

**Kingdom of Lesotho**  
**IFB No.: GF/R8/G001**

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**PROJECT FINANCING: THE GLOBAL FUND**

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**MINISTRY OF HEALTH AND SOCIAL WELFARE**  
**GOVERNMENT OF LESOTHO**

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**Supply and Delivery of Ten Motor Vehicles**  
**to Ministry of Health and Social Welfare**

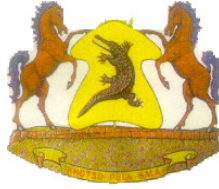
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**PROCUREMENT UNIT**  
**GROUND FLOOR**  
**NEW HEALTH HEADQUARTERS**  
**CORNER CONTITUTION & LINARE ROAD**  
**P.O. BOX 514**  
**MASERU 100**  
**LESOTHO**

**Tel: (+266) 22326114**

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**August, 2009**



**Kingdom of Lesotho  
Invitation for Bids**

August 14 2009  
IFB No.:GF/R8/G001

**Ministry of Health and Social Welfare**

***SUPPLY AND DELIVERY OF TEN VEHICLES TO MINISTRY OF  
HEALTH AND SOCIAL WELFARE***

1. The Government of Lesotho has received a grant from The Global Fund towards the cost of Global Fund for HIV/AIDS, Tuberculosis and Malaria Project and it intends to apply part of the proceeds of this grant to payments under the contract for Procurement of Ten Vehicles for the Ministry of Health and Social Welfare.
2. The Principal Secretary for Ministry of Health & Social Welfare now invites sealed bids from eligible bidders for the **supply and delivery of the following vehicles:**

<i>No</i>	<i>Description</i>	<i>Quantity</i>
MV-01	Twin Cab 4x4	6
MV-02	Single Cab 4x4	3
MV-03	Station Wagon 4x4	1

3. Interested eligible bidders may obtain further information from and inspect the bidding documents at:  
Procurement Unit  
Ministry of Health and Social Welfare  
Health Headquarters Building  
Maseru 100, Lesotho.  
Tel: ++ 266 – 22226037  
Fax: ++ 266 – 22317493  
Email: nthunyal@health.gov.ls  
**Attention: Procurement Manager**
4. A complete set of bidding documents may be purchased by interested bidders at the above address and upon payment of a nonrefundable fee of **(M200.00) two hundred**

**Maloti only.** The method of payment will be cash payable at: **Standard Lesotho Bank, Maseru; Account #: 0140038949101; Maseru Branch #: 280061; Account Name: Global HIV/AIDS & TB Counterpart. Bidders must quote the Invitation for Bids Number (IFB No. GF/R8/G001) when filling the deposit slip.**

5. Bids must be delivered to the address below on or before **September 22, 2009** at 12:00 noon. Late bids will be rejected. All bids must be accompanied by a bid security of **Nine-Five Thousand Maloti (M95, 000.00)** in the form of Bank Cheque or Bank Guaranteed Cheque valid for thirty (30) days beyond the validity of the bid.
6. It is mandatory for bidders to submit the following valid documents: (a) tax clearance certificates (b) trader's license, (c) Certificate of Bona Fide Bidding, and (d) Bid Security as detailed under 5 above.. These documents [especially (a) and (b) shall either be originals or certified copies by the source (e.g. Lesotho Revenue Authority and Trade Department. **Non- compliance with this requirement may invalidate their bids.**
3. Qualifications requirements for award include amongst others: (a) *business experience of not less than three years in similar jobs*, (b) *successful completion of similar contracts of not less than M2,000,000.00 in the past two years*, and (c) *evidence of acceptable after-sale support or service*. Additional details are provided in the Bidding Documents.
4. Bids will be opened in the presence of the bidders' representatives who choose to attend at **14:15hrs on Tuesday, September 22, 2009** at the address given below:

Procurement Manager  
Procurement Unit  
New Health Headquarters, Ground Floor  
Ministry of Health and Social Welfare  
P.O. Box 514,  
Corner Constitution and Linare Road  
Maseru, 100  
Kingdom of Lesotho

## **SECTION II. Instruction to Bidders**

### **Table of Clauses**

#### **A. Introduction**

1. Source of Funds
2. Eligible Bidders
3. Eligible Goods and Services
4. Cost of Bidding

#### **B. The Bidding Documents**

5. Content of Bidding Documents
6. Clarification of Bidding Documents
7. Amendment of Bidding Documents

#### **C. Preparation of Bids**

8. Language of Bid
9. Documents Comprising the Bid
10. Bid Form
11. Bid Prices
12. Bid Currencies
13. Documents Establishing Bidder's Eligibility and Qualification
14. Documents Establishing Goods' Eligibility and Conformity to Bidding Documents
15. Bid Security
16. Period of Validity of Bids
17. Format and Signing of Bid

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

18. Sealing and Marking of Bids
19. Deadline for Submission of Bids
20. Late Bids
21. Modification and Withdrawal of Bids

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

22. Opening of Bids by the Purchaser
23. Clarification of Bids
24. Preliminary Examination
25. Conversion to Single Currency
26. Evaluation and Comparison of Bids
27. Domestic and Regional Preference
28. Contacting the Purchaser

#### **F. Award of Contract**

29. Post-qualification
30. Award Criteria
31. Purchaser's Right to Vary Quantities at Time of Award
32. Purchaser's Right to Accept any Bid and to Reject any or All Bids
33. Notification of Award
34. Signing of Contract
35. Performance Security
36. Corrupt or Fraudulent Practices

# Instructions to Bidders

## A. Introduction

- 1. Source of Funds** 1.1 Government of Lesotho (The Global Fund)
- 2. Eligible Bidders** 2.1 This Invitation for Bids is open to all suppliers from eligible source countries.
- 2.2 Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this Invitation for Bids.
- 2.3 Government-owned enterprises in the Purchaser's country may participate only if they are legally and financially autonomous, if they operate under commercial law, and if they are not a dependent agency of the Purchaser.
- 2.4 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by GOL or any other international body.
- 3. Eligible Goods and Services** 3.1 All goods and related services to be supplied under the contract shall have their origin in eligible source countries, and all expenditures made under the contract will be limited to such goods and services.
- 3.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 3.3 The origin of goods and services is distinct from the nationality of the Bidder.
- 4. Cost of Bidding** 4.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Purchaser named in the **Bid Data Sheet**, hereinafter referred to as "the Purchaser," will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

## B. The Bidding Documents

- 5. Content of Bidding Documents** 5.1 The goods required, bidding procedures, and contract terms are prescribed in the bidding documents. In addition to the Invitation for Bids, the bidding documents include:

- (a) Instructions to Bidders (ITB)
- (b) Bid Data Sheet
- (c) General Conditions of Contract (GCC)
- (d) Special Conditions of Contract (SCC)
- (e) Schedule of Requirements
- (f) Technical Specifications
- (g) Bid Form and Price Schedules
- (h) Bid Security Form
- (i) Contract Form
- (j) Performance Security Form
- (k) Bank Guarantee Form for Advance Payment
- (l) Manufacturer's Authorization Form

5.2 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding documents. Failure to furnish all information required by the bidding documents or to submit a bid not substantially responsive to the bidding documents in every respect will be at the Bidder's risk and may result in the rejection of its bid.

**6. Clarification of Bidding Documents**

6.1 A prospective Bidder requiring any clarification of the bidding documents may notify the Purchaser in writing or by cable (hereinafter, the term *cable* is deemed to include telex and facsimile) at the Purchaser's address indicated in the **Bid Data Sheet**. The Purchaser will respond in writing to any request for clarification of the bidding documents, which it receives no later than thirty (30) days prior to the deadline for the submission of bids prescribed in ITB Clause 19.1. Written copies of the Purchaser's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective bidders that have received the bidding documents.

**7. Amendment of Bidding Documents**

7.1 At any time prior to the deadline for submission of bids, the Purchaser, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, may modify the bidding documents by amendment.

7.2 All prospective bidders that have received the bidding documents will be notified of the amendment in writing or by cable, and will be binding on them.

7.3 In order to allow prospective bidders reasonable time in which to take the amendment into account in preparing their bids, the Purchaser, at its discretion, may extend the deadline for the submission of bids.

**C. Preparation of Bids**

**8. Language of Bid**

8.1 The bid prepared by the Bidder, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Purchaser shall be written in the language specified in the Bid Data Sheet. Supporting documents and printed literature furnished by the Bidder may be in another language provided

they are accompanied by an accurate translation of the relevant passages in the language specified in the **Bid Data Sheet**, in which case, for purposes of interpretation of the Bid, the translation shall govern.

## **9. Documents Constituting the Bid**

- 9.1 The bid prepared by the Bidder shall comprise the following components:
- (a) A Bid Form and a Price Schedule completed in accordance with ITB Clauses 10, 11, and 12;
  - (b) documentary evidence established in accordance with ITB Clause 13 that the Bidder is eligible to bid and is qualified to perform the contract if its bid is accepted;
  - (c) documentary evidence established in accordance with ITB Clause 14 that the goods and ancillary services to be supplied by the Bidder are eligible goods and services and conform to the bidding documents; and
  - (d) bid security furnished in accordance with ITB Clause 15.

## **10. Bid Form**

- 10.1 The Bidder shall complete the Bid Form and the appropriate Price Schedule furnished in the bidding documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.
- 10.2 For the purpose of granting a margin of domestic preference, bids will be classified in one of three groups, as follows:
- (a) **Group A:** Bids offering goods manufactured in the Purchaser's country, for which (i) labor, raw materials, and components from within the Purchaser's country account for more than thirty (30) percent of the EXW price; and (ii) the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of bid submission.
  - (b) **Group B:** All other bids offering goods from within the country of the Purchaser.
  - (c) **Group C:** Bids offering goods of foreign origin to be imported by the Purchaser directly or through the Supplier's local Agent.

- 10.3 To facilitate this classification by the Purchaser, the Bidder shall complete whichever version of the Price Schedule furnished in the bidding documents is appropriate provided, however, that the completion of an incorrect version of the Price Schedule by the Bidder will not result in rejection of its bid, but merely in the Purchaser's reclassification of the bid into its appropriate bid group.

## **11. Bid Prices**

- 11.1 The Bidder shall indicate on the appropriate Price Schedule the unit prices (where applicable) and total bid price of the goods it

proposes to supply under the contract.

11.2 Prices indicated on the Price Schedule shall be entered separately in the following manner:

- (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:
    - (A) on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex factory;
    - or**
    - (B) on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf.
  - (ii) any Purchaser country sales and other taxes which will be payable on the goods if the contract is awarded.
  - (iii) the price for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination, if specified in the **Bid Data Sheet**.
  - (iv) the price of other (incidental) services, if any, listed in the **Bid Data Sheet**.
- (b) For goods offered from abroad:
  - (i) the price of the goods shall be 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 **Bid Data Sheet**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible countries. Similarly, the Bidder may obtain insurance services from any eligible source country.
  - (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), if specified in the **Bid Data Sheet**.
  - (iii) the price of goods quoted CFR port of destination (or CPT as the case may be), if specified in the **Bid Data Sheet**.
  - (iv) the price for inland transportation, insurance, and other local costs incidental to delivery of the goods from the port of entry to their final destination, if specified in the **Bid Data Sheet**.

- (v) the price of other (incidental) services, if any, listed in the **Bid Data Sheet**.

11.3 The terms EXW, CIF, CIP, etc., shall be governed by the rules prescribed in the current edition of *Incoterms* published by the International Chamber of Commerce, Paris.

11.4 The Bidder's separation of price components in accordance with ITB Clause 11.2 above will be solely for the purpose of facilitating the comparison of bids by the Purchaser and will not in any way limit the Purchaser's right to contract on any of the terms offered.

11.5 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation on any account, unless otherwise specified in the **Bid Data Sheet**. A bid submitted with an adjustable price quotation will be treated as nonresponsive and will be rejected, pursuant to ITB Clause 24. If, however, in accordance with the **Bid Data Sheet**, prices quoted by the Bidder shall be subject to adjustment during the performance of the contract, a bid submitted with a fixed price quotation will not be rejected, but the price adjustment would be treated as zero.

## 12. Bid Currencies

12.1 Prices shall be quoted in the following currencies:

- (a) For goods and services that the Bidder will supply from within the Purchaser's country, the prices shall be quoted in the currency of the Purchaser's country, unless otherwise specified in the **Bid Data Sheet**.
- (b) For goods and services that the Bidder will supply from outside the Purchaser's country, the prices shall be quoted in any currency of a United Nations member country. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but use no more than three foreign currencies. Bidders expressing their foreign currency requirements in any of the national currencies of the European Monetary Union or in euro should do so in accordance with the provisions of the **Bid Data Sheet**.

## 13. Documents Establishing Bidder's Eligibility and Qualification

13.1 Pursuant to ITB Clause 9, the Bidder shall furnish, as part of its bid, documents establishing the Bidder's eligibility to bid and its qualifications to perform the contract if its bid is accepted.

13.2 The documentary evidence of the Bidder's eligibility to bid shall establish to the Purchaser's satisfaction that the Bidder, at the time of submission of its bid, is from an eligible country as defined under ITB Clause 2.

13.3 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the

Purchaser's satisfaction:

- (a) that, in the case of a Bidder offering to supply goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to supply the goods in the Purchaser's country;
- (b) that the Bidder has the financial, technical, and production capability necessary to perform the contract;
- (c) that, in the case of a Bidder not doing business within the Purchaser's country, the Bidder is or will be (if awarded the contract) represented by an Agent in that country equipped and able to carry out the Supplier's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
- (d) that the Bidder meets the qualification criteria listed in the **Bid Data Sheet**.

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

- 14.1 Pursuant to ITB Clause 9, the Bidder shall furnish, as part of its bid, documents establishing the eligibility and conformity to the bidding documents of all goods and services which the Bidder proposes to supply under the contract.
- 14.2 The documentary evidence of the eligibility of the goods and services shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 14.3 The documentary evidence of conformity of the goods and services to the bidding documents may be in the form of literature, drawings, and data, and shall consist of:
  - (a) a detailed description of the essential technical and performance characteristics of the goods;
  - (b) a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period to be specified in the **Bid Data Sheet**, following commencement of the use of the goods by the Purchaser; and
  - (c) an item-by-item commentary on the Purchaser's Technical Specifications demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.
- 14.4 For purposes of the commentary to be furnished pursuant to ITB Clause 14.3(c) above, the Bidder shall note that standards for

workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Purchaser in its Technical Specifications, are intended to be descriptive only and not restrictive. The Bidder may substitute alternative standards, brand names, and/or catalogue numbers in its bid, provided that it demonstrates to the Purchaser's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

## **15. Bid Security**

- 15.1 Pursuant to ITB Clause 9, the Bidder shall furnish, as part of its bid, a bid security in the amount specified in the **Bid Data Sheet**.
- 15.2 The bid security is required to protect the Purchaser against the risk of Bidder's conduct, which would warrant the security's forfeiture, pursuant to ITB Clause 15.7.
- 15.3 The bid security shall be denominated in the currency of the bid or in another freely convertible currency, and shall be in one of the following forms:
  - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the Purchaser's country or abroad, in the form provided in the bidding documents or another form acceptable to the Purchaser and valid for thirty (30) days beyond the validity of the bid; or
  - (b) a cashier's or certified check.
- 15.4 Any bid not secured in accordance with ITB Clauses 15.1 and 15.3 will be rejected by the Purchaser as nonresponsive, pursuant to ITB Clause 24.
- 15.5 Unsuccessful bidders' bid securities will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of bid validity prescribed by the Purchaser pursuant to ITB Clause 16.
- 15.6 The successful Bidder's bid security will be discharged upon the Bidder signing the contract, pursuant to ITB Clause 34, and furnishing the performance security, pursuant to ITB Clause 35.
- 15.7 The bid security may be forfeited:
  - (a) if a Bidder:
    - (i) withdraws its bid during the period of bid validity specified by the Bidder on the Bid Form, or
    - (ii) does not accept the correction of errors pursuant to ITB Clause 24.2; or
  - (b) in the case of a successful Bidder, if the Bidder fails:

- (i) to sign the contract in accordance with ITB Clause 34;  
or
- (ii) to furnish performance security in accordance with ITB Clause 35.

**16. Period of Validity of Bids**

- 16.1 Bids shall remain valid for the period specified in the **Bid Data Sheet** after the date of bid submission prescribed by the Purchaser, pursuant to ITB Clause 19. A bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 16.2 In exceptional circumstances, the Purchaser may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing (or by cable). The bid security provided under ITB Clause 15 shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request will not be required nor permitted to modify its bid, except as provided in ITB Clause 16.3.
- 16.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial bid validity, the contract price will be increased by a factor specified in the request for extension.

**17. Format and Signing of Bid**

- 17.1 The Bidder shall prepare an original and the number of copies of the bid indicated in the **Bid Data Sheet**, clearly marking each "ORIGINAL BID" and "COPY OF BID," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 17.2 The original and the copy or copies of the bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. All pages of the bid, except for unamended printed literature, shall be initialled by the person or persons signing the bid.
- 17.3 Any interlineation, erasures, or overwriting shall be valid only if they are initialled by the person or persons signing the bid.
- 17.4 The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.

**D. Submission of Bids**

**18. Sealing and Marking of Bids**

- 18.1 The Bidder shall seal the original and each copy of the bid in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope.
- 18.2 The inner and outer envelopes shall:

- (a) be addressed to the Purchaser at the address given in the **Bid Data Sheet**; and
- (b) bear the Project name indicated in the Bid Data Sheet, the Invitation for Bids (IFB) title and number indicated in the Bid Data Sheet, and a statement: “DO NOT OPEN BEFORE,” to be completed with the time and the date specified in the **Bid Data Sheet**, pursuant to ITB Clause 22.1.

18.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared “late.”

18.4 If the outer envelope is not sealed and marked as required by ITB Clause 18.2, the Purchaser will assume no responsibility for the bid’s misplacement or premature opening.

**19. Deadline for Submission of Bids**

19.1 Bids must be received by the Purchaser at the address specified under ITB Clause 18.2 (a) no later than the time and date specified in the **Bid Data Sheet**.

19.2 The Purchaser may, at its discretion, extend this deadline for the submission of bids by amending the bidding documents in accordance with ITB Clause 7, in which case all rights and obligations of the Purchaser and bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

**20. Late Bids**

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

**21. Modification and Withdrawal of Bids**

21.1 The Bidder may modify or withdraw its bid after the bid’s submission, provided that written notice of the modification, including substitution or withdrawal of the bids, is received by the Purchaser prior to the deadline prescribed for submission of bids.

21.2 The Bidder’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITB Clause 18. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of bids.

21.3 No bid may be modified after the deadline for submission of bids.

21.4 No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Form. Withdrawal of a bid during this interval may result in the Bidder’s forfeiture of its bid security, pursuant to the ITB Clause 15.7.

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

### **22. Opening of Bids by the Purchaser**

- 22.1 The Purchaser will open all bids in the presence of bidders' representatives who choose to attend, at the time, on the date, and at the place specified in the **Bid Data Sheet**. The bidders' representatives who are present shall sign a register evidencing their attendance.
- 22.2 The bidders' names, bid modifications or withdrawals, bid prices, discounts, and the presence or absence of requisite bid security and such other details as the Purchaser, at its discretion, may consider appropriate, will be announced at the opening. No bid shall be rejected at bid opening, except for late bids, which shall be returned unopened to the Bidder pursuant to ITB Clause 20.
- 22.3 Bids (and modifications sent pursuant to ITB Clause 21.2) that are not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances.
- 22.4 The Purchaser will prepare minutes of the bid opening.

### **23. Clarification of Bids**

- 23.1 During evaluation of the bids, the Purchaser may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the prices or substance of the bid shall be sought, offered, or permitted.

### **24. Preliminary Examination**

- 24.1 The Purchaser will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.
- 24.2 Arithmetical errors will be rectified on the following basis. 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. If there is a discrepancy between words and figures, the amount in words will prevail. If the Supplier does not accept the correction of the errors, its bid will be rejected, and its bid security may be forfeited.
- 24.3 The Purchaser may waive any minor informality, nonconformity, or irregularity in a bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 24.4 Prior to the detailed evaluation, pursuant to ITB Clause 26, the Purchaser will determine the substantial responsiveness of each bid to the bidding documents. For purposes of these Clauses, a substantially responsive bid is one, which conforms to all the

terms and conditions of the bidding documents without material deviations. Deviations from, or objections or reservations to critical provisions, **such as** those concerning Bid Security (ITB Clause 15), Applicable Law (GCC Clause 31), and Taxes and Duties (GCC Clause 33), will be deemed to be a material deviation. The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence.

24.5 If a bid is not substantially responsive, it will be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the nonconformity.

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

25.1 To facilitate evaluation and comparison, the Purchaser will convert all bid prices expressed in the amounts in various currencies in which the bid prices are payable to either:

(a) the currency of the Purchaser's country at the selling exchange rate established for similar transactions by the Central Bank or a commercial bank in the Purchaser's country;

**or**

(b) a currency widely used in international trade, such as U.S. dollars, at the selling rate of exchange published in the international press for the amount payable in foreign currency; and at the selling exchange rate established for similar transactions by the Central Bank in the Purchaser's country for the amount payable in the currency of the Purchaser's country.

(c) With regard to Clauses 25.1 (a) and 25.1 (b) above, prices quoted in the national currencies of the EMU countries will be converted to euro by using the irrevocable fixed exchange rates between the former national currencies and the euro. The amounts in euro will then be converted to a single currency at the exchange rates established pursuant to Clause 25.2 and in accordance with the provisions of the **Bid Data Sheet**.

25.2 The currency selected for converting bid prices to a common base for the purpose of evaluation, along with the source and date of the exchange rate, are specified in the **Bid Data Sheet**.

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

26.1 The Purchaser will evaluate and compare the bids which have been determined to be substantially responsive, pursuant to ITB Clause 24.

26.2 The Purchaser's evaluation of a bid will exclude and not take into account:

(a) in the case of goods manufactured in the Purchaser's country or goods of foreign origin already located in the Purchaser's country, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;

- (b) in the case of goods of foreign origin offered from abroad, customs duties and other similar import taxes which will be payable on the goods if the contract is awarded to the Bidder; and
- (c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.

26.3 The comparison shall be between the EXW price of the goods offered from within the Purchaser's country, such price to include all costs, as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the goods, and the CIF named port of destination (or CIP border point, or CIP named place of destination) price of the goods offered from outside the Purchaser's country.

26.4 The Purchaser's evaluation of a bid will take into account, in addition to the bid price quoted in accordance with ITB Clause 11.2, one or more of the following factors as specified in the **Bid Data Sheet**, and quantified in ITB Clause 26.5:

- (a) cost of inland transportation, insurance, and other costs within the Purchaser's country incidental to delivery of the goods to their final destination.
- (b) delivery schedule offered in the bid;
- (c) deviations in payment schedule from that specified in the Special Conditions of Contract;
- (d) the cost of components, mandatory spare parts, and service;
- (e) the availability in the Purchaser's country of spare parts and after-sales services for the equipment offered in the bid;
- (f) the projected operating and maintenance costs during the life of the equipment;
- (g) the performance and productivity of the equipment offered; and/or
- (h) other specific criteria indicated in the **Bid Data Sheet** and/or in the Technical Specifications.

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

- (a) *Inland transportation from EXW/port of entry/border point, insurance, and incidentals.*

Inland transportation, insurance, and other incidental costs for delivery of the goods from EXW/port of entry/border

point to Project Site named in the **Bid Data Sheet** will be computed for each bid by the Purchaser on the basis of published tariffs by the rail or road transport agencies, insurance companies, and/or other appropriate sources. To facilitate such computation, bidder shall furnish in its bid the estimated dimensions and shipping weight and the approximate EXW/CIF (or CIP border point) value of each package. The above cost will be added by the Purchaser to EXW/CIF/CIP border point price.

(b) *Delivery schedule.*

(i) The Purchaser requires that the goods under the Invitation for Bids shall be delivered (shipped) at the time specified in the Schedule of Requirements. The estimated time of arrival of the goods at the Project Site will be calculated for each bid after allowing for reasonable international and inland transportation time. Treating the bid resulting in the earliest time of arrival as the base, a delivery “adjustment” will be calculated for other bids by applying a percentage, specified in the **Bid Data Sheet**, of the EXW/CIF/CIP price for each week of delay beyond the base, and this will be added to the bid price for evaluation. No credit shall be given to early delivery.

**or**

(ii) The goods covered under this invitation are required to be delivered (shipped) within an acceptable range of weeks specified in the Schedule of Requirement. No credit will be given to earlier deliveries, and bids offering delivery beyond this range will be treated as nonresponsive. Within this acceptable range, an adjustment per week, as specified in the **Bid Data Sheet**, will be added for evaluation to the bid price of bids offering deliveries later than the earliest delivery period specified in the Schedule of Requirements.

**or**

(iii) The goods covered under this invitation are required to be delivered (shipped) in partial shipments, as specified in the Schedule of Requirements. Bids offering deliveries earlier or later than the specified deliveries will be adjusted in the evaluation by adding to the bid price a factor equal to a percentage, specified in the **Bid Data Sheet**, of EXW/CIF/CIP price per week of variation from the specified delivery schedule.

(c) *Deviation in payment schedule.*

(i) Bidders shall state their bid price for the payment schedule outlined in the SCC. Bids will be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer

for such alternative payment schedule. The Purchaser may consider the alternative payment schedule offered by the selected Bidder.

**or**

- (ii) The SCC stipulate the payment schedule offered by the Purchaser. If a bid deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the bid as compared with those stipulated in this invitation, at the rate per annum specified in the **Bid Data Sheet**.

(d) *Cost of spare parts.*

- (i) The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the **Bid Data Sheet**, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each bid, will be added to the bid price.

**or**

- (ii) The Purchaser will draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in the **Bid Data Sheet**. The total cost of these items and quantities will be computed from spare parts unit prices submitted by the Bidder and added to the bid price.

**or**

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

(e) *Spare parts and after sales service facilities in the Purchaser's country.*

The cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in the **Bid Data Sheet** or elsewhere in the bidding documents, if quoted separately, shall be added to the bid price.

(f) *Operating and maintenance costs.*

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

(g) *Performance and productivity of the equipment.*

(i) Bidders shall state the guaranteed performance or efficiency in response to the Technical Specification. For each drop in the performance or efficiency below the norm of 100, an adjustment for an amount specified in the **Bid Data Sheet** will be added to the bid price, representing the capitalized cost of additional operating costs over the life of the plant, using the methodology specified in the **Bid Data Sheet** or in the Technical Specifications.

**or**

(ii) Goods offered shall have a minimum productivity specified under the relevant provision in the Technical Specifications to be considered responsive. Evaluation shall be based on the cost per unit of the actual productivity of goods offered in the bid, and adjustment will be added to the bid price using the methodology specified in the **Bid Data Sheet** or in the Technical Specifications.

(h) *Specific additional criteria*

Other specific additional criteria to be considered in the evaluation and the evaluation method shall be detailed in the **Bid Data Sheet** and/or the Technical Specifications.

## **27. Domestic Preference**

27.1 If the **Bid Data Sheet** so specifies, the Purchaser will grant a margin of preference to goods manufactured in the Purchaser's country for the purpose of bid comparison, in accordance with the procedures outlined in subsequent paragraphs, provided the Bidder shall have established to the satisfaction of the Purchaser and of DCI that its bid complies with the criteria specified in ITB Clause 10.2 (a):

27.2 The Purchaser will first review the bids to confirm the appropriateness of, and to modify as necessary, the bid group classification to which bidders assigned their bids in preparing their Bid Forms and Price Schedules, pursuant to ITB Clauses 10 and 11.

27.3 All evaluated bids in each group will then be compared among themselves to determine the lowest evaluated bid of each group. The lowest evaluated bid of each group will next be compared with the lowest evaluated bids of the other groups. If this comparison results in a bid from Group A or Group B being the lowest, it will be selected for contract award.

27.4 If, as a result of the preceding comparison, the lowest evaluated bid is from Group C, all Group C bids will then be further compared with the lowest evaluated bid from Group A, after adding to the evaluated bid price of the imported goods offered in each Group C bid, for the purpose of this further comparison

only:

- (a) the amount of customs duties and other import taxes that a nonexempt importer would have to pay for the importation of goods offered in each Group C bid;
- or**
- (b) fifteen (15) percent of the CIF (or CIP border point or CIP named place of destination, as the case may be) bid price of such goods, if the customs duties and taxes exceed fifteen (15) percent of the CIF (or CIP border point or CIP place of destination) price of such goods.

If the Group A bid in the further comparison is the lowest, it will be selected for award. If not, the lowest evaluated bid from Group C, as determined from the comparison under ITB Clause 27.3 above, will be selected for award.

**28. Contacting the Purchaser**

- 28.1 From the time of bid opening to the time of contract award, if any bidder wishes to contact the Purchaser on any matter related to the bid, it should do so in writing.
- 28.2 Any effort by a Bidder to influence the Purchaser in its decisions on bid evaluation, bid comparison, or contract award may result in the rejection of the Bidder's bid.

**F. Award of Contract**

**29. Post-qualification**

- 29.1 In the absence of prequalification, the Purchaser will determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated responsive bid is qualified to perform the contract satisfactorily, in accordance with the criteria listed in ITB Clause 13.3.
- 29.2 The determination will take into account the Bidder's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 13.3, as well as such other information as the Purchaser deems necessary and appropriate.
- 29.3 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Purchaser will proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

**30. Award Criteria**

- 30.1 Subject to ITB Clause 32, the Purchaser will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and has been determined to be the lowest evaluated bid, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily.

**31. Purchaser's**

- 31.1 The Purchaser reserves the right at the time of contract award to

<b>Right to Vary Quantities at Time of Award</b>	increase or decrease, by the percentage indicated in the <b>Bid Data Sheet</b> , the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.
<b>32. Purchaser's Right to Accept Any Bid and to Reject Any or All Bids</b>	32.1 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 affected Bidder or bidders.
<b>33. Notification of Award</b>	<p>33.1 Prior to the expiration of the period of bid validity, the Purchaser will notify the successful Bidder in writing by registered letter or by cable, to be confirmed in writing by registered letter, that its bid has been accepted.</p> <p>33.2 The notification of award will constitute the formation of the Contract.</p> <p>33.3 Upon the successful Bidder's furnishing of the performance security pursuant to ITB Clause 35, the Purchaser will promptly notify the name of the winning Bidder to each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Clause 15.</p> <p>33.4 If, after notification of award, a Bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Purchaser. The Purchaser will promptly respond in writing to the unsuccessful Bidder.</p>
<b>34. Signing of Contract</b>	<p>34.1 At the same time as the Purchaser notifies the successful Bidder that its bid has been accepted, the Purchaser will send the Bidder the Contract Form provided in the bidding documents, incorporating all agreements between the parties.</p> <p>34.2 Within thirty (30) days of receipt of the Contract Form, the successful Bidder shall sign and date the contract and return it to the Purchaser</p>
<b>35. Performance Security</b>	<p>35.1 Within thirty (30) days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the bidding documents, or in another form acceptable to the Purchaser.</p> <p>35.2 Failure of the successful Bidder to comply with the requirement of ITB Clause 34.2 or ITB Clause 35.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event the Purchaser may make the award to the next lowest evaluated Bidder or call for new bids.</p>
<b>36. Corrupt or Fraudulent Practices</b>	36.1 GOL requires that Bidders/Suppliers/Contractors under GOL-financed contracts observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, GOL:

- (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 of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
  - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Ministry, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Ministry of the benefits of free and open competition;
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded GOL-financed contract if at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, GOL-financed contract.

36.2 Furthermore, Bidders shall be aware of the provision stated in Clauses 5.4 and 24.1 of the General Conditions of Contract.

## BID DATA SHEET

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

<b>Introduction</b>	
<b>ITB 1.1</b>	Ministry of Health & Social Welfare
<b>ITB 1.1</b>	Government of Lesotho (Global Fund Grant)
<b>ITB 1.1</b>	<p>Supply and Delivery of:</p> <p>Six 4x4 Twin Cab Vehicles            Three 4x4 Delivery Vans            One 4x4 Station Wagon            for the Ministry of Health and Social Welfare (IFB No.:GF/R8/G001).</p> <p>Bidders should quote for all items and must submit Bid Form and Bid Security.</p>
<b>ITB 4.1</b>	Principal Secretary for Ministry of Health & Social Welfare
<b>ITB 6.1</b>	<p>Ministry of Health &amp; Social Welfare            Procurement Unit            Corner Constitution and Linare Road            New Health Headquarters, Ground Floor            P.O. Box 514 Maseru 100, Lesotho.            Tel : ++ 266 – 2222 6000            Fax : ++ 266 – 2231 7493</p> <p><b>Attention : Procurement Manager</b></p>
<b>ITB 8.1</b>	English

<b>Bid Price and Currency</b>	
<b>ITB 11.2 (a)</b>	<p>Bids should be made on a delivered to the site basis, Ministry of Health and Social Welfare, Headquarters Building (Maseru), Lesotho as listed in the Schedule of requirements.</p> <p>Clauses i), ii), iii) and iv shall apply            Prices shall be entered separately to show;            The EXW price as clause i) PLUS            Sales and other taxes payable on the goods as clause ii), PLUS            Inland transportation, Insurance etc. to the specified site as in clause iii) PLUS            Any other incidental cost required to ensure unloading, unpacking, placement and any/all other costs required to ensure delivery to the site as in clause iv) to Ministry of Health and Social Welfare,</p>

	Headquarters Building (Maseru) – Lesotho)
<b>ITB 11.2 (b)</b>	<p>Bids should be made on a CIP –to Maseru- Lesotho (Cost Insurance Paid – Incortems, 2000) basis.          Additionally Clauses i), iv and v) shall apply.          Clauses ii) and iii) are not applicable</p> <p>Prices shall be entered separately to show:          CIP Maseru, Lesotho as in clause i), PLUS          Inland transport, insurance etc. to the specified site, as in clause iv)          PLUS          Any other incidental costs required to ensure customs clearance unloading, unpacking, placement and any/all other costs required to ensure delivery to the site as listed in the Schedule of Requirements as in clause v)</p>
<b>ITB 11.5</b>	The price shall be: <b>Fixed.</b>
<b>ITB 12.1 (a)</b>	Clause 12.1 (a) is applicable. Prices shall be quoted in Maloti
<b>ITB 12.1 (b)</b>	Not applicable

<b>Preparation and Submission of Bids</b>	
<b>ITB 13.3 (d)</b>	<p><b>Financial Capability</b></p> <p>The Bidder shall submit appropriate evidence of financial capability to execute the requirements of this Invitation For Bids. Has successfully completed similar contracts in excess of <b>M2,000,000.00</b> in the past two years with business experience of not less than three years in motor vehicle dealership and report on the financial standing of the bidder, such as profit and loss statements and auditor’s reports for the past two years.</p> <p><b>Experience and Technical Capacity;</b></p> <p>(a) The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s): <i>Business experience of not less than three years in motor vehicle dealership or in supplying similar type of goods for which this invitation for bids is issued. A fully equipment workshop with modern equipment. Qualified motor mechanics with not less than five years experience in this field.</i></p> <p>(b) The Bidder shall furnish documentary evidence to demonstrate that Goods it offers meet the following usage requirement: <i>Compliance with International Standards and warranty undertaking to cover any defective materials and workmanship.</i></p>
<b>ITB 14.3 (b)</b>	Spare parts in the form of service plan covering five years

<b>ITB 15.1</b>	Amount of bid security is: <b>(M95,000.00)</b>
<b>ITB 16.1</b>	Bid validity period is: Ninety (90) days.
<b>ITB 17.1</b>	Number of copies is: Three. (One marked “Original”, and two marked “Copy” as appropriate)
<b>ITB 18.2 (a)</b>	<p>Ministry of Health &amp; Social Welfare  Procurement Unit  New Health Headquarters, Ground Floor  Corner Constitution and Linare Road  P.O. Box 514 Maseru 100, Lesotho.  Tel : ++ 266 – 2222 6000  Fax : ++ 266 – 2231 7493</p> <p><b>Attention : Procurement Manager</b></p> <p>On or before 12.00 hrs on Tuesday, <b>September 22, 2009</b></p>
<b>ITB 18.2 (b)</b>	<b>IFB No.:GF/R8/G001 Supply and Delivery of Motor Vehicles to the Ministry of Health and Social Welfare</b>
<b>ITB 19.1</b>	<b>12:00 noon (local time) on Tuesday September 22, 2009</b>
<b>ITB 22.1</b>	<b>14h15 (local time) on Tuesday, September 22, 2009, The Procurement Manager, New Health Headquarters, Procurement Unit, Ground Floor, Ministry of Health and Social Welfare.</b>

<b>Bid Evaluation</b>	
<b>ITB 25.1 I</b>	N/A
<b>ITB 25.2</b>	Clause 12.1 (a) above shall apply.
<b>ITB 26.4</b>	<p>Criteria for bid evaluation. The following clauses will apply;</p> <ul style="list-style-type: none"> <li>a) Inland transport</li> <li>b) Delivery schedule offered</li> <li>h) Compliance with technical specifications.</li> </ul> <p>The Bidder shall submit appropriate evidence of financial capacity to execute the requirements of this invitation for Bids, business experience of not less than three years in motor vehicle dealership</p>
<b>ITB 26.5 (a)</b>	Not required, bidders to observe clause 11.2(a) iii and (b) iv).
<b>ITB 26.5 (b)</b>	<p>Delivery schedule: Clause ii) to apply</p> <p>Delivery to the site specified in the schedule of requirements is required within 6 weeks after the Purchaser signature of the contract. M10, 000.00 per week will apply for bids offering deliveries beyond this range up.</p>
<b>ITB 26.5 I (ii)</b>	<p>Deviation in payment schedule: Not Applicable</p>
<b>ITB 26.5 (d)</b>	Cost of spare parts. N/A
<b>ITB 26.5 (e)</b>	Spare parts and after sales service facilities in the Purchaser's country: Required for a period of five years.
<b>ITB 26.5 (f)</b>	Operating and maintenance costs. Not required
<b>ITB 26.5 (g)</b>	Performance and productivity of equipment. Not required
<b>ITB 27</b>	Domestic preference: Not Applicable

<b>Contract Award</b>	
<b>ITB 31.1</b>	Percentage for quantity increase or decrease is: Twenty percent (20%)

# GENERAL CONDITIONS OF CONTRACT

## Table of Clauses

1.	Definitions.....	28
2.	Application.....	29
3.	Country of Origin.....	29
4.	Standards.....	29
5.	Use of Contract Documents and Information; Inspection and Audit by GOL.....	29
6.	Patent Rights.....	30
7.	Performance Security.....	30
8.	Inspections and Tests.....	30
9.	Packing.....	31
10.	Delivery and Documents.....	31
11.	Insurance.....	32
12.	Transportation.....	32
13.	Incidental Services.....	33
14.	Spare Parts.....	33
15.	Warranty.....	34
16.	Payment.....	35
17.	Prices.....	35
18.	Change Orders.....	35
19.	Contract Amendments.....	36
20.	Assignment.....	36
21.	Subcontracts.....	36
22.	Delays in the Supplier's Performance.....	37
23.	Liquidated Damages.....	37
24.	Termination for Default.....	37
25.	Force Majeure.....	38
26.	Termination for Insolvency.....	39
27.	Termination for Convenience.....	39
28.	Settlement of Disputes.....	39
29.	Limitation of Liability.....	40
30.	Governing Language.....	40
31.	Applicable Law.....	40
32.	Notices.....	40
33.	Taxes and Duties.....	41

## GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

- 1.1 In this Contract, the following terms shall be interpreted as indicated:
- (a) “The Contract” means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - (b) “The Contract Price” means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
  - (c) “The Goods” means all of the equipment, machinery, and/or other materials, which the Supplier is required to supply to the Purchaser under the Contract.
  - (d) “The Services” means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
  - (e) “GCC” means the General Conditions of Contract contained in this section.
  - (f) “SCC” means the Special Conditions of Contract.
  - (g) “The Purchaser” means the organization purchasing the Goods, as **named in SCC**.
  - (h) “The Purchaser’s country” is the country **named in SCC**.
  - (i) “The Supplier” means the individual or firm supplying the Goods and Services under this Contract and **named in SCC**.
  - (j) “The Project Site,” where applicable, means the place or places **named in SCC**.
  - (k) “Day” means calendar day.

- 2. Application** 2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.
- 3. Country of Origin** 3.1 All Goods and Services supplied under the Contract shall have their origin in the countries and territories eligible under the rules, as further elaborated in the **SCC**.
- 3.2 For purposes of this Clause, “origin” means the place where the Goods were mined, grown, or produced, or from which the Services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 3.3 The origin of Goods and Services is distinct from the nationality of the Supplier.
- 4. Standards** 4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods’ country of origin. Such standards shall be the latest issued by the concerned institution.
- 5. Use of Contract Documents and Information; Inspection and Audit by DCI** 5.1 The Supplier shall not, without the Purchaser’s prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The Supplier shall not, without the Purchaser’s prior written consent, make use of any document or information enumerated in GCC Clause 5.1 except for purposes of performing the Contract.
- 5.3 Any document, other than the Contract itself, enumerated in GCC Clause 5.1 shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier’s performance under the Contract if so required by the Purchaser.
- 5.4 The Supplier shall permit **GOL** to inspect the Supplier’s accounts and records relating to the performance of the Supplier and to

have them audited by auditors appointed by **GOL**, if so required by **GOL**.

## **6. Patent Rights**

6.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Purchaser's country.

## **7. Performance Security**

7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful Bidder shall furnish to the Purchaser the performance security in the amount **specified in SCC**.

7.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Purchaser and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the Purchaser's country or abroad, acceptable to the Purchaser, in the form provided in the bidding documents or another form acceptable to the Purchaser; or

(b) a cashier's or certified check.

7.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless otherwise **specified in SCC**.

## **8. Inspections and Tests**

8.1 The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Purchaser. **SCC** and the Technical Specifications shall specify what inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.

8.2 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the

Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

- 8.3 Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser.
- 8.4 The Purchaser's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival in the Purchaser's country shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by the Purchaser or its representative prior to the Goods' shipment from the country of origin.
- 8.5 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.

## **9. Packing**

- 9.1 The Supplier shall 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. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 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 SCC, and in any subsequent instructions ordered by the Purchaser.

## **10. Delivery and Documents**

- 10.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are specified in SCC.
- 10.2 For purposes of the Contract, "EXW," "FOB," "FCA," "CIF," "CIP," and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of *Incoterms* published by the International Chamber of Commerce, Paris.

10.3 Documents to be submitted by the Supplier are **specified in SCC**.

## **11. Insurance**

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

11.2 Where delivery of the Goods is required by the Purchaser on a CIF or CIP basis, the Supplier shall arrange and pay for cargo insurance, naming the Purchaser as beneficiary. Where delivery is on a FOB or FCA basis, insurance shall be the responsibility of the Purchaser.

## **12. Transportation**

12.1 Where the Supplier is required under Contract to deliver the Goods FOB, transport of the Goods, up to and including the point of putting the Goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price. Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Purchaser or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

12.2 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, transport of the Goods to the port of destination or such other named place of destination in the Purchaser's country, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

12.3 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within the Purchaser's country, defined as the Project Site, transport to such place of destination in the Purchaser's country, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.

12.4 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, no restriction shall be placed on the choice of carrier. Where the Supplier is required under Contract (a) to deliver the Goods FOB or FCA, and (b) to arrange on behalf and at the expense of the Purchaser for international transportation on

specified carriers or on national flag carriers of the Purchaser's country, the Supplier may arrange for such transportation on alternative carriers if the specified or national flag carriers are not available to transport the Goods within the period (s) specified in the Contract.

### **13. Incidental Services**

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

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
- (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- (e) training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

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

### **14. Spare Parts**

14.1 As **specified in SCC**, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- (a) such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and

- (b) in the event of termination of production of the spare parts:
  - (i) advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## 15. Warranty

- 15.1 The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Purchaser's specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless **specified otherwise in SCC.**
- 15.3 The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the Supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Purchaser other than, where applicable, the cost of inland delivery of the repaired or replaced Goods or parts from EXW or the port or place of entry to the final destination.
- 15.5 If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## 16. Payment

- 16.1 The method and conditions of payment to be made to the Supplier under this Contract shall be **specified in SCC**.
- 16.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 10, and upon fulfilment of other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.
- 16.4 The currency or currencies in which payment is made to the Supplier under this Contract shall be **specified in SCC** subject to the following general principle: payment will be made in the currency or currencies in which the payment has been requested in the Supplier's bid.
- 16.5 All payments shall be made in the currency or currencies specified in the SCC pursuant to GCC 16.4. If both the specified currency and, because of a membership in the European Monetary Union (EMU), the euro is valid in the country of the specified currency, payments may also be made in euro. In case the specified currency has ceased to be valid in the country of the specified currency because of a membership in the EMU, payments shall be made in the corresponding amount of the euro. The conversion of the amount of the specified currency into the euro shall in both cases be made in accordance with the statutory rate of conversion applicable in the country of the specified currency.

## 17. Prices

- 17.1 Prices charged by the Supplier for Goods delivered and 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 SCC** or in the Purchaser's request for bid validity extension, as the case may be.

## 18. Change Orders

- 18.1 The Purchaser may at any time, by a written order given to the Supplier pursuant to GCC Clause 32, 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/or
- (d) the Services to be provided by the Supplier.

18.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Purchaser's change order.

**19. Contract Amendments**

19.1 Subject to GCC Clause 18, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

**20. Assignment**

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

**21. Subcontracts**

21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the Supplier from any liability or obligation under the Contract.

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

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

- 22.1 Delivery of the Goods and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Purchaser in the Schedule of Requirements.
- 22.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.
- 22.3 Except as provided under GCC Clause 25, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 23, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of liquidated damages.

**23. Liquidated Damages**

- 23.1 Subject to GCC Clause 25, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage **specified in SCC**. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to GCC Clause 24.

**24. Termination for Default**

- 24.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:
- (a) if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 22; or
  - (b) if the Supplier fails to perform any other obligation(s) under the Contract.
  - (c) if the Supplier, in the judgment of the Purchaser, has

engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause:

“corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Ministry, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Ministry of the benefits of free and open competition.

24.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 24.1, the Purchaser may procure, upon such terms and in such a manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

## **25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22, 23, and 24, 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.

25.2 For purposes of this clause, “Force Majeure” means an event beyond the control of the Supplier and not involving the Supplier’s fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

25.3 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.

**26. Termination for Insolvency**

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

**27. Termination for Convenience**

27.1 The Purchaser, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

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

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

**28. Settlement of Disputes**

28.1 If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

28.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

28.2.1 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by

arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

28.2.2 Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC.**

28.3 Notwithstanding any reference to arbitration herein,

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

## **29. Limitation of Liability**

29.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6,

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

## **30. Governing Language**

30.1 The Contract shall be written in the language **specified in SCC.** Subject to GCC Clause 31, the version of the Contract written in the specified language shall govern its interpretation. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in the same language.

## **31. Applicable Law**

31.1 The Contract shall be interpreted in accordance with the laws of the Purchaser's country, unless otherwise **specified in SCC.**

## **32. Notices**

32.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or by cable, telex, or facsimile and confirmed in writing to the other party's address **specified in SCC.**

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

**33. Taxes and Duties**

33.1 A foreign Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's country.

33.2 A local Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

## SPECIAL CONDITIONS OF CONTRACT

### Table of Clauses

1.	Definitions (GCC Clause 1).....	43
2.	Country of Origin (GCC Clause 3).....	43
3.	Performance Security (GCC Clause 7).....	43
4.	Inspections and Tests (GCC Clause 8).....	43
5.	Packing (GCC Clause 9).....	43
6.	Delivery and Documents (GCC Clause 10).....	44
7.	Insurance (GCC Clause 11).....	45
8.	Incidental Services (GCC Clause 13).....	45
9.	Spare Parts (GCC Clause 14).....	45
10.	Warranty (GCC Clause 15).....	45
11.	Payment (GCC Clause 16).....	45
12.	Prices (GCC Clause 17).....	46
13.	Liquidated Damages (GCC Clause 23).....	46
14.	Settlement of Disputes (GCC Clause 28).....	46
15.	Governing Language (GCC Clause 30).....	46
16.	Applicable Law (GCC Clause 31).....	46
17.	Notices (GCC Clause 32).....	47
	GCC Clause 31.2 – a notice shall be effective when delivered or on the notice’ effective date, whichever is later. ....	47

## **SPECIAL CONDITIONS OF CONTRACT**

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. The corresponding clause number of the GCC is indicated in parentheses.

### **1. Definitions (GCC Clause 1)**

GCC 1.1 (g)—The Purchaser is: **Ministry of Health & Social Welfare**

GCC 1.1 (h)—The Purchaser's country is: **Kingdom of Lesotho**

GCC 1.1 (i)—The Supplier is: \_\_\_\_\_

GCC 1.1 (k)—The Project Site is: **Ministry of Health and Social Welfare (MOHSW)  
Maseru, Lesotho**

### **2. Country of Origin (GCC Clause 3)**

All countries and territories as indicated as eligible for the Provisions of Goods, Works, and Services in GOL-Financed Procurement.

### **3. Performance Security (GCC Clause 7)**

GCC 7.1—The amount of performance security, as a percentage of the Contract Price, shall be: (10%) ten percent of the Contract amount.

GCC 7.4—After delivery and acceptance of the Goods, the performance security shall be reduced to two (2) percent of the Contract Price to cover the Supplier's warranty obligations in accordance with Clause GCC 15.2.

### **4. Inspections and Tests (GCC Clause 8)**

GCC 8.1—Inspection and tests prior to shipment of Goods and at final acceptance are as follows: Visual inspection at final acceptance for satisfactory condition and compliance with offered material.

### **5. Packing (GCC Clause 9)**

GCC 9.3—The following SCC shall supplement GCC Clause 9.2:  
Particular attention is drawn to GCC requirement for robust packing to survive rough handling.

## **6. Delivery and Documents (GCC Clause 10)**

### **For Goods supplied from abroad:**

GCC 10.3—Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by cable the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:

- (i) Two copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) Original and 1 copy of the negotiable, clean, on-board bill of lading marked "freight prepaid" and 2 copies of nonnegotiable bill of lading;
- (iii) Copies of the packing list identifying contents of each package;
- (iv) Insurance certificate;
- (v) Manufacturer's or Supplier's warranty certificate;
- (vi) Inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and
- (vii) Certificate of origin.

The above documents shall be received by the Purchaser at least one week before arrival of the Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.

### **For Goods from within the Purchaser's country:**

GCC 10.3—Upon delivery of the Goods to the transporter, the Supplier shall notify the Purchaser and mail the following documents to the Purchaser:

- (i) Three copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) Delivery note, railway receipt, or truck receipt;
- (iii) Manufacturer's or Supplier's warranty certificate;
- (iv) Inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and
- (v) Certificate of origin.

The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.

**7. Insurance (GCC Clause 11)**

GCC 11.1—The Insurance shall be in an amount equal to 110 percent of the CIF or CIP value of the Goods from “warehouse” to “warehouse” on “All Risks” basis, including War Risks and Strikes.

**8. Incidental Services (GCC Clause 13)**

GCC 13.1—Incidental services to be provided are:

Any and all other services required to ensure unloading, unpacking, placement, installation and any/all other costs required to ensure delivery to the site as listed in the Schedule of Requirements.

**9. Spare Parts (GCC Clause 14)**

GCC 14.1—Additional spare parts requirements should be covered under the service plan provided.

GCC 14.1—Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the Goods. Other spare parts and components shall be supplied as promptly as possible, but in any case within three (3) months of placing the order and opening the letter of credit.

**10. Warranty (GCC Clause 15)**

GCC 15.4 & 15.5—The period for correction of defects in the warranty period is: 30 days

**11. Payment (GCC Clause 16)**

GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:

**Payment for Goods supplied from abroad:**

Payment for Goods and Services supplied from outside the Purchaser’s country shall be made in **Maloti**, as follows:

**On Acceptance: One hundred (100%)** percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Purchaser.

Payment of local currency portion shall be made in **Maloti** within thirty (30) days of presentation of claim supported by an acceptance certificate from the Purchaser declaring that the Goods have been delivered, accepted and that all other contracted Services have been performed.

**Payment for Goods and Services supplied from within the Purchaser's country:**

Payment for Goods and Services supplied from within the Purchaser's country shall be made in **Maloti**, as follows:

**On Acceptance:** 100% percent of the contract price shall be paid to the supplier within 30 (thirty) days after the date of the acceptance certificate for the respective delivery issued by the Purchaser.

**12. Prices (GCC Clause 17)**

None

**13. Liquidated Damages (GCC Clause 23)**

GCC 23.1—Applicable rate:

Maximum deduction: 0.5% per week of the Contract Price up to a maximum of 10% of the Contract price.

**14. Settlement of Disputes (GCC Clause 28)**

GCC 28.2.2—The rules of procedure for arbitration proceedings pursuant to GCC Clause 28.2 shall be as follows:

**(a) *Contract with foreign Supplier:***

GCC 28.2.2 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

**(b) *Contracts with Supplier national of the Purchaser's country:***

In the case of a dispute between the Purchaser and a Supplier who is a national of the Purchaser's country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Purchaser's country.

**15. Governing Language (GCC Clause 30)**

GCC 30.1—The Governing Language shall be English

**16. Applicable Law (GCC Clause 31)**

GCC 31.1—The Applicable Law shall be: Laws of the Purchaser's Country

**17. Notices (GCC Clause 32)**

GCC Clause 31.2 – a notice shall be effective when delivered or on the notice' effective date, whichever is later.

GCC 32.1—Purchaser's address for notice purposes:

Principal Secretary  
Ministry of Health & Social Welfare  
Health Headquarters Building  
5<sup>th</sup> Floor  
P.O. Box 514  
Maseru 100  
Lesotho

—Supplier's address for notice purposes:

## **Section VII. Schedule of Requirements and Technical Specifications**

### **Schedule of Requirements**

The delivery schedule expressed as weeks stipulates hereafter a delivery date which is the date of delivery at the premises and should be delivered to Ministry of Health and Social Welfare, New Health Headquarters (Maseru)-Lesotho.

**Delivery schedule (shipment) in weeks after Purchaser's signature of contract shall be: within 6 weeks**

<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>OVERALL QUANTITY</b>	<b>DELIVERY SCHEDULE</b>
<b>MV-01</b>	4x4 Twin Cab Motor Vehicles	6	6 Weeks
<b>MV-02</b>	4x4 Delivery Vans	3	6 Weeks
<b>MV-03</b>	4x4 Station Wagon	1	6 Weeks

**NOTE: PRICES SHOULD BE QUOTED IN MALOTI AND SUPPLIERS MUST INDICATE WHETHER THEIR PRICES ARE INCLUSIVE OF VAT OR NOT. IF VAT IS INCLUDED IT MUST BE SHOWN SEPARATELY.**

# Technical Specifications

## Equivalency of Standards and Codes

Wherever reference is made in the Technical Specifications to specific standards and codes to be met by the goods and materials to be furnished or tested, the provisions of the latest current edition or revision of the relevant standards or codes shall apply, unless otherwise expressly stated in the Contract.

Bidders should note that where specifications are unclear or found wanting, it is their responsibility to clearly indicate the specification of the item they are pricing for. The specifications indicated herein are basic & approximated and should be considered as a guide to bidders to price and eventually deliver quality and functional equipment.

ITEM No	DESCRIPTION	QUANTITY
VH- 01	TWIN CAB 4X4	6

### Minimum specifications:

- Front-mounted water cooled diesel engine.
- Engine capacity of 3000cc minimum
- Electronically controlled direct injection
- With turbo charger and intercooler
- Valve mechanism
- 5 speed manual transmission with floor mounted gear levers
- Transfer gears should be two; for high and low gear(four wheel drive)
- Differential lock computer controlled
- Ground clearance-210mm (minimum)
- Right hand drive with four doors
- Colour should be white or easily available.
- Height adjustable power steering with collapsible column
- Fuel tank approximately 80 litres
- With remote fuel flap release
- Seating capacity of five (5) people
- Seat facings woven cloth with leather bolsters or equivalent
- Front seats bucket type and should be adjustable to allow reclining and sliding to and fro; head restraints for front and rear
- Fitted with storage bin with lid between front seats
- With cup holders
- Air conditioner
- Electrically adjustable windows and mirrors
- Sliding rear window
- Transponder key immobilizer
- Anti-theft system alarm with central locking system, remote controlled
- Gear lock and wheel lock nuts
- Anti-lock Braking System (ABS)

- Front air bags for driver and passenger
- Front and rear safety belts
- Alloy wheels of size 245/75/15 and spare wheel under load deck
- Side steps
- Mud flaps in front and rear
- Tow bar, bull bar and roll bar
- Floor cover carpet
- Non slip floor mats for front and rear passengers
- Number plate panels in front and rear
- Radio tuner with Radio Data System (RDS)
- Removable front loader cassette/CD player with MP3 function with minimum of four speakers
- To be supplied with removable canopy
- Load box should be rubberised
- Minimum of three year warranty
- Service plan covering 5 years or 90,000Km or equivalent or better.
- To be supplied with standard tool kit including jack, warning/emergency triangles; operation and service manuals in English.

ITEM No	DESCRIPTION	QUANTITY
VH- 02	4x4 Delivery Vans	3

**Minimum specifications:**

- 4x4 Single Cab
- Front-mounted water cooled diesel engine.
- Engine capacity of 3000cc minimum
  - Longitudinal in Line 4,
  - 4 cylinders
- Power Output of not less than 118kw at 5200, dohc 4 valves per cylinder, variable valve timing
- Electronically controlled direct injection
- With turbo charger and intercooler
- Valve mechanism
- 5 speed manual transmission with floor mounted gear levers
- Transfer gears should be two; for high and low gear(four wheel drive)
- Differential lock computer controlled
- Ground clearance-210mm (minimum)
- Right hand drive with four doors
- Colour should be white or easily available.
- Height adjustable power steering with collapsible column
- Fuel tank approximately 80 litres
- With remote fuel flap release
- Seating capacity of two (2) people
- Seat facings woven cloth with leather bolsters or equivalent and 2 head rests

- Fitted with storage bin with lid between front seats
- With cup holders
- Air conditioner
- Electrically adjustable windows and mirrors
- Sliding rear window
- Transponder key immobilizer
- Anti-theft system alarm with central locking system, remote controlled
- Gear lock and wheel lock nuts
- Anti-lock Braking System (ABS)
- Front air bags for driver and passenger
- Front and rear safety belts
- Alloy wheels of size 245/75/15 and spare wheel under load deck
- Side steps
- Mud flaps in front and rear
- Tow bar, bull bar and roll bar
- Floor cover carpet
- Non slip floor mats for front and rear passengers
- Number plate panels in front and rear
- Radio tuner with Radio Data System (RDS)
- Removable front loader cassette/CD player with MP3 function
- To be supplied with removable steel canopy, full door, no windows with aerodynamic features
- Load box should be rubberised
- Minimum of three year warranty
- Service plan covering 5 years or 90,000Km or equivalent or better.
- To be supplied with standard tool kit including jack, warning/emergency triangles; operation and service manuals in English.

ITEM No	DESCRIPTION	QUANTITY
VH- 03	4x4 Station Wagon	One (1)

#### MECHANICAL

<b>Engine</b>	5.7-liter DOHC 32-valve EFI V8 with dual independent VVT-I; 381 hp @ 5600 rpm; 401 lb.-ft. @ 3600 rpm
<b>Emission Rating</b>	Ultra Low Emission Vehicle (ULEV-II)
<b>Ignition</b>	Electronic, with Toyota Direct Ignition (TDI)
<b>Transmission</b>	6-speed electronically controlled automatic overdrive with intelligence (ECT-i), sequential shift mode and uphill/downhill logic
<b>Body construction</b>	Unitized steel body on 10-member high tensile steel ladder frame Full-time 4-wheel-drive system with Torsen® center differential with locking feature
<b>Seats</b>	8

<b>Suspension</b>	Independent double-wishbone front suspension with coil springs and stabilizer bar; 4-link rear suspension with coil springs, stabilizer bar and semi-floating axle
<b>Steering</b>	Engine speed-sensing power-assisted rack-and-pinion Turning circle diameter, curb to curb (ft.) 38.7
<b>Brakes</b>	Power-assisted 4-piston front/2-piston rear ventilated disc brakes with hydraulic brake booster with Multi-Terrain Anti-lock Brake System (ABS) with Electronic Brake-force Distribution (EBD) and Brake Assist ABS operates in high and low ranges Active Traction Control Vehicle Stability Control (VSC) Kinetic Dynamic Suspension System Crawl Control
<b>Ground Clearance</b>	Minimum running ground clearance (in.) 8.9 Rear axle ratio 3.909 Transfer case ratios -- 2-speed (high/low)

## **TIRES**

<b>Size</b>	P285/60R18
<b>Type</b>	Mud-and-snow-rated steel-belted radial blackwall
<b>Spare</b>	Full-size with alloy wheel

## **SAFETY**

- Star Safety System™ -- includes Vehicle Stability Control (VSC) + Active Traction Control (A-TRAC), Multi-Terrain 4-wheel Anti-lock Brake System (ABS) with Electronic Brake-force Distribution (EBD) and Brake Assist
- Kinetic Dynamic Suspension System (KDSS)
- Crawl Control
- Hill Start Assist Control (HAC)
- Direct Tire Pressure Monitor System (TPMS)
- Driver and front passenger airbags
- Driver and front passenger seat-mounted side airbags
- Second-row outboard seat-mounted side airbags
- Three-row roll-sensing side curtain airbags with cutoff switch
- Driver and front passenger knee airbags
- Driver and front passenger Active Headrests
- 3-point Automatic/Emergency Locking Retractor (ALR/ELR) seatbelts in all seating positions Anti-theft system with engine immobilizer
- Energy-absorbing soft upper trim
- Adjustable front- and second-row outboard seatbelt anchors
- Driver and front passenger seatbelt pretensioners with force limiters
- Driver and front passenger pre-crash active seatbelt pretensioning system
- Driver and front passenger seatbelt warning with buzzer
- Full-time 4WD system with Torsen® limited-slip center differential with locking function
- Side-impact door beams
- Child-protector rear door locks

- Daytime Running Lights (DRL) with auto on/off system
- Center high-mount stop lamp (CHMSL)
- Child Restraint System (CRS) top tether anchors and ISO-FIX lower anchor points
- Minimum of three year warranty
- Service plan covering 5 years or 90,000Km or equivalent or better.
- To be supplied with standard tool kit including jack, warning/emergency triangles; operation and service manuals in English.
- To be supplied with floor mats

**The Bidder shall furnish documentary evidence to demonstrate that Goods it offers meet the following usage requirement: Compliance with International Standards and warranty undertaking to cover any defective materials and workmanship.**

## Section VIII. Sample Forms

1. Bid Form and Price Schedules
2. Bid Security Form
3. Contract Form
4. Performance Security Form
5. Bank Guarantee Form for Advance Payment
6. Manufacturer's Authorization Form

# 1. Bid Form and Price Schedules

Date:  
IFB N°:GF/R8/G001

To:

The Principal Secretary  
Ministry of Health & Social Welfare  
P.O. Box 514  
Maseru 100  
Kingdom of Lesotho

Gentlemen and/or Ladies:

Having examined the bidding documents including Addenda Nos the receipt of which is hereby duly acknowledged, we, the undersigned, offer to \_\_\_\_\_ in conformity with the said bidding documents for the sum of *[total bid amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Bid is accepted, we will obtain the guarantee of a bank in a sum equivalent to 10 percent of the Contract Price for the due performance of the Contract, in the form prescribed by the Purchaser.

We agree to abide by this Bid for the Bid Validity Period specified in Clause 16.1 of the Bid Data Sheet and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any bid you may receive. We certify/confirm that we comply with the eligibility requirements as per ITB Clause 2 of the bidding documents.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2009\_\_\_\_\_.

\_\_\_\_\_  
*[signature]*

\_\_\_\_\_  
*[in the capacity of]*

Duly authorized to sign Bid for and on behalf of \_\_\_\_\_

**Price Schedule for Goods Offered from Abroad**  
(Group C bids)

Name of Bidder \_\_\_\_\_ IFB No. GF/R8/G001 Page \_\_\_\_\_ of \_\_\_\_\_

1	2	3	4	5	6	7	8
Item	Description	Country of origin	Quantity	Unit price <sup>2</sup> FOB or FCA port or place of loading (specify port or place) <sup>1</sup>	Unit price <sup>2</sup> CIF port of entry (specify port) or CIP named place (specify border point or place of destination)	Total CIF or CIP price per item (col. 4 x 6)	Unit price <sup>2</sup> of inland delivery to final destination and unit price of other incidental services <sup>3</sup>

1. Optional, but in accordance with Clause 11.2 (b) (ii) or (iii) of the Instructions to Bidders and the related provisions in the Bid Data Sheet.
2. Currencies to be used in accordance with Clause 12 of the Instructions to Bidder.
3. Optional, but in accordance with Clause 11.2 (b) (iv) and (v) in the Instructions to Bidders and the related provisions in the Bid Data Sheet.

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

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

**Price Schedule for Domestic Goods Offered from within the Purchaser's  
Country**  
(Group A and Group B bids)

Name of Bidder. \_\_\_\_\_ Page of \_\_\_\_\_

1	2	3	4	5	6	7	8	9
Item	Description	Country of origin	Quantity	Unit price <sup>1</sup> EXW per item	Cost of local labor, raw material, and component <sup>2</sup>	Total price EXW per item (cols. 4 x 5)	Unit prices <sup>1</sup> per item final destination and unit price of other incidental services <sup>3</sup>	Sales and other taxes payable if Contract is awarded

1. Currencies to be used in accordance with Clause 12 of the Instructions to Bidders. The price shall include all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the item or the customs duties and sales and other taxes paid on the previously imported item offered ex warehouse, ex showroom, or off-the-shelf. These factors should not be entered separately.

2. Indicated as a percentage of the EXW price.

3. Optional and only when required in accordance with Clause 11.2 (a)(iii) and (iv) in the Instructions to Bidders and the related provisions in the Bid Data Sheet.

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

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

## 2. Bid Security Form

Whereas *[name of the Bidder]* (hereinafter called “the Bidder”) has submitted its bid dated *[date of submission of bid]* for the **Supply and Delivery of 10 twin cab 4x4 vehicles to MOHSW (IFB No.:GF/R8/G001)** (hereinafter called “the Bid”).

KNOW ALL PEOPLE by these presents that WE *[name of bank]* of *[name of country]*, having our registered office at *[address of bank]* (hereinafter called “The Bank”), are bound unto *[name of Purchaser]* (hereinafter called “the Purchaser”) in the sum of *[amount]* for which payment well and truly to be made to the said Purchaser, The Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_ day of \_\_\_\_\_ 2009\_\_\_\_\_.

THE CONDITIONS of this obligation are:

1. If the Bidder
  - (a) withdraws its Bid during the period of bid validity specified by the Bidder on the Bid Form; or
  - (b) does not accept the correction of errors in accordance with the Instructions to Bidders; or
2. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders;

we undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of bid validity, and any demand in respect thereof should reach the Bank not later than the above date.

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*[signature of the Bank]*

### 3. Contract Form

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_\_ 2009\_\_\_\_ between **Ministry of Health and Social Welfare of the Kingdom of Lesotho** (hereinafter called “the Purchaser”) of the one part and *name of supplier of [city and country of Supplier]* (hereinafter called “the Supplier”) of the other part:

WHEREAS the Purchaser invited bids for certain goods and ancillary services, viz., **Supply and delivery of 10 twin cab 4x4 vehicles to MOHSW (IFB No.:GF/R8/G001 )** and has accepted a bid by the Supplier for the supply of those goods and services in the sum of [*contract price in words and figures*] (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:

- (a) the Bid Form and the Price Schedule submitted by the Bidder;
- (b) the Schedule of Requirements;
- (c) the Technical Specifications;
- (d) the General Conditions of Contract;
- (e) the Special Conditions of Contract; and
- (f) the Purchaser’s Notification of Award.

3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract

4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

**For and on Behalf of: Ministry of Health & Social Welfare**

**Signature:** \_\_\_\_\_  
**Principal Secretary**

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

**Witness:**

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

**Position:** \_\_\_\_\_

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

**For and On Behalf of: *(Name of Supplier)***

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

**Position:** \_\_\_\_\_

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

**Witness:**

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

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

#### 4. Performance Security Form

To:

*The Principal Secretary  
Ministry of Health & Social Welfare  
Health Planning & Statistics Department  
P.O. Box 514  
Maseru 100  
Kingdom of Lesotho*

WHEREAS *[name of Supplier]* (hereinafter called “the Supplier”) has undertaken, in pursuance of Contract No. *[reference number of the contract]* dated \_\_\_\_\_ 2009 \_\_\_\_ to supply *[description of goods and services]* (hereinafter called “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Supplier’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Supplier a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of, and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limits of *[amount of guarantee]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the \_\_\_\_ day of \_\_\_\_\_ 2009 \_\_\_\_ Signature and seal of the Guarantors

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*[name of bank or financial institution]*

---

*[address]*

---

*[date]*

## 5. Bank Guarantee Form for Advance Payment

To:

*The Principal Secretary  
Ministry of Health & Social Welfare  
Health Planning & Statistics Department  
P.O. Box 514  
Maseru 100  
Kingdom of Lesotho*

*[Name of Contract]*

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends Clause 16 of the General Conditions of Contract to provide for advance payment, *[name and address of Supplier]* (hereinafter called “the Supplier”) shall deposit with the Purchaser a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of *[amount of guarantee in figures and words]*.

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

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

This guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[date]*.

Yours truly,

Signature and seal of the Guarantors

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*[name of bank or financial institution]*

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*[address]*

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*[date]*

## 6. Manufacturer's Authorization Form

[See Clause 13.3 (a) of the Instructions to Bidders.]

To:  
*The Principal Secretary  
Ministry of Health & Social Welfare  
P.O. Box 514  
Maseru 100  
Kingdom of Lesotho*

*[name of Contract]*

WHEREAS *[name of the Manufacturer]* who are established and reputable manufacturers of *[name and/or description of the goods]* having factories at *[address of factory]*

do hereby authorize *[name and address of Agent]* to submit a bid, and subsequently negotiate and sign the Contract with you against IFB No. *[reference of the Invitation to Bid]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per Clause 15 of the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Bids.

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*[Signature for and on behalf of Manufacturer]*

*Note:* This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent and having the power of attorney to bind the Manufacturer. It should be included by the Bidder in its bid.