currency of the bid security shall be: LKR 175,000,000.00 (One Hundred and Seventy Five million Sri Lankan Rupees only) or 500,000 USD (Five hundred Thousand USD only) or equivalent in any freely convertible currency.</p> <p>The bid security shall be valid for 28 days beyond the bid validity period (up to 05th October 2022).</p> <p>The Bid Security shall be in the form of an unconditional bank guarantee.</p> <p>This Bank guarantee shall be issued by:</p> <p>(a) a bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka, or (b) a foreign bank certified by a corresponding bank in Sri Lanka, whereby the corresponding bank should be approved by the Central Bank of Sri Lanka.</p>
ITB 21.2	The ineligibility period will be 30 days .
ITB 21.4	Subject to the succeeding sentences, any bid not accompanied by an irrevocable and callable bid security or dully filled and signed Bid Security Declaration shall be rejected by the Purchaser as nonresponsive. If a Bidder submits a bid security that (i) deviates in form, amount, and/or period of validity, or (ii) does not provide sufficient identification of the Bidder (including, without limitation, failure to indicate the name of the Joint Venture or, where the Joint Venture has not yet been constituted, the names of all future Joint Venture Partners), the Purchaser shall request the Bidder to submit a compliant bid security within 7 days of receiving such a request. Failure to provide a compliant bid security within the prescribed period of receiving such a request shall cause the rejection of the Bid.
ITB 22.1	In addition to the original Bid, the number of copies is: two
ITB 22.2	<p>The written confirmation of Authorization to sign on behalf of the Bidder shall consist of:</p> <p>(a) Bids submitted by a limited liability company or a corporation: a Power of Attorney (either notarized or attested to by an appropriate authority in the Bidder's home country), or a Board Resolution (certified by the Company Secretary).</p> <p>(b) Bids submitted by a Partnership: a Power of Attorney (either notarized or attested to by an appropriate authority in the Bidder's home country) together with a copy of the Partnership Agreement in order to demonstrate the relationship of the signing partner to the partnership.</p> <p>(c) Bids submitted by a Single Proprietor: a Power of Attorney certified by the respective embassy of the Bidder's country will be required only if the Bid is signed by (i) a person other than the single proprietor who is the Bidder or (ii) a person other than the owner of the Single Proprietorship, who is the Bidder.</p> <p>(d) Bids submitted by an existing or intended Joint Venture: a Power of Attorney (either notarized or attested to by an appropriate authority in the Bidder's home country), which shall include an undertaking signed by all parties (i) stating that all parties shall be jointly and severally liable and (ii) nominating a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the Joint Venture during the bidding process and, in the event the Joint Venture is awarded the Contract, during contract execution.</p>
ITB 22.2	The Bidder shall submit an acceptable authorization within 03 days .

D. Submission and Opening of Bids	
ITB 23.1	Bidders shall not have the option of submitting their bids electronically.
ITB 23.1 (b)	Electronic bidding submission procedures shall be: <u>Not applicable</u>
ITB 23.2 (c)	The additional identification marks are: none
ITB 24.1	For bid submission purposes only, the Purchaser's address is: Program Director, Program Management Unit (PMU), Mahaweli Water Security Investment Program (MWSIP), Ministry of Irrigation, No, 493 1/1, T. B. Jayah Mawatha, Colombo 10, Sri Lanka.
ITB 24.1	The deadline for bid submission is: Date: 17th August 2022 Time: 10.00 Hrs (local time)
ITB 27.1	The <u>bid opening</u> shall take place at: Program Director's Office, Program Management Unit (PMU), Mahaweli Water Security Investment Program (MWSIP), Ministry of Irrigation, No, 493 1/1, T. B. Jayah Mawatha, Colombo 10, Sri Lanka. Date: 17th August 2022 Time: 10.00 Hrs (local time)
ITB 27.1	The electronic bid opening procedure shall be as follows: Bidders shall request via an email to the Program Director on or before 15th August 2022 in order to be provided the link to the online conferencing facility. E-mail address: ebid.mwsip@gmail.com
ITB 27.3	The Bid Submission Sheet and Price Schedules shall be initialed at least by One representative of the Purchaser attending Bid opening.
E. Evaluation and Comparison of Bids	
ITB 34.1	The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: United State Dollars (USD). The source of the selling exchange rate shall be: Central Bank of Sri Lanka. The date for the selling exchange rate shall be: 28 days prior to the bid opening date.
ITB 35.1	Domestic preference shall not apply.

ITB 36.6	The bid prices submitted shall be, CIF at sight, 180 days and 270 days credit price: The most advantage price shall be selected considering the facts that the prevailing SOFR rate for the credit facility (180 days, 270 days) offered by the lowest responsive bid.
ITB 38.2	The qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors shall not be permitted.
ITB 40.1	Standstill provisions shall not apply.
F. Award of Contract	
ITB 42.1	The maximum percentage by which quantities may be increased is: 25% The maximum percentage by which quantities may be decreased is: 25%
ITB 46.1	<p>The procedures for Bidding-Related Complaints are referenced in the “Procurement Regulations for ADB Borrowers (Appendix 7)”. The Bidder should submit its complaint following these procedures, in writing, to:</p> <p>For the attention: Secretary Ministry of Irrigation</p> <p>Address 10th Floor, No: 500, T.B.Jayah Mawatha, Colombo 10, Sri Lanka.</p> <p>Email address: irrimin123@gmail.com Fax number: +94 11 2689548</p> <p>In addition to the above procedure, the following procedure shall also be applicable.</p> <p>According to the sub-clause 8.2.1 of the Government Procurement Guidelines-2006, Supplement-24 to the Procurement Manual and subsequent letter issued by President Secretariat on 7th October 2014:</p> <p>After evaluation of Bids according to procedures described in the Bidding Document, the Purchaser will inform all the Bidders in writing the selection of the successful Bidder and the intention of contract award to such Bidder. The unsuccessful Bidders if they so wish, within 3 days of such notice may make representation to Chairman, Procurement Appeal Board (PAB) at the address given below. Such representations shall be self-contained and a non-refundable cash deposit to amount given below shall be made.</p> <p>Address: Chairman, Procurement Appeal Board, President Secretariat, Colombo 01, Sri Lanka.</p> <p>Cash Deposit: LKR 100,000.00 or 290.00 USD</p>

Section 3: Evaluation and Qualification Criteria

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1. Evaluation Criteria

1.1 Technical Criteria

The cost of all quantifiable deviations or deficiencies from the technical requirements as specified in Section 6 (Schedule of Supply) shall be evaluated. The Purchaser will make its own assessment of the cost of these deviations or deficiencies for the purpose of ensuring fair comparison of Bids.

1.2 Domestic Preference

If domestic preference is provided for under ITB 35.1, the following procedure shall apply: **Not Applicable**

1.3 Economic Criteria

1.3.1 Adjustment for Scope

1.3.1.1 Local Handling and Inland Transportation

Costs for inland transportation, insurance, and other incidental costs for delivery of the goods from the EXW premises, or port of entry, or border point to Project Site as defined in Section 6 (Schedule of Supply), shall be quoted in the Price Schedule for Related Services to Be Offered from Outside and Within the Purchaser's Country provided In Section 4 (Bidding Forms). These costs will be taken into account during bid evaluation. If a Bidder fails to include such costs in its Bid, then these costs will be estimated by the Purchaser on the basis of published tariffs by the rail or road transport agencies, insurance companies, or other appropriate sources, and added to EXW or CIF or CIP price.

1.3.1.2 Minor Omissions or Missing Items

Pursuant to ITB 32.3, the cost of all quantifiable nonmaterial nonconformities or omissions from the contractual and commercial conditions shall be evaluated. The Purchaser will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of Bids.

1.3.2 Adjustment for Deviations from the Terms of Payment

Deviations from the Terms of Payment as specified in SCC 16.1 **are not permitted**.

1.3.3 Adjustment for Deviations in the Delivery and Completion Schedule

Deviations from the Delivery and Completion Schedule specified in Section 6 (Schedule of Supply) **are not permitted**.

1.3.4 Operation and Maintenance (O&M) Costs

Not Applicable

1.3.5 Spare Parts

Not Applicable

1.3.6 Performance and Productivity of the Goods

The method of calculation shall be the following: Not Applicable

1.4 Multiple Lots (Contracts)

Not Applicable

FOR INSPECTION PURPOSES ONLY

2. Qualification Criteria

Contract Type B: Custom-Designed, High-Value, and Technically Complex Items

2.1 Eligibility

Criteria	Compliance Requirements			Documents
Requirement	Single Entity	Joint Venture		Submission Requirements
		All Partners Combined	Each Partner	

2.1.1 Nationality

Nationality in accordance with ITB 4.2.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet; Forms ELI – 1 and ELI - 2
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2.1.2 Conflict of Interest

No conflicts of interest in accordance with ITB 4.3.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet
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2.1.3 ADB Eligibility

Not having been declared ineligible by ADB, as described in ITB 4.4.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet
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2.1.4 Government-Owned Enterprise

Bidder required to meet conditions of ITB 4.5.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet; Forms ELI – 1 and ELI - 2
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2.1.5 United Nations Eligibility

Not having been excluded by an act of compliance with a United Nations Security Council resolution in accordance with ITB 4.8.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet
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2.2 Historical Contract Nonperformance

2.2.1 History of Nonperforming Contracts

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Nonperformance of a contract ^a did not occur as a result of contractor default since 1 January 2017.	Must meet requirement	Must meet requirement	Must meet requirement ^b	Not Applicable	Form CON-1

^a Nonperformance, as decided by the Purchaser, shall include all contracts where (a) nonperformance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Nonperformance shall not include contracts where Purchaser's decision was overruled by the dispute resolution mechanism. Nonperformance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Bidder have been exhausted.

^b This requirement also applies to contracts executed by the Bidder as Joint Venture member.

2.2.2 Suspension Based on Execution of Bid-Securing Declaration

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Not under suspension based on execution of a Bid-Securing Declaration pursuant to ITB 4.6.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet

2.2.3 Pending Litigation

Pending litigation and arbitration criterion shall not apply.

2.3 Experience and Technical Capacity

2.3.1 Contractual Experience

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Successful completion as main supplier within the last three (3) years, of at least two (2) contracts each valued at US\$ 40 million or equivalent , with nature, and complexity similar to the scope of supply described in Section 6 (Schedule of Supply).	Must meet requirement	Must meet requirement	Not applicable	Not applicable	Form EXP – 1 ^a

^a In addition to the submission of Form EXP-1, the Bidder shall provide the Signed Contract Agreement.

2.3.2 Technical Experience

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
The Bidder shall demonstrate that the goods offered have: (i) been in production for at least three (3) years, and (ii) been sold a minimum of 40,000 MT of Muriate of Potash (MOP) of similar type and specification over the last three (3) years.	Must meet requirement	Must meet requirement	Not applicable	Not applicable	Form EXP – 2 ^a

^a In addition to the submission of Form EXP-2, the Bidder shall provide the Signed Contract Agreement.

2.3.3 Production Capacity

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
The Bidder or manufacturer shall demonstrate ^a that it can supply the type, size, and quantity of the goods as required by Purchaser in accordance with the Delivery and Completion Schedule in Section 6 (Schedule of Supply).	Must meet requirement	Must meet requirement	Not applicable	Not applicable	Form EXP – 3

^a Bidder or Manufacturer shall provide evidence of production output.

2.4 Financial Situation

2.4.1 Historical Financial Performance

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Submission of audited financial statements or, if not required by the law of the Bidder's country, other financial statements acceptable to the Purchaser, for the last three (3) years to demonstrate the current soundness of the Bidder's financial position. As a minimum, the Bidder's net worth for the last year calculated as the difference between total assets and total liabilities should be positive.	Must meet requirement	Not applicable	Must meet requirement	Not applicable	Form FIN - 1

2.4.2 Size of Operation (Average Annual Turnover)

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Minimum average annual turnover of US\$ 100 million calculated as total payments received by the Bidder for supply of Fertilizer completed or under execution over the last three (3) years.	Must meet requirement	Must meet requirement	Must meet 25% of the requirement	Must meet 40% of the requirement	Form FIN - 2

2.4.3 Cash Flow Capacity

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Availability of or access to liquid assets, lines of credit, and other finances sufficient to meet cash flow requirement which is US\$ 50 million	Must meet requirement	Must meet requirement	Must meet 25% of the requirement	Must meet 40% of the requirement	Form FIN - 3

Section 4: Bidding Forms

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Bid Submission Sheet

- Note -

The Bidder must accomplish the Bid Submission Sheet on its letterhead clearly showing the Bidder's complete name and address.

Date: 20.....

Open Competitive Bidding (OCB) No.: MI/MWSIP/ADB/GDS/MOP FERTILIZER /OCB/2022/037

Invitation for Bid (IFB) No.: IFB/MI/MWSIP/ADB/GDS/MOP FERTILIZER /OCB/2022/037

To: Secretary,
Ministry of Irrigation,
10th Floor, No. 500, T.B. Jayah Mawatha,
Colombo 10,
Sri Lanka.

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda issued in accordance with Instructions to Bidders (ITB) 8.
- (b) We acknowledge that we have read and understand ADB's Anticorruption Policy (1998) and Integrity Principles and Guidelines (2015), both as amended from time to time.
- (c) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section 6 (Schedule of Supply), the following Goods and Related Services:

Supply of Muriate of Potash (MOP) for 2022/23 Maha Season Paddy Cultivation

- (d) The total price of our Bid, excluding any discounts offered in item (d) below, is

Payment Terms	Mode of Shipment	United State Dollars	
		in figures	in words
At Sight	CIF		
180 days Credit	CIF		
270 days Credit	CIF		

The total bid price from the price schedules should be entered by the bidder inside this box. Absence of the total bid price in the Bid Submission Sheet may result in the rejection of the bid.

- (e) The discounts offered and the methodology for their application are as follows:

Discounts: If our Bid is accepted, the following discounts shall apply: *[specify in detail each discount offered and the specific item of the Schedule of Supply to which it applies]*

Methodology of Application of the Discounts: The discounts shall be applied using the following method: *[specify in detail the method that shall be used to apply the discounts]*

- (f) Our Bid shall be valid for a period of **21 days** starts from the date fixed for the bid submission deadline in accordance with ITB 24.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

-
- (g) If our Bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Documents.
- (h) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB 4.2.
- (i) We, our directors, key officers, key personnel, including any subcontractors, consultants, sub consultants, manufacturers, service providers or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3.

If there is any conflict of interest, please state details:

- (i) Parties involved in the conflict of interest: _____
- (ii) Details about the conflict of interest: _____
- (j) We are not participating, as a Bidder, either individually or as partner in a Joint Venture, in more than one Bid in this bidding process in accordance with ITB 4.3(e), other than alternative offers in accordance with the Bidding Document.
- (k) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, sub consultants, manufacturers, service providers or Suppliers for any part of the contract, are not subject to, or not controlled by any entity or individual that is subject to a temporary suspension or a debarment imposed by the Asian Development Bank; or a debarment imposed by the Asian Development Bank in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the Asian Development Bank and other development banks.¹
- (l) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, sub consultants, manufacturers, service providers or Suppliers for any part of the contract, are not under ongoing investigation and/or sanctions proceedings by the Asian Development Bank or any multilateral development bank.

If under ongoing investigation and/or sanction proceedings by the Asian Development Bank or any multilateral development bank, please state details:

- (i) Name of the multilateral development bank: _____
- (ii) Reason for the ongoing investigation/allegations: _____
- (m) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, sub consultants, manufacturers, service providers or Suppliers for any part of the Contract, are not temporarily suspended, debarred, declared ineligible, or subject to any national and/or international sanctions by any country, any international organization, any multilateral development bank and other donor agency.

If so temporarily suspended, debarred, declared ineligible, or subject to any national and/or international sanctions by any country, any international organization, any multilateral development bank and other donor agency, please state details (as applicable to each Joint Venture partner, their respective direct or indirect shareholders, directors, key officers, key personnel, associate, parent company, affiliate, subsidiaries, Subcontractors, consultants, sub consultants, manufacturers, service providers and/or Suppliers):

¹ These institutions include African Development Bank, European Bank for Reconstruction and Development (EBRD), Inter-American Development Bank (IADB), and the World Bank Group. According to paragraph 9 of the Agreement, other international financial institutions may join upon the consent of all Participating Institutions and signature of a Letter of Adherence by the international financial institution substantially in the form provided (Annex B to the Agreement). Upon adherence, such international financial institution shall become a Participating Institution for purposes of the Agreement. Bidders are advised to check www.adb.org/integrity for updates.

- (i) Name of Institution: _____
- (ii) Period of the temporary suspension, debarment, ineligibility, or national or international sanction [*start and end date*]: _____
- (iii) Reason for the temporary suspension, debarment, ineligibility, or national or international sanction: _____
- (n) Our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries', including any Subcontractors, consultants, sub consultants, manufacturers, service providers, Suppliers, key officers, directors and key personnel have never been charged or convicted with any criminal offense (including felonies but excluding misdemeanors) or infractions and/or violations of ordinance; nor charged or found liable in any civil or administrative proceedings in the last 10 years; or undergoing investigation for such, or subject to any criminal, civil or administrative orders, monitorship or enforcement actions.

If so charged, convicted/found liable, under ongoing investigation, or subject to orders, monitorship or enforcement actions, please state details:

- (i) Nature of the offense, violation, proceedings, investigation, and/or monitorship or enforcement actions: _____
- (ii) Court, area of jurisdiction and/or the enforcement agency: _____
- (iii) Resolution [*i.e. dismissed; settled; or convicted/duration of penalty*]: _____
- (iv) Other relevant details [*please specify*]: _____
- (o) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers, can make and receive electronic fund transfer payments through the international banking system or otherwise discharge the Purchaser's obligation upon initiation of wire transfer.

If unable to make or receive funds through the international banking system or otherwise discharge the Purchaser's obligation upon initiation of wire transfer, please state the details:

- (i) Nature of the restriction: _____
- (ii) Jurisdiction of the restriction: _____
- (iii) Other relevant details: _____
- (p) Our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, sub consultants, manufacturers, service providers or Suppliers, key officers, directors and key personnel are not from a country which is prohibited to export goods or services to, or receive any payments from the Purchaser's country and/or are not prohibited to receive payments for particular goods or services by the Purchaser's country 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.
- (q) We understand that it is our obligation to notify the Purchaser of any changes in connection with the matters described in paragraphs (i), (k), (l), (m), (n), (o), (p) and (t) of this Bid Submission Sheet.
- (r) [We are not a government-owned enterprise] / [We are a government-owned enterprise but meet the requirements of ITB 4.5].²
- (s) We have not been suspended nor declared ineligible by the Purchaser based on execution of a Bid-Securing Declaration in accordance with ITB 4.6.
- (t) We have paid, or intend to pay, either directly or indirectly, the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:³

² Use one of the two options as appropriate.

³ If none has been paid or is to be paid, indicate "None."

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____

- (u) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed.
- (v) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (w) At any time following submission of our Bid, We shall permit, and shall cause our Joint Venture partners, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers for any part of the contract to permit ADB or its representative to inspect our site, assets, accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by ADB. We understand that failure of this obligation may constitute obstructive practice that may result in debarment and/or contract termination.
- (x) Regardless of whether the contract will be awarded to us, we shall preserve all accounts, records and other documents related to bid submission for at least 3 years from the date of submission of the bid or the period prescribed in applicable law, whichever is longer.
- (y) If we are awarded the contract, we shall preserve all accounts, records and other documents related to the procurement and execution of the contract for at least 3 years after completing the works contemplated in the relevant contracts or the period prescribed in applicable law, whichever is longer.
- (z) We certify on behalf of the Bidder, that the information provided in the bid has been fully reviewed, given in good faith, and to the best of our knowledge is true and complete. We understand that it is our obligation to inform the Purchaser of any changes to the information as and when it becomes known to us. We understand that any misrepresentation that knowingly or recklessly misleads, or attempts to mislead may lead to the automatic rejection of the Bid or cancellation of the contract, if awarded, and may result in remedial actions, in accordance with ADB's Anticorruption Policy (1998, as amended to date) and Integrity Principles and Guidelines (2017, as amended from time to time).

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the Bid for and on behalf of _____

Date _____

Price Schedule for Goods to Be Offered from Outside the Purchaser's Country

Name of Bidder _____ IFB Number _____ Page ____ of ____

		PRICE PER MT (US\$)											
Fertilizer Type [1]	Quantity (Mt) [2]	Mode of Shipment (Bag / Bulk) [3]	FOB Price [4]	Insurance [5]	Freight Charges [6]	Bag and Bagging material Cost [7]	Bagging Cost [8]	At Sight Price (CIF) [9=4+5+6+7+8]	180 days Credit Price (CIF)	270 days Credit Price (CIF)	Whether the product & packing offered is in conformity with the specifications laid down (Yes/No) [10]	Port of Destination [11]	Name of Fertilizer Manufacturer [12]
Muriate of Potash		CIF											
	Total												

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the Bid for and on behalf of _____

Date _____



Bid Security Bank Guarantee

*[insert bank's name, and address of issuing branch or office]*⁴

Beneficiary: Secretary, Ministry of Irrigation (MOI) or his Legal Successor
10th Floor, No. 500, T.B. Jayah Mawatha,
Colombo 10,
Sri Lanka.

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

Bid Security No.: *[insert number]*

We have been informed that *[insert name of the bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated *[insert date (as day, month, and year)]* (hereinafter called "the Bid") for the Supply of Muriate of Potash (MOP) for 2022/23 Maha Season Paddy Cultivation under Invitation for Bids No. IFB/MI/MWSIP/ADB/GDS/MOP FERTILIZER /OCB/2022/037 ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we *[insert name of bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in words]* *[insert amount in figures]* upon receipt by us of your first demand in writing accompanied by a written statement, stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Bid Submission Sheet; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity, (i) fails or refuses to execute the Contract Agreement; or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB.

This guarantee will expire (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful Bidder, or (ii) 28 days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revisions, ICC Publication No. 758.⁵

[Authorized signature(s) and bank's seal (where appropriate)]

⁴ All italicized text is for use in preparing this form and shall be deleted from the final document.

⁵ Or the Purchaser may use "Uniform Rules for Demand Guarantees (URDG), ICC Publication No. 458" as appropriate.

Bid-Securing Declaration

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

Bid No.: *[insert number of bidding process]*

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

To: Secretary, Ministry of Irrigation (MOI) or his Legal Successor
10th Floor, No. 500, T.B. Jayah Mawatha,
Colombo 10,
Sri Lanka.

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Borrower for the period of time of *[insert number of years indicated in ITB 21.2 of the BDS]* starting on the date that we receive a notification from the Purchaser that our Bid-Securing Declaration is executed, if we are in breach of our obligation(s) under the bid conditions, because we

- (a) have withdrawn our Bid during the period of bid validity specified in the Bid Submission Sheet; or
- (b) do not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract Agreement, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) 28 days after the expiration of our Bid.

Signed: *[insert signature of person whose name and capacity are shown]*

In the capacity of *[insert legal capacity of person signing the Bid-Securing Declaration]*

Name: *[insert complete name of person signing the Bid-Securing Declaration]*

Duly authorized to sign the bid for and on behalf of *[insert complete name of the bidder]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Corporate Seal *(where appropriate)*

Name, Address and Contract details of Manufacturer
(original Letter Head by the Manufacturer)

MANUFACTURER'S AUTHORIZATION AND CERTIFICATION

Date: 20.....

Open Competitive Bidding (OCB) No.: MI/MWSIP/ADB/GDS/MOP FERTILIZER/OCB/2022/037

Invitation for Bid (IFB) No.: IFB/MI/MWSIP/ADB/GDS/MOP FERTILIZER /OCB/2022/037

To: Secretary,
Ministry of Irrigation,
10th Floor, No. 500, T.B. Jayah Mawatha,
Colombo 10,
Sri Lanka.

Whereas, We(Name of the Manufacturer) who are official manufacturers of (insert Type of Fertilizer)..... (Quantity)Metric Tons having factories at(Insert full Address of the Manufacturer factories), do hereby authorize(insert the complete name of the bidder) to submit a bid the purpose of which is to provide the following Fertilizer ,to **Ministry of Irrigation (MOI)** or its legal successor of Government of Sri Lanka, represented by the Program Management Unit (PMU) of the Mahaweli Water Security Investment Program (MWSIP) (Purchasers), manufactured by us(insert name and or brief description of the Fertilizer), and to subsequently negotiate and sign the Contract.

We also certify that the specifications of the product and the packing materials are as follows:

(a) Specification of the Product – Muriate of Potash

Moisture	% by mass	-
Water soluble Potassium content (as K ₂ O)	% by mass	-
Sodium (as NaCl) on dry basis	%by mass	-
Magnesium as MgCl ₂ ,	%by mass	-
Arsenic (as As)	mg/kg	-
Cadmium (as Cd)	mg/kg	-
Lead (as Pb)	mg/kg	-
Chromium (as Cr)	mg/kg	-
Mercury (as Hg)	mg/kg	-

For Crystalline

General Requirement -----

Particle size

% by mass passing through a test sieve of aperture size 1.7mm -----

% by mass passing through a test sieve of aperture size 0.25mm -----

For Muriate of Potash:

Specification of Packing :

Test / Unit	Value /Description
1. Dimensions of the sack, mm (a). Length (b). Width	
2. Material and Fabric	
3. Fabric requirements (a). Width of tape, mm. (b). Linear density of tape, tex (c). Construction i. Ends per dm ii. Picks per dm (d). Fabric breaking strength, N (e). Bursting Strength, kN/m ²	
(d). Fabric breaking strength, N	
(e). Bursting Strength, kN/m ² (b). Distance between row of stitches and the edge, mm (c). Depth of fold over seam, mm	
6. Seam Strength, N	
7. Bulk Strength of Sack	
8. Mouth of sack	
9. Inner polythene liner (a). Dimension Length, mm. Width, mm. (b). Material (c). Thickness, μm .	

We also confirm the availability of the tonnage offered for shipment as specified in the above Bid invitation and certify that we possess or shall possess the capability to produce and deliver the tonnage offered. It is understood that the purchaser intends to fully rely on the certificate.

.....
Manufacturer's Name

.....
Authorized Signature with Seal and Name in Print

Date :

Bidder's Qualification

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria), the Bidder shall provide the following information requested in the corresponding Information Sheets.

FOR INSPECTION PURPOSES ONLY

Form ELI - 1: Bidder's Information Sheet

Bidder's Information			
		Information of the Bidder	If the Bidder is a subsidiary or branch, information of any parent company/companies
Names	Full legal name(s)		
	Full trading name(s) (if any)		
Addresses	Registered address(es)		
	Trading address(es)		
	Postal address(es) (if different from trading address)		
Type of organization			
Country of constitution/incorporation/registration			
Year of constitution/incorporation/registration			
Corporate or registration number			
In case of a Joint Venture, legal name of each partner			
Bidder's authorized representative (name, address, telephone number(s), fax number(s) and e-mail address)			
Attached are copies of the following documents: <ol style="list-style-type: none"> 1. In case of a single entity, articles of incorporation or constitution and company incorporation/registration of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2 2. Authorization to represent the firm or Joint Venture named above, in accordance with ITB 22.2 3. In case of a Joint Venture, a letter of intent to form a Joint Venture or Joint Venture agreement, in accordance with ITB 4.1 4. In case of a government-owned enterprise, any additional documents not covered under 1 above required to comply with ITB 4.5 			

Form ELI - 2: Joint Venture Information Sheet

Each member of the Joint Venture must fill out this form separately.

Joint Venture Information			
Bidder's legal name			
		Information of Joint Venture Partner	If any Joint Venture Partner is a subsidiary or branch, information of any parent company/companies
Names	Full legal name		
	Full trading name(s) (if any)		
Addresses	Registered address(es)		
	Trading address(es)		
	Postal address(es) (if different from trading address)		
Type of organization			
Country of constitution/incorporation/registration			
Year of constitution/incorporation/registration			
Corporate or registration number			
Joint Venture Partner's authorized representative information (name, address, telephone number(s), fax number(s) and e-mail address)			
<p>Attached are copies of the following documents:</p> <ol style="list-style-type: none"> Articles of incorporation or constitution and company incorporation/registration of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2 Authorization to represent the firm named above, in accordance with ITB 22.2 In the case of a government-owned enterprise, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB 4.5 			

Form CON – 1: Historical Contract Nonperformance

For Contract type B, each Bidder must fill out this form in accordance with Criteria 2.2.1 and 2.2.3 of Section 3 (Evaluation and Qualification Criteria) to describe any history of nonperforming contracts and pending litigation or arbitration formally commenced against it.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Table 1: History of Nonperforming Contracts			
<p>Choose one of the following:</p> <p><input type="checkbox"/> No nonperforming contracts.</p> <p><input type="checkbox"/> Below is a description of nonperforming contracts involving the Bidder (or each Joint Venture partner if Bidder is a Joint Venture).</p>			
Year	Description	Amount of Nonperformed Portion of Contract (\$ equivalent)	Total Contract Amount (\$ equivalent)
[insert year]	Contract Identification: [indicate complete contract name/ number, and any other identification] Name of Purchaser: [insert full name] Address of Purchaser: [insert street/city/country] Reason(s) for nonperformance: [indicate main reason(s)]	[insert amount]	[insert amount]
Table 2: Pending Litigation and Arbitration			
<p>Choose one of the following:</p> <p><input type="checkbox"/> No pending litigation, arbitration or any other material events impacting the net worth and/or liquidity of the bidder.</p> <p><input type="checkbox"/> Below is a description of all pending litigation, arbitration involving the Bidder or any other material events impacting the net worth and/or liquidity of the bidder (or each Joint Venture partner if Bidder is a Joint Venture).</p>			
Year	Matter in Dispute	Value of Pending Claim in \$ Equivalent	Value of Pending Claim as a Percentage of Net Worth
[insert year]	Contract Identification, as applicable: [indicate complete contract name/ number, and any other identification] Name of Purchaser, parties involved in the material events impacting the net worth and/or liquidity of the bidder: [insert full name] Address of Purchaser, parties involved in the material events impacting the net worth and/or liquidity of the bidder: [insert street/city/country] Matter of Dispute: [indicate full description of dispute] Party who initiated the dispute: [indicate "Purchaser" or "Contractor"] Status: [indicate status of dispute]	[insert amount]	[insert amount]

Note

Table 2 of this form shall only be included if Criterion 2.2.3 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria) is applicable.

Form EXP - 1: Contractual Experience

Fill out one (1) form per contract. Each contract shall be supported by Signed Contract Agreement.

Contractual Experience		
Contract No of	Contract Identification	
Award Date	Completion Date	
Role in Contract	<input type="checkbox"/> Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> Subcontractor	
Total Contract Amount	US\$	
If partner in a joint venture or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Purchaser's name Address Telephone/Fax Number E-mail		
Description of the Similarity in Accordance with Criteria 2.3.1 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria)		
Successful completion as main supplier within the last three (3) years, of at least two (2) contracts each valued at US\$ 40 million or equivalent. with nature, and complexity similar to the scope of supply described in Section 6 (Schedule of Supply)		

Form EXP - 2: Technical Experience

Fill out one (1) form per contract. Each contract shall be supported by Signed Contract Agreement.

Technical Experience	
Name of Product	
Manufacturer:	Address and Nationality:
Requirements in Accordance with Criterion 2.3.2 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria)	
(i) Product has been in production for at least three (3) years	
(ii) Product has been sold a minimum of 40,000 MT of Muriate of Potash (MOP) of similar type and specification over the last three (3) years.	

- Note -

Add pages as necessary. The Purchaser reserves the right to verify authenticity of Bidder submissions.

Form EXP - 3: Production Capacity

Fill out one (1) form per product and manufacturer.

Production Capacity	
Name of Product	
Manufacturer:	Address and Nationality:
Requirements in Accordance with Criterion 2.3.3 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria)	
Production facility 1 (include location):	
Production facility 2 (include location):	
Production facility 3 (include location):	

- Note -

The Purchaser reserves the right to verify authenticity of Bidder submissions.

Form FIN - 1: Historical Financial Performance

Each Bidder must fill out this form.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

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

Information from Balance Sheet

Total Assets (TA)			
Total Liabilities (TL)			
Net Worth (= TA - TL)			
Current Assets (CA)			
Current Liabilities (CL)			
Working Capital (= CA - CL)			

Most Recent Working Capital	To be obtained for the most recent year and carried forward to FIN-3 Line 1; in case of Joint Ventures, to the corresponding Joint Venture Partner's FIN-3:
------------------------------------	---

Information from Income Statement

Total Revenues			
Profits Before Interest and Taxes			
Profits After Interest and Taxes			

Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the immediate **last 3 years**, as indicated above, complying with the following conditions.

- 1) Unless otherwise required by Section 3 of the Bidding Document, all such documents reflect the financial situation of the legal entity or entities comprising the Bidder and not the Bidder's parent companies, subsidiaries or affiliates.
- 2) Historical financial statements must be audited by a certified accountant.
- 3) Historical financial statements must be complete, including all notes to the financial statements.
- 4) Historical financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

- Note -

This form shall only be included if Criterion 2.3.1 (Contract Type A) or 2.4.1 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria) is applicable.

Form FIN - 2: Size of Operation (Average Annual Turnover)

Each Bidder must fill out this form.

The information supplied should be the Annual Turnover of the Bidder or each member of a Joint Venture in terms of the amounts billed to clients for each year for work in progress or completed, converted to US dollars at the rate of exchange at the end of the period reported.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Annual Turnover Data for the Last Three Years			
Year	Amount Currency	Exchange Rate	US\$ Equivalent
Year 1:			
Year 2:			
Year 3:			
Average Annual Turnover			

- Note -

This form shall only be included if Criterion 2.3.2 (Contract Type A) or 2.4.2 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria) is applicable.

Form FIN - 3: Cash Flow Capacity

Specify proposed sources of financing, such as working capital, liquid assets,⁶ lines of credit, and other financial resources (other than any contractual advance payments) available to meet the cash flow requirements indicated under Criterion 2.4.3 (Contract Type B) of Section 3 (Evaluation and Qualification Criteria).

Financial Resources		
No.	Source of financing	Amount (US\$ equivalent)
1	Working Capital (to be taken from FIN-1)	
2	Credit Line^[a]	
3	Other Financial Resources	
	Total Available Financial Resources	

- Note -

[a] To be substantiated by a letter from each bank issuing the line of credit

⁶ Liquid assets mean cash and cash equivalents, short-term financial instruments, short-term available-for-sale-securities, marketable securities, trade receivables, short-term financing receivables, and other assets that can be converted into cash within one (1) year.

Section 5: Eligible Countries

This section contains the list of eligible countries.

Afghanistan	Micronesia, Federated States of
Armenia	Mongolia
Australia	Myanmar
Austria	Nauru
Azerbaijan	Nepal
Bangladesh	New Zealand
Belgium	Niue
Bhutan	Norway
Brunei Darussalam	Pakistan
Cambodia	Palau
Canada	Papua New Guinea
China, People's Republic of	Philippines
Cook Islands	Portugal
Denmark	Samoa
Fiji	Singapore
Finland	Solomon Islands
France	Spain
Georgia	Sri Lanka
Germany	Sweden
Hong Kong, China	Switzerland
India	Taipei, China
Indonesia	Tajikistan
Ireland	Thailand
Italy	The Netherlands
Japan	Timor-Leste
Kazakhstan	Tonga
Kiribati	Turkey
Korea, Republic of	Turkmenistan
Kyrgyz Republic	Tuvalu
Lao PDR	United Kingdom
Luxembourg	United States
Malaysia	Uzbekistan
Maldives	Vanuatu
Marshall Islands	Viet Nam

Section 6: Schedule of Supply

Contents

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4. Drawings	6-25

1. List of Goods and Related Services

Item No.	Name of Goods or Related Services	Description	Unit of Measurement	Quantity
1.0	Fertilizer	Muriate of Potash (MOP) As per the Specification	MT	40,000

Note: Shipping Tolerance shall be +/-5% MT

2. Delivery and Completion Schedule

The delivery period shall start as of _____.

Item No.	Description of Goods or Related Services	Delivery Schedule (Duration)	Location	Required Arrival Date of Goods or Completion Date for Related Services
1.0	Muriate of Potash (MOP)	42 days from the date of Signing of Contract	A ship loading the cargo arrives at a Port of Colombo and inspection certificates at the port of discharge is issued by the purchaser or its agent.	28 October 2022

3. Technical Specifications

Item No.	Name of Goods or Related Services	Technical Description, Specifications, and Standards	Requirement	Bidder's Offer		
				Conformity		Remarks/ Variations if any
				Yes	No	
1.0	Fertilizer Muriate of Potash (MOP)	1.1 Fertilizer Grade	(SLS 644:2014)			
		1.2 Moisture and chemical requirements				
		1.2.1 Moisture content percent by mass	1.0 maximum			
		1.2.2 Water soluble potassium content, as K ₂ O, percent by mass	60 minimum			
		1.2.3 Sodium as NaCl, percent by mass	3.5 maximum			
		1.2.4 Magnesium as MgCl ₂ , per cent by mass	1.0 maximum			
		1.2.5 Methods of analysis	acceptable International standard methods and should be comply with the Sri Lankan Standard.			
		1.3 Limits for potentially toxic elements				
		1.3.1 Arsenic as As, mg/kg	0.3 maximum			
		1.3.2 Cadmium, as Cd mg/kg	0.2 maximum			

		1.3.3 Lead as Pb mg/kg	0.2 maximum			
		1.3.4 Chromium as Cr mg/kg	10 maximum			
		1.3.5 Mercury as Hg mg/kg	0.2 maximum			
		1.3.6 Methods of analysis	<i>acceptable International</i> standard methods and should be comply with the Sri Lankan Standard.			
		1.4 <u>For Crystalline</u>				
		1.4.1 <u>General Requirement</u> Material shall be crystalline It shall be free from visible contamination with clay or grit. and white, light grey or pinkish in colour.				
		1.4.2 <u>Particle size</u> Not less than 65 percent of the material shall passes through a sieve of aperture size of 1.7 mm and not more than 5 percent of the material shall passes through a sieve of aperture size of 0.25mm.				
2.0	Packing Bags In the event of the bag shipment, supplier shall provide 1% of the extra empty bags against the total number of bags, free of charge.	2.1 <u>Dimension of Bags</u>				
		2.1.1 Length	980mm minimum			
		2.1.2 Width	600mm minimum			
		2.2. <u>Material</u> The fabric used in the manufacture of sacks which are not laminated shall be tubular polypropylene fabrics woven on circular looms. The fabric shall be woven to a construction tight enough (without lamination) to prevent excessive contents shifting in the event of bag liner failure.				

		2.3 <u>Specification of Fabric (Crushed)</u>			
		2.3.1 Width of the tape	2.5±0.2 mm		
		2.3.2 Linear density of the tape	100 tex minimum		
		2.4 <u>Construction of the weave</u>			
		2.4.1 Ends per decimeter	38 minimum		
		2.4.2 Picks per decimeter	38 minimum		
		2.4.3 Fabric breaking strength	700 N minimum		
		2.4.4 Bursting strength	1600 kN/m ² minimum		
		2.5 <u>Seam</u> The material used for stitching shall be polypropylene tapes suitably twisted or any other thread suitable for the purpose. The linear density of the stitching yarn shall be at least 1.2 times that of the tape used for making the sack.			
		2.6 <u>Stitching</u> The bottom and top of the sack shall be sewn with a row of chain stitches. The row of stitches from the edge shall be at a minimum distance of 10 mm. The number of stitches per decimeter shall be between 12 and 15. Stitching shall be done with fold over seam, in a way stitches of which so as to pass through a minimum of 4 layers of the fabric. The minimum depth of fold over seam shall be 20 mm.			
		2.7 <u>Seam Strength</u> The seam breaking strength of sack shall be not less than 300 N.			

		<p>2.8 Bulk Strength of the Sack Mark 1 and 2 on each sack on its two flat sides, 3 and 4 at its two stitched sides and 5 and 6 at two of its diagonally opposite corners. Fill the sacks up to its nominal net content with particular packing material or any other suitable material having bulk density equal to that of the intended packing material to be packed in the sack. Stitch the mouth of the sack approximately 100 mm above the top surface of the packed material. If a hoisting device is used, suspend it on the hoisting device so that the lowest point of the sack is at a height of 1.5+0.03 m above the concrete or cemented surface. Drop the sack onto the surface from a constant height of 1.5 m, so that it meets the surface on specified sides and corners in turn as described in table as given below. Drop the sack freely under gravity. Examine for any breakage of the sack after each drop.</p> <table border="1" data-bbox="513 926 1027 1209"> <thead> <tr> <th>Drop No.</th> <th>Side/corner where the surface meet</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Flat side marked 1</td> </tr> <tr> <td>2</td> <td>Stitched side marked 3</td> </tr> <tr> <td>3</td> <td>Corner marked 5</td> </tr> <tr> <td>4</td> <td>Flat side marked 2</td> </tr> <tr> <td>5</td> <td>Stitched side marked 4</td> </tr> <tr> <td>6</td> <td>Corner marked 6</td> </tr> </tbody> </table>	Drop No.	Side/corner where the surface meet	1	Flat side marked 1	2	Stitched side marked 3	3	Corner marked 5	4	Flat side marked 2	5	Stitched side marked 4	6	Corner marked 6			
Drop No.	Side/corner where the surface meet																		
1	Flat side marked 1																		
2	Stitched side marked 3																		
3	Corner marked 5																		
4	Flat side marked 2																		
5	Stitched side marked 4																		
6	Corner marked 6																		
		<p>2.9 Mouth of the sack The mouth of the sack shall be selvaged, hemmed or heat-cut to ensure that the tapes do not fray. In case of hemming, the width of hem shall be not less than 10 mm.</p>																	
		<p>2.10 Inner Polythene liner</p>																	
		<p>2.10.1 Material</p>	<p>Low Density Polyethylene (LDPE)</p>																
		<p>2.10.2 Thickness</p>	<p>50 Micro Meters minimum</p>																
		<p>2.10.3 Length</p>	<p>at least 100 mm more than that of the sack.</p>																

		2.10.4 Width	At least 25mm more than that of the sack.			
		2.11 Bag Markings As per Annexure 1.				
3.0		Certificates that Shall be submitted with the Bid Original Analysis certificate issued by an accredited independent analysis authority and duly authenticated by the Chamber of Commerce or similar institute in country of origin. (Sample certificate is provided in Annexure 2).				

4. **Mode of shipment**

4.1 Supplier shall supply the fertilizer in bulk form and shall be bagged in the Port of discharge, subject to the conditions in paragraph 4.2 below.

4.2 The fertilizer is shipped in bulk to be bagged at the Port of discharge, all expenses related to the bagging operation, including the cost of bags and labor charges shall be met by the supplier and the Shipping Conditions related to the shipment shall continue to be those set out in Annexure 3 to the Conditions of Contract. Supply shall be CIF linear basis on the shipping terms and conditions as per Annexure 03.

4.3 Supplier's shipment schedule shall be as per Annexure 4.

4.4 Port Facilities shall be as per Annexure 5.

5 **Manufacturer's Authorization & Certification and Analysis Certificate.**

5.1 The original Manufacturer's Authorization & Certification completed strictly as per the Form in the Section 4 must be submitted with the Bid. A successful Bidder to whom an Award has been made shall be required to deliver fertilizer only from the Manufacturer specified in the bid and upon whose certificate/s the bid was evaluated and the award made and shall not be allowed to change the Manufacturer.

5.2 The original Analysis Certificate issued by an accredited independent analysis authority under their letter head as per the Annexure 2 hereto, must be submitted with the Bid. The results of the physical and chemical properties of the fertilizer offered in the bid must be confirmed by an independent Analysis Authority and duly authenticated by the Chamber of Commerce or similar institute of the Country of Origin. If Chamber of Commerce will issue a separate certificate to authenticate Analysis Certificate, respective reference Nos. should be clearly indicated in the certificate.

5.3 In the event of the packing materials for bags manufactured in Sri Lanka, the bidder can submit separate Manufacturer's Certificate & Analysis Certificate with the bid only for all parameters of specifications of packing bags.

5.4 The Original Manufacturer's Authorization Certification and Analysis Certificates shall be signed by the authorized signatory with the company rubber seal of the Manufacturer/Accredited Independent Analysis Authority. The name and address of the

authorized signatory shall be indicated under company rubber seal, failing which bid shall be liable for rejection.

- 5.5 In order to confirm the recognition of the particular elements of each fertilizer type shown in the Analysis Certificate shall be issued by an Independent accredited laboratory having ISO 17025 accreditation for testing of all parameters given in the specifications. accredited by a member or a Signatory of IAF (The International Accreditation Forum) or ILAC-MRS (International Laboratory Accreditation Cooperation).
- 5.6 The Manufacture's Authorization and Certification and Analysis Certificate submitted together with the bids will be checked and verified by the Technical Evaluation Committee in order to confirm the authenticity and genuineness of the Certificate submitted prior to signing the contract agreement. Therefore, the following details shall be clearly specified the certificate so submitted. The e-mail address, Telephone Number, Fax Number, Name of the authorized signatory.
- 5.7 The Bidders are advised to submit the genuine certificates to avoid rejection of bid submitted and subsequent action would be taken against the bidders as per the Government Procurement Guideline (please refer www.treasury.gov.lk).
- 5.8 The supplier has the option to ship the cargo from any one of the manufacturer and country of origin submitted at his bid and accepted by the SCAPC. However, any minor changes in this regard after the award by the purchasing entity may be considered which should not have any additional cost impact to purchaser and shall be recommended by the purchasing entity and acceptable to the SCAPC.

6.0 Pre-shipment inspection and Sampling

- 6.1 The supplier shall agree to a pre-shipment inspection of the consignment, by an Independent Surveyor appointed by the purchaser.
- 6.2 The purchaser shall at its expenses arrange drawing & Analysis of reference samples of the fertilizer and of the bags (If bags fertilizer) from each shipment at the Port of Loading by an independent surveyor appointed by the purchaser while loading.

The independent surveyor so appointed by the purchaser should be an internationally recognized accredited Inspection Agency who should have accredited by an Accreditation Agency having membership or Signatory status from International Accreditation Forum (IAF) or ILAC-MRS (International Laboratory Accreditation Cooperation)

The list of registered surveyors in the procurement entity should be submitted to National Fertilizer Secretariat (NFS) Sri Lanka.

- 6.3 The Independent Surveyor shall be required to issue load port survey certificate and draw and seal six separate representative samples of the Fertilizer and of the bags while loading at port to be dealt with as follows:
 - a. 2 samples shall be forwarded to the purchaser;
 - b. 2 samples shall be forwarded to the Supplier;
 - c. 1 sample shall be used for analysis and report; and
 - d. 1 sample shall be retained by the independent surveyor for future reference, and shall arrange to issue the Quality, Quantity and Analysis certificate directly to Director, National Fertilizer Secretariat and copy to both the supplier and the purchaser stating that samples were so drawn, forwarded and retained as aforesaid.
- 6.4 The Independent Surveyor shall thereafter cause the sample to be analyzed immediately and shall authorize the Accredited Analysis laboratory to execute the Analysis Report directly to the Director, National Fertilizer Secretariat through an encrypted e-mail in

addition to the Analysis Report issue to the purchaser with a copy to the supplier by the Independent Surveyor.

6.5 The carrying out of such an analysis shall not relieve the Supplier of the obligation to supply the product in conformity with the specifications set out herein.

6.6 Especially for MOP, if supplier is unable to submit the Manufacturer's Authorization Certification & Analysis Certificate to comply SLSI standards for heavy metals, he shall agree to obtain samples from the Manufacturer's side using load port survey inspector nominated by the SLSI and shipment will be allowed after confirmation of the results to the DNFS.

7.0 Inspection and Sampling at Port of discharge

7.1 On arrival of the cargo at the port of discharge, representative of the supplier and the National Fertilizer Secretariat (NFS) of Ministry of Agriculture will arrange for the drawing and analysis of reference samples of the fertilizer and/or the bags by an accredited analytical laboratory in Sri Lanka selected by the Director, NFS according to the Act No.68 of 1988 and for the issue of an Analysis Certificate within 14 working days time period.

7.2 In the event that the Analysis Certificate issued to the Director, NFS by the Laboratory selected according to the Part 2 Clause 10.1 indicates that there is a deficiency nutrient content or other non-conformity with the bid specifications, the supplier and the purchaser shall jointly arrange for the drawing of samples under the instructions given by the Director, NFS to forward same to an Accredited Analytical Laboratory having SLAB (Sri Lanka Accreditation Board) scope for the test that specific parameter/parameters that found as non-compliance to the SLSI Standards.

Such Independent Laboratory findings shall be final & binding on both the purchaser and the supplier.

If found any deviation from the SLSI standards after being implemented above procedure, supplier shall be responsible for the arrangements to re-ship this cargo out of Sri Lanka at the total cost of the supplier including the total costs incurred by the Colombo Commercial Fertilizer (CCF) / Ceylon Fertilizer Company (CFC) to clear the cargo. The re-shipment of the rejected cargo will be permitted only after receiving the same fertilizer in the same quantity, which complying with the SLSI standards to the CCF/CFC to the approved contracted price for the failed cargo within the time frame specified by the purchaser.

7.3 Thereafter the supplier should undertake the full responsibility to replace the entire rejected cargo immediately at the cost of supplier including all other financial consequences within the time frame specified by the purchaser. The same Terms and Conditions of this Contract Agreement signed for the supply will be applicable and effective for this purpose.

7.4 The cost of analysis of the joint reference sample/s by the independent laboratory shall be borne as follows:-

- a. if the Report confirms that there is a deficiency in the sample/s, the full cost shall be borne by the supplier;
- b. if the Report confirms that there is no deficiency in the sample/s, the full cost shall be borne by the purchaser.

An Inspection Authority appointed by the purchaser shall conduct a survey of the cargo alongside the vessel and at the purchaser's warehouse at the commencement of discharge and issue a report thereon.

- 7.5 In the event that the Inspecting Authority so appointed reports that there is a variance between the actual weight and the weight stipulated in the contract, the supplier shall nominate a surveyor at his expense to conduct a Joint Survey with the Inspecting Authority appointed by the Purchaser. Where a joint survey is conducted, the Inspecting Authority shall be required to notify the purchaser and the supplier of the findings of such 'Joint Survey'.
- 7.6 Where the supplier fails to appoint a surveyor to conduct a "Joint Survey" within seven (07) days, the decision of the Inspecting Authority appointed by the purchaser shall be final and binding on the supplier and the supplier shall be held liable to make good forthwith the cost of replacement of such shortage as estimated by the Purchaser, notwithstanding any certificate issued previously by any other Authority.

8. Shipping Terms

- 8.1. Shipping Terms shall be as per Annexure 3.
- 8.2. Vessels chartered for carriage of fertilizer, shall carry cargo consigned exclusively to the purchaser, and the supplier shall ensure that Cargo consigned to any other party is not loaded on such vessels, unless prior written approval is obtained from the purchaser. Cargo should not be shipped in country-crafts.
- 8.3. In the case of break bulk cargo, the Certificate of Delivery of Fertilizer issued by Sri Lanka Ports Authority (SLPA) will be final and conclusive proof of the number of bags shipped.
- 8.4. In the event of any short delivery of cargo, the supplier shall be fully responsible for the shortage and the Purchaser shall be entitled to claim from the supplier the full value of the short delivered cargo together with any other additional cost involved.

Annexure 1

Bag Markings

Marking for Paddy		Page no.
Front Side		
➤ Muriate of Potash (MOP)	- 60% K ₂ O	6-26
Back Side		
➤ Muriate of Potash (MOP)	- 60% K ₂ O	6-27

Annexure 2

Forms for Analysis Certificates

FOR INSPECTION PURPOSES ONLY

ANALYSIS CERTIFICATE

Name, Address and Contract details of Manufacturer of Accredited Independent Analysis Authority
(original Letter Head by the Analysis Authority)

TO WHOM IT MAY CONCERN

With reference to Manufacturer's Certificate of M/s.....(Name of the Manufacturer).....No.....date.....we hereby confirm with a samples of Muriate of Potash by(Name of the Bidder) offered from (Name and address of the Manufacturer) under Bid No:was analyzed at(Name and Address of Laboratory), for physical and chemical properties and the results are as follows:-

(a) Test results of the Fertilizer– Muriate of Potash

Test	Unit	Method	Result
Moisture	% by mass		
Water soluble Potassium content (as K ₂ O)	% by mass		
Sodium (as NaCl) on dry basis	% by mass		
Magnesium as MgCl ₂ ,	% by mass		
Arsenic (as As)	mg/kg		
Cadmium (as Cd)	mg/kg		
Lead (as Pb)	mg/kg		
Chromium (as Cr)	mg/kg		
Mercury (as Hg)	mg/kg		
<u>Particle size For Crystalline</u>			
passed through a sieve of 1.7 mm	% by mass		
passed through a sieve of 0.25 mm	% by mass		
<u>For Crystalline</u>			
General Requirements			

(b). Test results of the Packing Bags

Test / Unit	Value /Description
1. Dimensions of the sack, mm	
(a). Length	
(b). Width	
2. Material and Fabric	

For Muriate of Potash:

3. Fabric requirements	
(a). Width of tape, mm.	
(b). Linear density of tape, tex	
(c). Construction	
i. Ends per dm	
ii. Picks per dm.	
(d). Fabric breaking strength, N	
(e). Bursting Strength, KN/m ²	
4. Seam	
5. Stitching (bottom)	
(a) No. of stitches per 10 cm.	
(b). Distance between row of stitches and the edge, mm	
(c). Depth of fold over seam, mm	
6. Seam Strength, N	
7. Bulk Strength of Sack	
8. Mouth of sack	
9. Inner polythene liner	
(a). Dimension	
Length, mm.	
Width, mm.	
(b). Material	
(c). Thickness, μm.	

.....
 Signature
 (Name and Designation of Signatory)
 (To be signed on official seal)

Authentication by,
 (Name and Address of authenticating Authority.)

.....
 (Chamber of Commerce of the Country of Origin).
 (To be signed on official seal)

-- Note --

All italicized text is for use in preparing this form and shall be deleted from the final document.

This Analysis Certificate should be signed by a person with the proper authority to sign documents that are binding on the Accredited Independent Analysis Authority.

In order to confirm the recognition of the particular elements of each fertilizer type shown in the Analysis Certificate shall be issued by an Independent accredited laboratory having ISO 17025 accreditation for testing of all parameters given in the specifications. accredited by a member or a Signatory of IAF (The International Accreditation Forum) or ILAC-MRS (International laboratory Accreditation Cooperation)

The e-mail address, telephone number, fax number, name of the authorized signatory shall be clearly specified.

Annexure 3

Shipping Terms

Shipping Terms

1. Prior to confirmation of fixture for loading, the Supplier shall furnish Purchaser the details of vessel's name, IMO number, Flag, Classification Society, P&I Club, year of built, DWT, NRT, GRT, LOA, Beam, number of Holds / Hatches, number of Derricks / Cranes, capacity of Derricks/Cranes, arrival draft for final confirmation of acceptance for the carriage.
2. Cargo shall be shipped in vessels registered under the Flags, which are acceptable to Democratic Socialist Republic of Sri Lanka, only.
3. The performing vessel shall be classified with an internationally accepted Classification Society such as Lloyd's Register, American Bureau of Shipping or equivalent acceptable by the purchaser and underwriters. The vessel shall be in the highest category of classification.
4. Supplier shall ensure that the vessel is covered with a comprehensive international P&I Cover, which shall be acceptable to Sri Lanka Ports Authority for getting the approval for discharging. The P&I Cover shall not be an ad hoc addition to the Hull & Machinery Insurance Policy of the ship. The P&I Insurance of the ship shall cover following;
 - (a) Wreck removal
 - (b) Port/jetty property damages liabilities
 - (c) Oil pollution
 - (d) Crew liabilities
 - (e) Cargo liabilities
 - (f) Third party liabilities
5. Vessel's age shall not be over 15 years. Any extra insurance premiums on cargo on account of vessel's age, Flag, and Class or otherwise shall be for vessel's owners / Supplier's account.
6. Supplier shall give notice to Purchaser immediately on signing of the B/Ls, sailing date, approximate ETA Colombo, Sri Lanka, Nett/Gross weight and total number of bags and the tonnage loaded on board the ship (Hatch/Hold wise) to purchaser. The Master or the Agent shall give advice 10 days provisional notice, 07 days definite notice, followed by 72/48 and 24 hours definite Notice of Arrival (N.O.A.) of the vessel at discharge port. The details of Contact Nos. of the Purchaser are given below:

Attention: Program Director, Program Management Unit (PMU),
Mahaweli Water Security Investment Program (MWSIP),

Address: Program Management Unit (PMU),
No, 493 1/1, T. B. Jayah Mawatha,
Colombo 10,
Sri Lanka.

Telephone No: +94 11 2675810

Facsimile No: +94 11 2675227

E-mail: ebid.mwsip@gmail.com

7. Suppliers shall Invoice for the Bill of Lading quantity of cargo immediately on sailing of the vessel from Load Port, and followed up by sending the advance document (non-negotiable copy Bill of Lading and Invoice) by courier service to reach the Purchaser at least 3 working days, from the date of shipment to comply with Sri Lanka Customs and Sri Lanka Ports Authority formalities and finalization of clearance documents for berthing of the vessel. In the event of any failure in this regard, laytime shall commence to count only after finalization of Sri Lanka Customs / Sri Lanka Ports Authority documentations and only on acceptance of Notice of Readiness (**NOR**) and berthing of the vessel.
8. Discharging of cargo shall be in one (01) safe Port and 1-2 safe berths. Any shifting between 1 -2 discharging berths shall not count as laytime or time on demurrage and all shifting expenses shall be on owner's account.
9. Vessel's maximum arrival draft at the discharging Port in Colombo shall not exceed 9.15m in salt water. In case of any need for lightening of the vessel due to arrival draft being over 9.15m, all the expenses for such lightening shall be on Supplier's account and the time shall not count as laytime or time on demurrage, unless deeper draft has been mutually agreed prior to the shipment. NOR shall deem to have been accepted when the vessel achieves the maximum draft of 9.15 m.
10. Notice of Readiness (**NOR**) at discharge port to be tendered during normal working hours (0830 hrs - 1615 hrs) Monday to Friday after vessel being granted free pratique, and ready in all respect to discharge the cargo from all hatches. In the event of bulk cargo, it shall be ready to commence the bagging operation in all respect. The time shall count from 1400 hrs same day if Notice of Readiness (**NOR**) is tendered and accepted before 1200 hrs, and at 0800 hrs on the following day if the **NOR** is tendered and accepted after 1200 hrs. If all hatches/hooks are not available for discharging on arrival, separate Notice of Readiness shall be tendered for the hatches/hooks available subsequently, as and when the hatches are available and time to count as above i.e. 1400 hrs or 0800 hrs. Master or his discharge port agent shall record in the NOR the Number of hatches/hooks workable on arrival and their quantities stowed.
11. Notice of Arrival (**NOA**) shall be tendered on arrival of the vessel outer harbor. However, laytime shall count after Notice of Readiness (**NOR**) is tendered and accepted according to Clause No. 7 & 10. The time lost by the vessel, which is having the arrival draft not greater than 9.15m, for waiting outside the harbor for a berth, shall count as laytime. Normal exclusions from laytime are applicable in respect of waiting time [Master or the Chief Officer of the vessel shall record the raining times during the waiting time and shall advise the discharge port agent to incorporate such raining times in the statement of facts (**SOF**)].

Waiting time for a berth of a vessel having its arrival draft greater than 9.15m, shall not count as laytime or time on demurrage. Waiting time to be counted and added at the beginning of the computation and waiting time will be from the time of the vessel arriving at the outer harbor, to the time vessel heaves anchor to proceed to the discharging berth. Master or his agent shall notify receivers in writing of the time at which the vessel arrived and anchored off port, and the time vessel heaves anchor to proceed to alongside the berth. In the event of bagging bulk cargo at Colombo port, all 4 machines shall be ready at the time of berthing and issuing Notice of Readiness (**NOR**). According to the availability of workable machines, pro-rata reduction will be done to the laytime computation.

12. In instances, where the vessel carries cargo to other consignees, the Supplier/ Master shall ensure that the cargo of the Purchaser is stowed evenly in hatch holds to commence discharging of cargo upon berthing. Any waiting time, to be pro-rated to the tonnage consigned to each consignee.

However, cargo could be loaded only on the condition that prior approval must be obtained from the Purchaser.

13. In case of any uneven distribution of cargo exceeding 20% between any hatch holds, laytime shall cease to count on completion of each hatch, and the rate of discharge shall be pro-rated.

14. Bulk Cargo - Bagging at Discharge Port

Discharge rate for bulk cargo shall be 2,500MT for bagging at discharge port per WWD of 24 consecutive hours, Sundays and local holidays excluded even if used (PWWD SHEX EIU) on the basis of 4 workable machines and eight delivery points. If lesser number of machines/delivery points are made available or 8 delivery points are not workable simultaneously, pro-rata reduction shall be made according to the availability of machines. Time from 1200 hrs on Saturday or day preceding a holiday to 0800 hrs on Monday or next working day will not be counted as laytime.

15. Vessel shall provide and maintain sufficient working order free of expense to the Purchaser, sufficient and suitable Gear for discharging simultaneously. All hatches shall be equipped with efficiently working Derricks/Cranes capable of lifting minimum capacity of 3 MT and maximum of 10 MT and shall be able to operate three (03) hatches/hooks simultaneously, and deviation from this requirement of lifting capacity shall be with prior written approval from the purchaser. Vessel shall give free use of Derricks/Cranes with full power, supply light on-board for night work, if required, free of expense to Purchaser. Owners shall guarantee and ensure that all cargo Gear Certificates are valid during the period of carriage and discharging of cargo at the port of discharge. Laytime to be adjusted on account of the slow movement of Derricks/Cranes, if observed that the vessel is not being supplied with full power to work the gear efficiently. In the event that the vessel fails to provide sufficient power to operate discharging gear, Purchaser reserves the right to engage Shore Crane/s and the Supplier shall bear all charges and any other extra expenses.
16. All hatches shall be equipped with McGregor steel type mechanical hatch covers.
17. Hatches of over 12 m in length and equipped with more than one Derrick / Crane capable of discharging cargo from forward and after part of the hatches simultaneously, shall be considered as two hatches.
18. First opening and last closing of hatches, removing and fixing of beams and rigging of gear during the discharging operations, shall be always done by and paid by owners and time not to count as laytime or time on demurrage.
19. If cargo is loaded in deep tanks, Alleyways, Lockers and in spaces not accessible to ship's Gear and consequently if there are any extra expenses incurred at discharge port, all such expenses shall be on owner's / Supplier's account, and time shall not count as laytime or time on demurrage. Supplier shall ensure that cargo is properly stowed, and in the event, cargo is loaded haphazardly and unevenly or wet/damaged condition, which could hamper the smooth discharging of cargo, laytime shall be adjusted by the Purchaser as determined by the Joint Survey nominated by both parties accordingly. This information shall be incorporated in the Statement of Facts by the Receiver's Agent duly authenticated by the Master; or otherwise, the Sri Lanka Ports Authority Report (AF7) shall be the final and binding document to all the parties concerned to compute the laytime.

20. Only the discharging expenses on cargo at the port of discharge will be on Purchaser's/ Receiver's account and all other Customary dues, Harbor/Tonnage, berthing expenses, crew expenses at discharge port shall be on vessel's owner's account. **Suppliers shall ensure that vessel owners shall arrange all Sri Lanka Ports Authority payments payable for vessel's stay in Port of Colombo, Sri Lanka and settled prior to arrival and obtain berthing allocation for the vessel from Control Room, Sri Lanka Ports Authority.**

21. Demurrage/Despatch/Short Delivery

The minimum/maximum and equal Demurrage/Despatch rate at the discharge port shall be only United State Dollars (US\$) 2,000/= for pre-bagged cargo and USD 4,000/= for bulk cargo bagged. Supplier shall ensure to recover from the vessel owners of all claims on Despatch, claim on vessel surcharge, claim on short delivery of cargo, which shall be based on the Statement of Facts issued by the master of the vessel or the certificate of delivery of fertilizer issued by SLPA, or any other claims receivable by the Purchaser/Consignee, and be responsible for remittance to the Purchaser's Bank Account. This settlement shall be made within 30 days from the date of claim in the absence of any dispute. In the event of a dispute, claim shall be settled within 45 days of the resolution of such disputes, and any delay in settlement would be subject to an interest charge at 03 months' SOFR Rate based on the claim/s lodged by the Purchaser, from the date of claim until the date of full and final settlement is made. The applicable date shall be the date of payment made by the supplier and the rate shall be US\$ selling rate published by the Central Bank of Sri Lanka on date of payment.

22. Suppliers shall appoint Ceylon Shipping Corporation Ltd., at the time of confirmation of acceptance of the vessel for the carriage to act as discharge port Receivers Agent/Charterer's at Colombo, for carrying vessel, with owners paying customary dues as per Ceylon Association of Shipping Agents Tariff. Owners have the liberty to appoint protective agents on their own and on their account.

23. In the absence of specific stipulation under this Contract, stipulations in the GENCON Charter party Terms (Revised in 1972 and 1976) shall be applicable herein.

24. Purchaser shall ensure that the shipments are covered by internationally reputed underwriters, immediately on acceptance of vessels for the carriage of cargo under FOB or C&FFO Contracts.

Annexure 4

Supplier's Shipment Schedule

FOR INSPECTION PURPOSES ONLY

Suppliers shipment schedule

Period of Delivery [1]	Vessel Size (Mt) [2]	Port of Destination [3]	Port of Origin [4]	expected date BL [5]	expected berth to the destination port [6]

Authorized Signature & the Official Seal :

Name of the Bidder :

Address :

Telephone No. : fax:

E-mail Address :

Date :

Annexure 5

Port Facilities

FOR INSPECTION PURPOSES ONLY

Port Facilities

Port Restrictions at Colombo/ Available berths.

Quay-ECT 2

Maximum permissible LOA 200 m , Draft 18.0 m and no Beam and Air Draft restrictions.

New North Pier (NNP)

Maximum permissible LOA 200 m , Draft 10.3m (New North Pier / NNP) and no Beam and Air Draft restrictions.

Unity Container Terminal (UCT)

Maximum permissible LOA 180 m, Draft 10 m and no Beam and Air Draft restrictions. Further, if the vessel is arriving with 9.15m Draft, there will be more option of berthing arrangement

Basic Requirements for quay side bagging:

1. Vessel needs to be equipped with **Cranes or Single swinging Derricks** capable of not less than 20 cycles per hour with SWL of 15m or more.
2. The vessel Gears needs to have a **minimum outreach of 5.5 m** from vessel's rails.
3. The vessel Gears need to have a **minimum water line to hook distance (clearance) of 18m** of the normal working angel of the Gear on arrival.
4. The vessel Owners need to guarantee that vessel's Cranes are able to serve **ALL holds** simultaneously.

4. Drawings

FOR INSPECTION PURPOSES ONLY



ශ්‍රී ලංකා රජය
இலங்கை அரசாங்கம்
Government of Sri Lanka

කෘෂිකර්ම අමාත්‍යාංශය
விவசாய அமைச்சு
Agriculture Ministry

පොහොර සහනාධාරය.
මෙම භාණ්ඩය පොදු දේපළ පනතට ගැනෙන්නකි.
අවහාලිතා නොකරන්න.

உர மானியம்.
இப்பொருள் பொதுமக்களின் சொத்து.
வீண் விரயம் செய்யாதீர்

Subsidy Fertilizer
This commodity is a public property.
Do not misuse.

කරුණාකර මෙම පොහොර මළ නැවත භාවිතා කිරීම,
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ගබඩා කිරීමට යොදා නොගත යුතුය

பையினை மீள் பயன்படுத்தல், மீள் சுழற்சி மற்றும்
மறு பயன்பாட்டினை உறுதி செய்யுங்கள். உணவு மற்றும்
உணவு பயிர்கள் சேமிப்பதற்கு இப் பையினை பயன்படுத்த வேண்டாம்

Please reuse, recycle and repurpose of this bag responsibly.
Do not use the bag to store food/food crops

Muriate of Potash, K₂O, 60% by mass

Muriate of Potash, K₂O, 60% by mass

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Net Weight
Contract No

MFD

Accredited Analysis Certificate:

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Hazards	
NFPA 704 (fire diamond)	
Flash point	Non-flammable
Lethal dose or concentration (LD, LC):	
LD ₅₀ (median dose)	2600 mg/kg (oral, rat) ^[6]
Safety data sheet (SDS)	ICSC 1450 ↗

Name & Address of the Manufacturer

மூலிகை கட்டா உபயோகக் கருவிகளை விற்பனை
 பயன்பாட்டிற்கான குறிப்புகள் பத்திரத்தை பார்க்கவும்
 See the instruction sheet for use

Section 7: General Conditions of Contract

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1. Definitions

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

- (a) "Contract" means the Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendixes, and all documents incorporated by reference therein.
- (b) "Contract Documents" means the documents listed in the Agreement, including any amendments thereto.
- (c) "Contract Price" means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (d) "Day" means calendar day.
- (e) "Delivery" means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the Contract.
- (f) "Completion" means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- (g) "Eligible Countries" means the countries and territories eligible as listed in Section 5.
- (h) "GCC" means the General Conditions of Contract.
- (i) "Goods" means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (j) "Purchaser's Country" is the country specified in the Special Conditions of Contract (SCC).
- (k) "Purchaser" means the entity purchasing the Goods and Related Services, as specified in the SCC.
- (l) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
- (m) "SCC" means the Special Conditions of Contract.
- (n) "Subcontractor" means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.
- (o) "Supplier" means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Supplier.

- (p) "ADB" is the Asian Development Bank.
- (q) "The Site," where applicable, means the place named in the SCC.
- 2. Contract Documents**
- 2.1 Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.
- 3. Fraud and Corruption**
- 3.1 If the Purchaser determines, based on reasonable evidence, that the Supplier has engaged in corrupt, fraudulent, collusive or coercive practices, or other integrity violations, including the failure to disclose any required information which constitutes a fraudulent practice, in competing for or in executing the Contract, then the Purchaser may, after giving 14 days' notice to the Supplier, terminate the Contract and expel him from the Site, and the provisions of Clause 35 shall apply as if such termination had been made under Sub-Clause 35.1(a) (iii) [Termination].
- 3.2 ADB requires Borrowers (including beneficiaries of ADB-financed activity) and their personnel, as well as firms and individuals participating in an ADB-financed activity, including but not limited to, Bidders, Suppliers, and Contractors, agents, subcontractors, sub consultants, service providers, sub suppliers, manufacturers (including their respective officers, directors, employees and personnel) under ADB-financed contracts to observe the highest standard of ethics during the procurement and execution of such contracts in accordance with ADB's Anticorruption Policy (1998, as amended from time to time). In pursuance of this policy, ADB
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- (v) "abuse" means theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard;
- (vi) "conflict of interest" means any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations; and

- (vii) "integrity violation" is any act, as defined under ADB's Integrity Principles and Guidelines (2015, as amended from time to time), which violates ADB's Anticorruption Policy, including (i) to (vii) above and the following: violations of ADB sanctions, retaliation against whistleblowers or witnesses, and other violations of ADB's Anticorruption Policy, including failure to adhere to the highest ethical standard.
 - (b) will reject a proposal for award if it determines that the Bidder recommended for award or any of its officers, directors, employees, personnel, sub consultants, subcontractors, service providers, suppliers or manufacturers has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;
 - (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation, including by failing to inform ADB in a timely manner at the time they knew of the integrity violations;
 - (d) will impose remedial actions on a firm or an individual, at any time, in accordance with ADB's Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed, -administered, or -supported activities or to benefit from an ADB-financed, -administered, or -supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations; and
 - (e) will have the right to require that a provision be included in bidding documents and in contracts financed, administered, or supported by ADB, requiring Bidders, suppliers and contractors, consultants, manufacturers, service providers and other third parties engaged or involved in ADB-related activities, and their respective officers, directors, employees and personnel, to permit ADB or its representative to inspect the site and their assets, accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.
- 3.3 All Bidders, consultants, contractors, suppliers, manufacturers, service providers, and other third parties engaged or involved in ADB-related activities and their respective officers, directors, employees and personnel, are obliged to cooperate fully in any investigation when requested by ADB to do so. As determined on a case by case basis by ADB, such cooperation includes, but is not limited to, the following:
- (a) being available to be interviewed and replying fully and truthfully to all questions asked;
 - (b) providing ADB with any items requested that are within the party's control including, but not limited to, documents and other physical

objects;

- (c) upon written request by ADB, authorizing other related entities to release directly to ADB such information that is specifically and materially related, directly or indirectly, to the said entities or issues which are the subject of the investigation;
- (d) cooperating with all reasonable requests to search or physically inspect their person and/or work areas, including files, electronic databases, and personal property used on ADB activities, or that utilizes ADB's Information and Communications Technology (ICT) resources or systems (including mobile phones, personal electronic devices, and electronic storage devices such as external disk drives);
- (e) cooperating in any testing requested by ADB, including but not limited to, fingerprint identification, handwriting analysis, and physical examination and analysis; and
- (f) preserving and protecting confidentiality of all information discussed with, and as required by, ADB.

3.4 All Bidders, consultants, contractors and suppliers shall require their officers, directors, employees, personnel, agents to ensure that, in its contracts with its sub consultants, Subcontractors and other third parties engaged or involved in ADB-related activities, such sub consultants, Subcontractors and other third parties similarly are obliged to cooperate fully in any investigation when requested by ADB to do so.

3.5 The Supplier shall permit ADB or its representative to inspect the Supplier's site, assets, accounts and records and other documents relating to the bid submission and contract performance of the Supplier and to have them audited by auditors appointed by ADB, if so required by ADB.

3.6 The Supplier undertakes that no fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the bid, have been given or received in connection with the procurement process or in the contract execution.¹

4. Interpretation

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

4.2 Incoterms

- (a) The meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
- (b) EXW, CIF, CIP, and other similar terms, shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce at the date of the Invitation for Bids or as specified in the SCC.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations, and agreements (whether written or oral) of parties with respect

¹ The undertaking also applies during the period of performance of the contract.

thereto made prior to the date of Contract.

4.4 Amendment

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

4.5 Nonwaiver

(a) Subject to GCC Subclause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

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

4.6 Severability

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

5. Language

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

5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

6. Joint Venture

6.1 If the Supplier is a Joint Venture all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the Joint Venture. The composition or the constitution of the Joint Venture shall not be altered without the prior consent of the Purchaser.

7. Eligibility

7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

7.2 All Goods and Related Services to be supplied under the Contract and financed by ADB shall have their origin in Eligible Countries. For the purpose of this clause, "country of origin" means the country where the goods have been grown, mined, cultivated, produced,

manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components.

- 8. Notices**
- 8.1 Any Notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term "in writing" means communicated in written form with proof of receipt.
- 8.2 A Notice shall be effective when delivered or on the Notice's effective date, whichever is later.
- 9. Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's country, unless otherwise specified in the SCC.
- 10. Settlement of Disputes**
- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If the parties fail to resolve such a dispute or difference by mutual consultation within 28 days from the commencement of such consultation, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.
- 11. Scope of Supply**
- 11.1 Subject to the SCC, the Goods and Related Services to be supplied shall be as specified in Section 6 (Schedule of Supply).
- 11.2 Unless otherwise stipulated in the Contract, the Scope of Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in the Contract.
- 12. Delivery**
- 12.1 Subject to GCC Subclause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Section 6 (Schedule of Supply). The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.
- 13. Supplier's Responsibilities**
- 13.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.
- 14. Purchaser's Responsibilities**
- 14.1 Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 14.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with GCC Subclause 14.1.
- 15. Contract Price**
- 15.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- 15.2 Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any

price adjustments authorized in the SCC.

16. Terms of Payment

16.1 The Contract Price shall be paid as specified in the SCC.

16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all the obligations stipulated in the Contract.

16.3 Payments shall be made promptly by the Purchaser, no later than 60 days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it.

16.4 The currency or currencies in which payments shall be made to the Supplier under this Contract shall be specified in the SCC.

17. Taxes and Duties

17.1 For goods supplied from outside the Purchaser's country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's country.

17.2 For goods supplied from within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

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

18. Performance Security

18.1 The Supplier shall, within 28 days of the notification of Contract award, provide a Performance Security for the due performance of the Contract in the amounts and currencies specified in the SCC.

18.2 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.

18.3 The Performance Security shall be denominated in the currencies of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the forms stipulated by the Purchaser in the SCC, or in another form acceptable to the Purchaser.

18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than 28 days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

19. Copyright

19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein 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.

20. Confidential Information

20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the

Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the Contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

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

- (a) the Purchaser or Supplier needs to share with ADB or other institutions participating in the financing of the Contract;
- (b) now or hereafter enters the public domain through no fault of that party;
- (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

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

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

21. Subcontracting

21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

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

22. Specifications and Standards

22.1 Technical Specifications and Drawings

- (a) The Supplier shall ensure that the Goods and Related Services comply with the technical specifications and other provisions of the Contract.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any

modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

- (c) The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section 6 (Schedule of Supply) and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Goods.

22.2 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Section 6 (Schedule of Supply). During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

23. Packing and Documents

23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the final destination of the Goods and the absence of heavy handling facilities at all points in transit.

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

24. Insurance

24.1 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 or in the manner specified in the SCC.

25. Transportation

25.1 Unless otherwise specified in the SCC, obligations for transportation of the Goods shall be in accordance with the Incoterms specified in Section 6 (Schedule of Supply).

26. Inspections and Tests

26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in Section 6 (Schedule of Supply).

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

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

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

- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes, and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Subclause 26.4.
- 26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Subclause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

27. Liquidated Damages

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

28. Warranty

- 28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2 Subject to GCC Subclause 22.1, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

- 28.3 Unless otherwise specified in the SCC, the warranty shall remain valid for 12 months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for 18 months after the date of shipment or loading in the country of origin, whichever period concludes earlier.
- 28.4 The Purchaser shall give Notice to the Supplier, stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 28.5 Upon receipt of such Notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 28.6 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.

29. Patent Indemnity

- 29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Subclause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of

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

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

- 29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Subclause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Purchaser within 28 days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses

incurred in so doing.

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

30. Limitation of Liability

30.1 Except in cases of gross negligence or willful misconduct,

- (a) neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort, or otherwise, shall not exceed the amount specified in the SCC, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement.

31. Change in Laws and Regulations

31.1 Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

32. Force Majeure

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

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

- 32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 33. Change Orders and Contract Amendments**
- 33.1 The Purchaser may at any time order the Supplier through Notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Supplier.
- 33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery and Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within 28 days from the date of the Supplier's receipt of the Purchaser's change order.
- 33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 34. Extensions of Time**
- 34.1 If at any time during performance of the Contract, the Supplier or its Subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. 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, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless an extension of time is agreed upon, pursuant to GCC Subclause 34.1.
- 35. Termination**
- 35.1 Termination for Default
- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by Notice of default sent to the Supplier, may terminate the Contract in whole or in part,
 - (i) if the Supplier fails to deliver any or all of the Goods

within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34; or

- (ii) if the Supplier fails to perform any other obligation under the Contract.
 - (iii) if the Supplier, in the judgment of the Purchaser has engaged in integrity violations, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), 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.

35.2 Termination for Insolvency

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, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.

35.3 Termination for Convenience

- (a) The Purchaser, by Notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The Notice of termination shall specify that termination is for the 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.
- (b) The Goods that are complete and ready for shipment within 28 days after the Supplier's receipt of the Notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect
 - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

- 36. Assignment** 36.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.
- 37. Respectful Work Environment** 37.1 The Contractor shall ensure that its employees and Subcontractors observe the highest ethical standards and refrain from any form of bullying, discrimination, misconduct and harassment, including sexual harassment and shall, at all times, behave in a manner that

creates an environment free of unethical behavior, bullying, misconduct and harassment, including sexual harassment. The Contractor shall take appropriate action against any employees or Subcontractors, including suspension or termination of employment or sub-contract, if any form of unethical or inappropriate behavior is identified.

- 37.2 The Contractor shall conduct training programs for its employees and Subcontractors to raise awareness on and prevent any form of bullying, discrimination, misconduct, and harassment including sexual harassment, and to promote a respectful work environment. The Contractor shall keep an up to date record of its employees and subcontractors who have attended and completed such training programs and provide such records to the Purchaser at their first written request.

Section 8: Special Conditions of Contract

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

GCC 1.1(j)	The Purchaser's country is: The Democratic Socialist Republic of Sri Lanka
GCC 1.1(k)	The Purchaser is: Ministry of Irrigation (MOI) or its legal successor of Government of Sri Lanka, represented by the Program Management Unit (PMU) of the Mahaweli Water Security Investment Program (MWSIP)
GCC 1.1 (q)	The Site is: Ministry of Irrigation (MOI), No. 493 1/1, T.B. Jayah Mawatha, Colombo – 10, Sri Lanka.
GCC 4.2 (b)	The version of Incoterms shall be: 2010
GCC 5.1	The language shall be: English The language for translation of supporting documents and printed literature is: English
GCC 8.1	For notices , the Purchaser's address shall be: Attention: Program Director, Mahaweli Water Security Investment Program (MWSIP), Address: Program Management Unit (PMU), No, 493 1/1, T. B. Jayah Mawatha, Colombo 10, Sri Lanka. Telephone No: +94 11 2675810 Facsimile No: +94 11 2675227 E-mail: ebid.mwsip@gmail.com
GCC 9.1	The governing law shall be: The laws in force in the Democratic Socialist Republic of Sri Lanka
GCC 10.2	The formal mechanism for the resolution of disputes shall be: In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the Arbitration Act No. 11 of 1995 of Sri Lanka. Place of arbitration: Colombo

GCC 11.1	The Scope of Supply shall be defined in: Section 6 (Schedule of Supply)
GCC 12.1	<p>Details of shipping and documents to be furnished by the Supplier:</p> <p>Payment will be made based on the LC open by the Purchaser bank with the following documents, The supplier shall forward to the purchaser the following documents in triplicate (original + 2 certified copies), by courier within 3 days from the date of shipment:</p> <ol style="list-style-type: none"> a. the Invoice, including invoice value and shipping marks showing the number of bags, Gross and Net weights of bags with price and consignment, price with rate per Metric Ton. b. the clean shipping freight prepaid Bill of Lading, showing number of bags, Gross and Net weights of consignment, shipped. <p>Please note the following-</p> <p>In the case of CIF shipments, the Bill of Lading should indicate that freight has been prepaid.</p> <p>In the case of bulk cargo in bags form shipment where the supplier brings the packing material (bags) in the same vessel, details of such packing material should not be included in the Bill of Lading. The Supplier is required to arrange a separate shipment for this purpose at his cost without involving the purchaser.</p> <ol style="list-style-type: none"> c. The load port certificate issued by the Independent Surveyor (Inspection agency). d. the Pre-shipment Analysis Certificate issued by the Independent Surveyor, confirmed by the Director, National Fertilizer Secretariat, Sri Lanka. e. the Certificate of Origin, authenticated by the Chamber of Commerce of Country of Origin. f. the packing list indicating the Net/Gross weight and total number of bags loaded on board or stuffed into each container. g. Value of invoice should be tally with total number of bags loaded with price and weights. h. The copy of the e-mail or fax forwarded to the purchaser in terms of paragraph 12.1 above. i. Delivery will be completed, after unloading the fertilizer of the port of discharge, having confirmed the Analytical report made available by the Director, National Fertilizer Secretariat, Sri Lanka as per the Section 6. j. Action will be taken to check the goods with invoice, shipping documents and other relevant document by the Colombo Commercial Fertilizer (CCF) / Ceylon Fertilizer Company (CFC) to issue a Good Received Note (GRN) to make the payment immediately. <p>The supplier shall submit original copies of the above documents (a to h) through the advising bank to the Purchaser's address. It shall be the responsibility of the supplier to ensure that the original shipping documents and invoice are received by the Purchaser three (03) days before the arrival of the vessel to the Port of Colombo. In case of failure to ensure timely arrival of these documents to facilitate berthing of the vessel and the speedy clearance of consignments, the</p>

	supplier shall become liable to the purchaser for any additional expenses, such as bank guarantee charges that may be incurred due to such delay.
GCC 15.2	The price adjustment shall not be applicable
GCC 16.1	<p>Payment of the Contract Price shall be made in the following manner:</p> <p>Payment shall be made either by means of an Irrevocable and non-transferable Letter of Credit entered into between the Purchaser's bank (Opening bank) and Supplier's bank (Negotiating bank) based on which a Special Commitment would be issued by the Asian Development Bank (ADB) upon submission of the documents referred to in GCC 12.1 above, as follows-</p> <ol style="list-style-type: none"> Under the commitment procedure, the Asian Development Bank (ADB) , at the borrower's (MWSIP) request, irrevocably agrees to reimburse a commercial bank for payments made or to be made to a supplier a letter of credit (LC). Under this procedure, the LC issued by the MWSIP bank (LC issuing bank) becomes operative only if and when ADB issues its commitment letter to the advising or negotiating bank. Supporting documents to be submitted to ADB with the application for a commitment letter include (i) a contract or confirmed purchase order, if not yet submitted earlier to ADB; and (ii) a copy of the LC against which ADB's commitment letter is requested. Upon approval of the purchaser' application for issuance of a commitment letter, ADB issues a commitment letter to the nominated commercial bank specified in the LC. A "transferrable" LC that allows the rights and obligations of the LC beneficiary (i.e., manufacturer or exporter) to be transferred to another party, thereby creating a secondary beneficiary, is not acceptable. <p>All banking charges associated with the opening of the letters of credit shall be borne by the Purchaser. All other banking and other charges within or outside Sri Lanka, including charges for confirmation of the said Letter of Credit if required by the Supplier shall be borne by the Supplier and the Supplier shall not be entitled to the reimbursement of such charges.</p>
GCC 16.4	<p>The currencies for payments shall be:</p> <p>The payment will be paid in United States Dollars (USD)-</p>
GCC 18.1	<p>The Supplier shall provide a Performance Security of 10% percent of the Contract Price within 7 days from the Signing of Contract. The Performance Security shall be denominated in the following amounts and currencies:</p> <p>The amounts and currencies of the performance security shall be in proportion to the amounts and currencies of the Contract Price;</p>

GCC 18.3	<p>The forms of acceptable Performance Security are:</p> <p>in the form of an unconditional and irrevocable bank guarantee. This bank guarantee shall be issued by:</p> <p>(a) a bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka, or</p> <p>(b) a foreign bank certified by a corresponding bank in Sri Lanka, whereby the corresponding bank should be approved by the Central Bank of Sri Lanka.</p> <p>The format of the bank guarantee shall be in accordance with the format attached in the Bidding Document Section 9 [Contract Forms].</p>
GCC 18.4	Discharge of the Performance Security shall take place: within 14 days after the completion of the shipment
GCC 22	<p>Specifications and Standards:</p> <p>As specified in Section 6 (Schedule of Supply)</p>
GCC 23.2	The packing, marking, and documentation within and outside the packages shall be: As specified in Section 6 (Schedule of Supply)
GCC 24.1	The insurance coverage shall be in accordance with: INCOTERMS 2010 and 100% value of insurance coverage
GCC 25.1	Obligations for transportation of the Goods shall be in accordance with: INCOTERMS 2010
GCC 26.2	<p>Tests and Inspections specified in Section 6 (Schedule of Supply), shall be carried out at the following times or milestones, and places:</p> <p>As specified in Section 6 (Schedule of Supply)</p>
GCC 27.1	<p>The applicable rate for liquidated damages for delay shall be</p> <ol style="list-style-type: none"> 1. Delay in first seven days at 2% of the Contract value. 2. Delay in subsequent two days at 1% of the Contract value for each day or part thereof proportionately up to maximum 10%
GCC 27.1	The maximum amount of liquidated damages shall be: 10% of the Contract Price
GCC 28.3	<p>The period of validity of the Warranty shall be:</p> <p>Not Applicable.</p> <p>The place of final destination shall be:</p> <p>As specified in Section 6 (Delivery & Completion Schedule)</p>
GCC 28.5	The Supplier shall correct any defects covered by the Warranty within 5 working days of being notified by the Purchaser of the occurrence of such defects.
GCC 30.1 (b)	The amount of aggregate liability shall be: 100% of the Contract Price

Section 9: Contract Forms

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FOR INSPECTION PURPOSES ONLY

Notice of Intention for Award of Contract

[on letterhead paper of the Purchaser]

[date of notification]

To: [name of the Bidder]
 Attention: [insert name of the Bidder's authorized representative]
 Address: [insert address of the Bidder's authorized representative]
 Telephone/Fax numbers: [insert telephone/fax numbers of the Bidder's authorized representative]
 E-mail Address: [insert e-mail address of the Bidder's authorized representative]

This is to notify you of our intention to award the contract [insert name of the contract and identification number, as given in the Bid Data Sheet]. You have [insert number of days as specified in ITB 40.1 of the BDS] days from the date of this notification to (i) request for a debriefing in relation to the evaluation of your Bid; and/or (ii) submit a bidding-related complaint in relation to the intention for award of contract, in accordance with the procedures specified in ITB 46.1.

The summary of the evaluation are as follows:

1. List of Bidders

Name of Bidder	Bid Price as Read Out at Opening	Evaluated Bid Price

2. Reason/s Why Your Bid Was Unsuccessful

.....

3. The Successful Bidder

Name of Bidder:	
Address:	
Contract Price:	
Duration of Contract:	
Scope of the Contract Awarded:	
Amount Performance Security Required:	

Authorized Signature:
 Name and Title of Signatory:
 Name of Agency:

Notification of Award

[on letterhead of the Purchaser ----]

Letter of Acceptance

[date]

To: [name and address of the supplier]

Subject: Contract No. [please specify]

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

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract and any additional security required as a result of the evaluation of your bid, using for that purpose the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:.....

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made on the *[insert date]* day of *[insert month]*, *[insert year]*, between *[insert complete name of the purchaser]* of *[insert complete address of the Purchaser]* (hereinafter "the Purchaser"), of the one part, and *[insert complete name of the supplier]* of *[insert complete address of the supplier]* (hereinafter "the Supplier"), of the other part:

WHEREAS the Purchaser invited Bids for certain Goods and Related Services, viz., *[insert brief description of the goods and related services]* and has accepted a Bid by the Supplier for the supply of those Goods and Related Services in the sum of *[insert currency or currencies and amount of contract price in words and figures]* (hereinafter "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) Letter of Acceptance;
 - (b) Bid Submission Sheet and the Price Schedules submitted by the Supplier;
 - (c) Addenda Nos. *[insert addenda numbers if any]*¹
 - (d) Special Conditions of Contract;
 - (e) List of Eligible Countries that was specified in Section 5 of the Bidding Document;
 - (f) General Conditions of Contract;
 - (g) Schedule of Supply; and
 - (h) any other documents shall be added here.

This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.

3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related 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 Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

Signed by *[insert authorized signature for the Purchaser]* (for the Purchaser)

Signed by *[insert authorized signature for the supplier]* (for the Supplier)

¹ Information contained in the addenda and or addendum should preferably be included in the contract documents to avoid potential ambiguities during contract implementation. If however, unavoidable priority should be decided depending on the nature of information provided in the addenda/addendum.

Performance Security

[Bank's name, and address of issuing branch or office]

Beneficiary: [Name and address of the Purchaser]

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

Performance Guarantee No.:

We have been informed that [name of the supplier] (hereinafter called "the Supplier") has entered into Contract No. [reference number of the contract] dated [date] with you, for the execution of [name of contract and brief description of goods and related services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Supplier, we [name of the bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [name of the currency and amount in words]¹ [amount in figures] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, 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 the [date] day of [month], [year],² and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revisions, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded³

.....
[Signature(s) and seal of bank (where appropriate)]

-- Note to Bidder --

If the bank issuing performance security is located outside the Purchaser's country, it shall be counter-guaranteed or encashable by a bank in the Purchaser's country.

-
- ¹ The guarantor shall insert an amount representing the percentage of the contract price specified in the contract and denominated either in the currency(ies) of the contract or a freely convertible currency acceptable to the Purchaser.
 - ² Insert the date 28 days after the expected completion date. The Purchaser should note that in the event of an extension of the time for completion of the contract, the Purchaser would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Purchaser might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Purchaser's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."
 - ³ Or the purchaser may use "Uniform Rules for Demand Guarantees (URDG), ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded" as appropriate.

Advance Payment Security

[insert complete name and number of contract]

To: [insert complete name of the Purchaser]

In accordance with the payment provision included in the Contract, in relation to advance payments, [insert complete name of the supplier] (hereinafter called "the Supplier") shall deposit with the Purchaser a security consisting of [indicate type of security], to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of [insert currency and amount of guarantee in words and figures].

We, the undersigned [insert complete name of the guarantor], legally domiciled in [insert full address of the guarantor] (hereinafter "the Guarantor"), as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligor 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 [insert currency and amount of guarantee in words and figures].

This security shall remain valid and in full effect from the date of the advance payment being received by the Supplier under the Contract until [insert date (as day, month, year)].

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revisions, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.¹

Name: [insert complete name of person signing the Security]

In the capacity of [insert legal capacity of person signing the Security]

Signed: [insert signature of person whose name and capacity are shown above]

Duly authorized to sign the security for and on behalf of [insert seal (where appropriate) and complete name of the guarantor]

Date: [insert date of signing]

-- Note to Bidder --

If the bank issuing advance payment security is located outside the Purchaser's country, it shall be counter-guaranteed or encashable by a bank in the Purchaser's country.

¹ Or the purchaser may use "Uniform Rules for Demand Guarantees (URDG), ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded" as appropriate.