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**Ministry of Physical Planning & Works  
Railway Construction Project  
Nayabaneswor, Kathmandu**

**Bid Document for Supply and  
Delivery of Vehicle (Car)**

**First Date of Publication:- 2067/12/06  
Tender Notice No.:- VEH/01/067/68**

Procurement of Goods  
National Competitive Bidding

Tender Submitted by:-.....

On Behalf of:-.....

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## Section I. Invitation for Bids

Government of Nepal  
Ministry of Physical planning & works  
Railway Construction Project  
Nayabaneswor, Kathmandu

Date: 2067/12/06

Name of Project: **Railway Construction Project, Naya baneshwor, Kathmandu.**

Name of Contract: **Supply and Delivery of 1 unit of Vehicle (Car).**

Contract Identification No: **VEH/ 01/067/68**

- 1 The **Railway Construction Project, Nayabaneswor, Kathmandu** invites sealed bids from registered suppliers or eligible foreign suppliers for the procurement of *Vehicle*.
- 2 Eligible Bidders may obtain further information and inspect the bidding documents at the office of Ministry of Physical Planning and Works, **Railway Construction Project, Nayabaneswor, Kathmandu, Ph: 01-4492918.**
- 3 Bidding documents may be purchased from the above office of **Ministry of Physical Planning and Works, Works Division, Singhadarbar, Kathmandu & MOPPW Railway Construction Project, Nayabaneswor, Kathmandu** by eligible Bidders on the submission of a written application and upon payment of a non-refundable fee of **Rs.1000.00.** on or before **2068/01/05** within working hours. The document can also be downloaded from the website: **www.moppw.gov.np. and www.rwcp.gov.np.**
- 4 Bids must be submitted to the above office of Ministry of Physical Planning and Works, **Railway Construction Project, Nayabaneswor, Kathmandu,** on or before **12.00 Noon on 068/01/06.** Documents received after this deadline shall not be accepted .
- 5 Bids shall be opened in the presence of Bidders' representatives who choose to attend at **1.00 PM on 068/01/06** at the office Ministry of Physical Planning and Works, **Railway Construction Project, Nayabaneswor, Kathmandu.** Bids must be valid for a period of **90 days** after bid opening and must be accompanied by bid security, amounting to a **minimum of 2.5 % of the quoted Bid amount (inclusive of VAT),** which shall be **valid for 30 days** beyond the bid validity period.
- 6 If bidder wishes to submit the Bid Security in the form of cash, the cash should be deposited **in the name of Railway Construction Project, Nayabaneswor, Kathmandu,** account No. **135046** at Everest Bank Ltd., Singhadurbar, Kathmandu and submit the receipt of the deposited amount of cash along with the bid.
- 7 If the last date of purchasing, submission and opening falls on a government holiday then the next working day shall be considered as the last day
9. The Purchaser reserves the right to accept or reject, wholly or partly any or all the bids without assigning any reason, whatsoever.

## **Section II. Instructions to Bidders (ITB)**

### **A. Introduction**

- 1. Scope of Bid**
  - 1.1 The Purchaser as defined in the Bidding Data invites Bids for supply, delivery, installation and commissioning of the goods, materials and equipment (such goods, materials and equipment and related services hereinafter referred to as “Goods”).
  - 1.2 All Bids are to be completed and returned to the Purchaser in accordance with these Instructions to Bidders.
- 2. Source of Funds**
  - 2.1 The Government of Nepal has made budgetary allocation or intends to apply part of the funds of a loan/credit/grant from the Donor Agency, as defined in the Bidding Data towards the cost of the Project, as defined in the Bidding Data, to cover eligible payments under the Contract for which these bidding documents are issued.
  - 2.2 Payment by the Donor agency will be made only at the request of the GON in accordance with the terms and condition of the Loan/Credit/Grant Agreement. No party other than the GON shall derive any rights from the Loan/Credit/Grant Agreement or have any claim to the loan/Credit/Grant proceeds.
- 3. Eligible Bidders**
  - 3.1 This Invitation for Bids is open to all eligible suppliers indicated in the Bidding Data.
  - 3.2 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 design, specifications, and other documents to be used for the procurement of goods to be purchased under this Invitation for Bid.
  - 3.3 Government-owned enterprises 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.
  - 3.4 Bidder shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by GON and or the donor agency in accordance with Sub- Clause 41.1 and Sub Clause 43.2
- 4. Eligible Goods and Services**
  - 4.1 All Goods and related services to be supplied under the Contract shall have their origin in eligible source countries as specified in Sub - Clause 3.1 and all expenditures made under the contract will be limited to such goods and services.
  - 4.2 For purposes of this Clause, “origin” shall be considered to be the place where the Goods are mined, grown, produced or from which the Services are provided. 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.
  - 4.3 The origin of goods and services is distinct from the nationality of the Bidder.
- 5. Cost of Bidding**
  - 5.1 The Bidder shall bear all costs associated with the preparation and delivery of its Bid, and the Purchaser will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the

bidding process.

- 6. One Bid per Bidder**                      6.1 Each Bidder shall submit only one bid, either individually or as a partner in a joint venture. A Bidder who submits or participates in more than one bid shall cause all the proposals with the Bidder's participation to be disqualified.
- 7. Bids submitted by a Joint Venture**                      7.1 Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the Bidding Data:
- a. the bid shall be signed so as to be legally binding on all partners;
  - b. all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
  - c. one of the partners will be nominated as being in charge, authorised to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners; and
  - d. the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
- 8. Assurance**                      8.1 The successful Bidder will be required to give satisfactory assurance of its ability and intention to supply the Goods pursuant to the Contract, within the time set forth therein.

## **B. The Bidding Documents**

- 9. Content of Bidding Documents**                      9.1 The Goods required, bidding procedures, and contract terms are prescribed in the Bidding Documents. In addition to the invitation of bids, the Bidding Documents include:
- Instructions to Bidders (ITB)
  - Bidding Data (BD)
  - General Conditions of Contract (GCC)
  - Special Conditions of Contract (SCC)
  - Schedule of Requirements (SOR)
  - Technical Specifications (TSpec)
  - Bid Form and Price Schedules
  - Bid Security Form
  - Contract Form
  - Performance Security Form
  - Bank Guarantee Form for Advance Payment
  - Manufacturer's Authorization Form.
  - Addendum issued in accordance with Sub - Clause 11, if any.
- 9.2 The Bidder is expected to examine the Bidding Documents, including all instructions, forms, terms, specifications and drawings. Failure to furnish all information required by the Bidding Documents or submission of 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.
- 10. Clarification of Bidding**                      10.1 A prospective Bidder requiring any further information or clarification of the Bidding Documents may request the Purchaser in

**Documents** writing or by fax at the purchaser's address indicated in the Bidding Data. The Purchaser will respond in writing or by fax to any request for information or clarification of the Bidding Documents which it receives no later than fifteen (15) days prior to the deadline for the submission of Bids prescribed in Sub-Clause 24.1. The Purchaser's response (including an explanation of the query) will be sent in writing or by fax to all prospective bidders who have purchased the Bidding Documents.

- 11. Amendment of Bidding Documents**
- 11.1 At any time prior to the deadline for submission of bids, the Purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, shall amend or modify the Bidding Documents by issuing the addenda.
- 11.2 The amendment shall be part of the Bidding Documents, pursuant to Sub-Clause 9.1, will be notified in writing or by fax to all prospective Bidders who have purchased the Bidding Documents.
- 11.3 In order to allow prospective Bidders reasonable time in which to take the amendment into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of Bids in accordance with Sub - Clause 24.2.

## C. Preparation of Bids

- 12. Language of Bid**
- 12.1 The Bid prepared by the Bidder, and all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language specified in Bidding Data.
- 13. Documents Comprising the Bid**
- 13.1 The Bid prepared by the Bidder shall comprise the following components:
- a. Bid Form and a Price Schedule completed in accordance with Clauses 14, 15, and 16;
  - b. documentary evidence established in accordance with Clause 17, that the Bidder is eligible to Bid and that the Goods and Services to be supplied by the Bidder are eligible under the contract;
  - c. documentary evidence established in accordance with Clause 18, that the Bidder is qualified to perform the contract if it's Bid is accepted;
  - d. documentary evidence established, in accordance with Clause 19, that the Goods and services to be supplied by the Bidder are genuine and newly manufactured goods and conform to the Bidding Documents;
  - e. Bid security furnished in accordance to Clause 20;
- 14. Bid Form**
- 14.1 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.
- 15. Bid Prices.**
- 15.1 The Bidder shall complete the appropriate Price Schedule and the sources of Goods schedules included herein, stating the unit prices,

total cost per item, the total Bid amount and the expected countries of origin of the Goods to be supplied under the contract.

15.2 Prices quoted in the Price Schedules should be entered separately in the following manner:

- (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;
- (ii) the price for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination, if specified in the Bidding Data .
- (iii) the price of other (incidental) services, if any, listed in the Bidding Data

15.3 Price quoted by the Bidder shall remain fixed and valid until completion of the contract performance and will not be subject to variation on any account.

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

15.5 The Bidder's separation of price components in accordance with Clause 15.1 above will be solely for the purpose 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.

15.6 If the Bidder intends to offer any discount, it should always be expressed in fixed percentage and that will not vary as the quantities varies and be applicable to each unit rate.

15.7 A foreign Bidder wishing to have or already having a local agent should state the following:

- i. Name and address of the Agent/Representative,
- ii. The Agent/Representative providing type of services,
- iii. Amount of commission if the Agent/ Representative is entitled to get such payment and if he/she participate in the procedure of payment,
- iv. Other agreement with Agent/Representative, if any,
- v. Bidder should certify in the Letter of Authorization as follows:

"We certify that the statement and disclosure made by us on the above are complete and true to the best of our knowledge and belief"

If the agent has not been appointed:

- i. Source of information about tender invitation,
- ii. The remuneration given to the individual or firm/company or organisation to work on his behalf for submitting tender, representation in the bid opening and other required action in connection with the tender,
- iii. Transfer or handover an evidence of foreign currency exchanged which required to be submitted with the tender,
- iv. If the bank account of any Nepali citizen has been used for the exchange of foreign currency specify the name of the individual and his address. If the foreign currency has been exchanged by self then the certificate of currency exchange.

- 15.8 If a foreign Bidder in his Bid, has not provided the information mentioned in Sub Clause 15.7 or has submitted his bid stating that the Bidder does not have a local agent and later it is proved that the bidder has a local agent or it is proved that the commission mentioned in the Bid is less than the commission received by the local agent then the Purchaser shall initiate proceedings to black list such bidder.
- 15.9 A bid submitted with an adjustable price quotation shall be treated as non-responsive bid and rejected.

**16. Currency of Bid**

- 16.1 Prices shall be quoted in Nepalese Rupees or as specified in Bidding Data

**17. Documents Establishing Eligibility of the Bidders and the Goods and Services**

- 17.1 Pursuant to Sub - Clause 13, the Bidder shall furnish, as part of its Bid, documents establishing the Bidder's eligibility to Bid and that the country of origin of the Goods is from eligible source country.
- 17.2 Pursuant to Sub - Clause 13, the Bidder shall furnish, as part of its Bid, documents establishing the eligibility to the Bidding Documents of all Goods and Services which the bidder proposes to supply under the contract.

**18. Documents Establishing the Bidder's Qualifications to Perform the Contract**

- 18.1 The documentary evidence of the Bidder's qualifications to perform the contract, if its Bid is accepted, shall establish to the Purchaser's satisfaction:
- 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 authorised solely by the Goods' Manufacturer or Producer to supply and install the Goods in Nepal;
  - b. that the Bidder has the financial, technical and production capability necessary to perform the contract, including capacity in terms of personnel for the purpose of carrying out the services; and
  - c. that, in the case of a Bidder not doing business within Nepal, the Bidder is, or will be (if the contract is awarded to it), represented by an agent in Nepal, who shall be capable to fulfill the contractual obligations regarding :
    - maintenance and repair of the supplied goods ,
    - after sales service,
    - maintaining stock for supply of spare parts
  - d. that, the Bidder in the last three years (3) has supplied Goods of nature, quantity and of contract amount to government enterprises or private institutions as specified in the Bidding Data
  - e. that the Bidder meets the qualification criteria listed in Bidding Data.

**19. Documents Establishing the Good's Conformity to**

- 19.1 Pursuant to Clause 13, 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.

**the Bidding Documents**

- 19.2 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.
- 19.3 The documentary evidence of the conformity of Goods and Services to the Bidding Documents may be in the form of literature, drawings and data and shall consists 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 all spare parts, special tools, etc, necessary for the proper and continuing functioning of the Goods for a period to be specified in the Bidding Data, following commencement of the use of the goods by the Purchaser; and
  - c. an item by item commentary and the 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;
  - d. a detailed schedule of execution of works under the contract (work schedule), outlining key activities and the critical items on the schedule which could influence the contract completion date.
- 19.4 For the purposes of the commentary to be furnished pursuant to Sub-Clause 19.3 (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 standard, brand names, and/or catalogue numbers in its Bid, provided that it demonstrates to the Purchaser's satisfaction that the substitutions are equivalent or superior to designated in the Technical Specifications, except if the Technical Specifications specifically provide otherwise.

**20. Bid Security**

- 20.1 Pursuant to Sub - Clause 13, the Bidder shall furnish, as part of its Bid, a Bid security in Nepali Rupees in the amount of two point five (2.5) percent of the total Bid price or the amount specified in the Bidding Data .
- 20.2 The Bid security shall be denominated in the currency of the Bid and shall be valid for thirty (30) days beyond the validity of the Bid. The Bid Security shall, at the Bidder's option, be in the form of earnest money, bank draft, or a bank guarantee from a reputable bank in Nepal acceptable to the Employer or from a reputable foreign bank which is endorsed by the local bank in Nepal acceptable to the Employer. The format of the bank guarantee shall be in accordance with the form of bid security included in Section VIII; other formats may be permitted, subject to the prior approval of the Employer.
- 20.3 Any Bid not secured in accordance with Sub - Clauses 20.1 and 20.2 above will be rejected by the Purchaser as non-responsive, pursuant to Clause 29.

- 20.4 Unsuccessful bidders' bid securities will be discharged or returned within three (3) days after signing the contract with the successful bidder.
- 20.5 The successful Bidder's bid security will be discharged or returned, or both, upon the Bidder signing the contract, pursuant to Clause 39, and furnishing the performance security pursuant to Clause 40.
- 20.6 The Bid security shall 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 Sub - Clause 29.2; or
  - (b) in case of a successful Bidder, if the Bidder fails within the time limit to :
    - (i) sign the contract in accordance with Sub - Clause 39; or
    - (ii) furnish the performance security in accordance with Sub - Clause 40.

**21. Period of Validity of Bids**

- 21.1 Bids shall remain valid for the period specified in the Bidding Data after the date of Bid submission prescribed by the Purchaser, pursuant to Sub - Clause 24. A bid valid for a shorter period shall be rejected by the Purchaser as non-responsive,
- 21.2 In exceptional circumstances, the Purchaser may solicit Bidder's consent to an extension of the period of Bid validity. The request and the responses thereto shall be made in writing (or by cable). If the Bidder agrees to the extension request, the validity of the Bid security provided under Clause 20 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.

**22. Format and Signing of Bid**

- 22.1 The bidder shall prepare one original of the documents comprising the Bid as described in Clause 13, bound with the volume containing the Form of Bid and Price Schedule, and clearly marked "Original", in addition, the Bidder shall submit one copy of the Bid clearly marked "Copy". In the event of any discrepancy between the original and the copy, the original shall govern.
- 22.2 The original and copy of Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder. Such Authorization shall be indicated by written power-of-attorney accompanying the Bid. All pages of Bid shall be initialed by the person or persons signing the Bid.
- 22.3 The bid shall contain no inter lineation, erasures or overwriting, alterations or additions except as necessary to correct errors made by the Bidder or those to comply instructions issued by the Purchaser, in which case, such corrections shall be initialed by the person or persons signing the bid.

**D. Submission of Bids**

**23. Sealing and Marking of Bids**

- 23.1 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.
- 23.2 The inner and outer envelopes shall:
  - a. be addressed to the Purchaser at the address given in the **Bidding Data**; and
  - b. bear the Project name indicated in the **Bidding Data**, the Invitation for Bids title and number indicated in the **Bidding Data**, and a statement: “DO NOT OPEN BEFORE.....(time) on .....(date) to be completed with the time and the date specified in the **Bidding Data** pursuant to Clause 27.
- 23.3 The outer 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.”
- 23.4 If the outer envelope is not sealed and marked as required by Clauses 23.1 and 23.2, the Purchaser will assume no responsibility for the Bid’s misplacement or premature opening.

**24. Deadline for Submission of Bids**

- 24.1 The Bid must be received by the Purchaser at the address specified under ITB Clause 23.2 no later than the time and date specified in the Bidding Data .
- 24.2 The Purchaser may, at its discretion, extend this deadline for the submission of Bids by amending the Bidding Documents in accordance with Clause 11, 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.

**25. Late Bids**

- 25.1 Any Bid received by the Purchaser after the deadline for submission of Bids prescribed by the Purchaser, pursuant to Clause 24, will be declared "Late bid" and rejected and returned unopened to the Bidder.

**26. Modification, and Withdrawal of Bids**

- 26.1 The Bidder may modify or withdraw its Bid after the Bid’s submission, provided that written notice of the modification or substitution or withdrawal is received by the Purchaser prior to the deadline for submission of Bids prescribed in Clause 24 .
- 26.2 The Bidder’s modification or withdrawal notice shall be prepared, sealed, and marked and dispatched in accordance with the provisions of Clause 23 and 26.1. with the outer and inner envelopes duly marked as “WITHDRAWAL” or “MODIFICATION.” as appropriate.
- 26.3 No Bid may be withdrawn, modified after the deadline for submission of Bids.
- 26.4 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 Sub - Clause 20.6a(i).
- 26.5 Bidder’s may only offer discounts .or otherwise modify the prices of their bids by submitting Bid Modifications in accordance with Clause 26, or included in the original bid submission.

## **E. Bid Opening and Evaluation**

- 27. Bid Opening**
- 27.1 The Purchaser will open all Bids in the presence of Bidder's representatives who choose to attend, at the time, date, and place as specified in the Bidding Data. The Bidder's representatives who are present shall sign a register evidencing their attendance.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened, read out and recorded and the envelope containing the corresponding bid shall not be opened, but return to the bidder. No bid shall be withdrawn unless the corresponding Withdrawal Notice contains a valid authorization to request the withdrawal and is read out and recorded at bid opening.
- 27.3 Next, envelopes marked "MODIFICATION" shall be opened, read out and recorded with the corresponding bid. No bid shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out and recorded at bid opening shall be considered further.
- 27.4 The Bidders' names, Bid modifications or withdrawals, Bid prices, discounts and alternative offers, 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 and recorded 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 Clause 25 and 27.2.
- 27.5 The Purchaser will prepare minutes of the Bid opening indicating all remarks containing the name of the bidder, description of bid like modification or substitution or withdrawal, bid prices indicating the alternative bid prices if requested and discount offered if any, presence and absence of bid security, about late bids and other details as the Purchaser may consider appropriate. This minutes of bid opening shall duly signed by the Bidder and/or its representatives.
- 28. Clarification of Bids**
- 28.1 To assist in the examination, evaluation and comparison of Bids, the Purchaser may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response to it shall be in writing, and no change in the prices and substance of the Bid shall be sought, offered, or permitted, except as required to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the bid.
- 29. Examination of Bids and Determination of Responsiveness**
- 29.1 Prior to detail evaluation Bids, the Purchaser will determine whether each bid (a) meets the eligibility criteria defined in Clause 3 ; (b) has been properly signed; (c) is accompanied by required securities; (d)The Purchaser will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether is substantial responsive to the requirements of the Bidding documents.
- 29.2 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.

29.3 Prior to the detailed evaluation, pursuant to Clause 31, the Purchaser will determine the substantial responsiveness of each Bid to the Bidding Documents. A substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviations. 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. A material deviation or reservation is one:

- a. which effects in any substantial way the scope, quality, or performance of the Contract;
- b. which limits in any substantial way, inconsistent with the Bidding documents, the Purchaser's right or the Bidder's obligations under the Contract; or
- c. whose rectification would effect unfairly the competitive position of the other Bidders presenting substantially responsive bids.

29.4 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.

29.5 A Bid determined as not substantially responsive will be rejected by the Purchaser and not subsequently be made responsive by the Bidder by correction or withdrawal of non-confirming deviation or reservations.

**30. Process to be confidential**

30.1 Information relating to the examination, clarification, evaluation and comparison of bids and recommendations for the Award of Contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the Award to the successful Bidder has been announced.

**31. Evaluation and Comparison of Bids**

31.1 The Purchaser will evaluate and compare the Bids which have been determined to be substantially responsive, pursuant to Clause 29.

31.2 The Purchaser's evaluation of a Bid will be in the base of Bid Price as specified in the Price Schedule.

31.3 The Purchaser reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Bidding Documents or otherwise result in unsolicited benefits for the purchaser will not be taken into account in Bid evaluation.

31.4 The Purchaser's evaluation of a Bid will take into account, in addition to the Bid price quoted in accordance with Clause 15, one or more of the following factors in the manner and to the extent as specified in the Bidding Data and if quantified in Clause 31.6:

- 1.

- a. cost of inland transportation, insurance, and other costs within Nepal 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, special tools, spare parts, and service;
  - e. the availability of spare parts in Nepal and after-sales services for the equipment offered in the Bid;
  - f. the projected operating and maintenance costs during the life of the equipment and/ or ;
  - g. other specific criteria indicated in the Bidding Data and/or in the Technical Specifications.
- 31.5 Comparison of Bids will be between the main Bids only unless otherwise specified in the Bidding Data.
- 31.6 For factors retained in the Bidding Data pursuant to Sub - Clause 31.4, one or more of the following quantification methods will be applied, as detailed in the Bidding Data:

- 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 Bidding Data 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.

- 2. b. Delivery schedule:
- 3. The Goods covered under this Invitation are required to be delivered (shipped) within an acceptable range of weeks specified in the Schedule of Requirement. No credit will be given to earlier deliveries, and bids offering delivery beyond this range will be treated as non-responsive. Within this acceptable range, an adjustment per week, as specified in the Bidding Data will be added for evaluation to the Bid Price of bids offering delivery later than the Earliest Delivery Period specified in the *Schedule of Requirements*.
- c. Deviation in payment schedule.

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 in evaluation the alternative payment schedule offered by the selected Bidder and evaluate by adjusting the bid price accordingly if specified in the Bidding Data

d. Cost of spare parts:

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 Bidding Data 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

e. Spare parts and after sales service facilities in Nepal.

The cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in the Bidding Data 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 Bidding Data or in the Technical Specifications.

4. g) Specific additional criteria:

5. Other specific additional criteria to be considered in the evaluation and the relevant evaluation method shall be as detailed in the Bidding Data and/or in the Technical Specification.

**32. Domestic Preference**

Not Applicable

**33. Contacting the Purchaser**

33.1 Subject to Clause 28, no Bidder shall contact the Purchaser on any matter relating to its bid, from the time of the bid opening to the time the Contract is awarded. If the Bidder wishes to bring additional information to the notice of the Purchaser, it should do so in writing.

33.2 Any effort by a Bidder to influence the Purchaser in the Purchaser's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidder's bid.

**F. Award of Contract**

**34. Post-qualification**

34.1 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 Sub - Clause 18.1.

34.2 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 Clause 18.1, as well as such other information as the Purchaser deems necessary and appropriate.

- 34.3 To verify its technical and production capability the Bidder shall provide with its Bid documentary evidence that the items offered have been in production and have been in satisfactory operation as specified in Bidding Data .
- 34.4 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.
- 35. Award Criteria** 35.1 Subject to Clause 37, 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.
- 36. Purchaser's Right to Vary Quantities at Time of Award** 36.1 The Purchaser reserves the right at the time of contract award to increase or decrease, by the percentage indicated in the Bidding Data ,the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.
- 37. Purchaser's Right to Accept Any Bid and to Reject Any or All Bids** 37.1 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 or any obligation to inform the affected Bidder or Bidders.
- 38. Notification of Award** 38.1 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 or by cable, that its Bid has been accepted and on which basis the Bid has been accepted.
- 38.2 The notification of award will constitute the formation of the Contract.
- 38.3 Upon the successful Bidder's furnishing of the performance security pursuant to ITB Clause 40, the Purchaser will promptly notify the name of the winning Bidder to each unsuccessful Bidder and will discharge its Bid security, pursuant to Clause 20.
- 38.4 The Contract will incorporate all Agreements between the Purchaser and successful Bidder.
- 38.5 If, after notification of award to the successful Bidder , an unsuccessful Bidder wishes to ascertain the grounds on which its Bid was not selected, it should address its request to the Purchaser within thirty (30) days of issue of the award notice. The Purchaser will promptly respond in writing to the unsuccessful Bidder.
- 39. Signing of Contract** 39.1 At the time of notification of award, the Purchaser will send the successful Bidder the Contract Form provided in the Bidding Documents, incorporating all agreements between the parties.

- 39.2 Within fifteen (15) days of receipt of the letter informing the submission of performance guarantee and sign the contract, the successful Bidder shall sign and date the contract and return it to the Purchaser
- 40. Performance Security**
- 40.1 Within fifteen (15) 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.
- 40.2 Failure of the successful Bidder to comply with the requirement of Sub - Clause 39.2 or Clause 40.1 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.
- 41. Corrupt or Fraudulent Practices**
- 41.1 Government of Nepal requires that Purchaser, as well as Bidders observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Government of Nepal
- :
- 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 GON, 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 Borrower 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 for a stated period of time, to be awarded a GON/Donor funded contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a GoN/Donor funded contract.
- 41.2 Furthermore, Bidders shall be aware of the provision stated in Clauses 5.4 and 24.1 of the General Conditions of Contract.
- 42. Conduct of Bidders**
- 42.1 The Bidder shall be responsible to fulfil his obligations as per the requirement of the Contract Agreement, Instruction to Bidders and GoN’s Procurement Act and Regulations.
- 42.2 The Bidder shall not carry out or cause to carry out the following acts with an intention to influence the implementation of the procurement process or the procurement agreement :

- a. give or propose improper inducement directly or indirectly,
- b. distortion or misrepresentation of facts,
- c. engaging in corrupt or fraudulent practice or involving in such act,
- d. interference in participation of other competing bidders,
- e. coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
- f. collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Purchaser the benefit of open competitive bid price.
- g. contacting the Purchaser with an intention to influence the Purchaser with regards to the bids or interference of any kind in examination and evaluation of the bids during the period from the time of opening of the bids until the notification of award of contract

**43.Blacklisting  
Bidders**

- 43.1 Without prejudice to any other rights of the Purchaser under this Contract , the Public Procurement Monitoring Office (PPMO) may blacklist a Bidder for his conduct up to three years on the following grounds and seriousness of the act committed by the bidder:
- a) if it is proved that the bidder committed acts contrary to the Sub - clause 42.2,
  - b) if the bidder fails to sign an agreement pursuant to clause 39,
  - c) if it is proved later that the bidder has committed substantial defect in implementation of the contract or has not substantially fulfilled his obligations under the contract or the completed work is not of the specified quality as per the contract ,
  - d) if convicted by a court of law in a criminal offence which disqualifies the bidder from participating in the contract.
  - e) if it is proved that the contract agreement signed by the bidder was based on false or misrepresentation of bidder's qualification information,
  - f) other acts mentioned in the Bidding Data or SCC
- 43.2 A Bidder declared blacklisted and ineligible by the GON, Public procurement Office and or concerned Donor Agency in case of donor funded project shall be ineligible to bid for a contract during the period of time determined by the PPMO and or the concerned donor agency.

## Section II. Bidding Data

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

<b>ITB 1.1</b>	Name of the Purchaser: <b>Ministry of physical planning and works, Railway Construction Project, Naya baneshwor, Kathmandu,</b>
<b>ITB 2.1</b>	Donor Agency : <b>Government of Nepal</b>  Name of Project: <b>Railway Construction Project</b>
<b>ITB 2.1</b>	Name of Project: <b>Railway Construction Project</b>
<b>ITB 2.1</b>	Name of Contract: <b>Supply and Delivery of Vehicle(Car)</b>
<b>ITB 3.1</b>	Bidder's Eligibility Requirements are: <u>Nepali Bidders</u> <ul style="list-style-type: none"> <li>a) Up to date Firm/Company Registration Certificate</li> <li>b) VAT and PAN Registration Certificates</li> <li>c) Tax Clearance Certificate or Submissions of Tax Returns up to <b>Fiscal year 066/67</b></li> <li>d) A written declaration made by the Bidder stating that the Bidder is not ineligible to participate in the Bid; has no conflict of interest in the proposed bid procurement proceedings and has not been punished for the profession or businesses related offence.</li> <li>e) Joint Venture Authorization/ Agreement (if any)</li> <li>f) Power of Attorney</li> <li>g) Other documents as needed</li> </ul> <u>Foreign Bidders</u> <ul style="list-style-type: none"> <li>a) suppliers from eligible source country</li> </ul>
<b>ITB 10.1</b>	Purchaser's Name: <b>Railway Construction Project</b> Address: <b>Railway Construction Project, Naya baneshwor, Kathmandu, Nepal.</b> Telephone;01-4492918 Facsimile numbers: : <b>+977-1-4492919</b>
<b>ITB 12.1</b>	Language of the Bid: Nepali or English

<b>Bid Price and Currency</b>	
<b>ITB 15.2 (i)</b>	<b>The price quoted shall be :</b> The prices shall include all duties, taxes and other levies. The prices should be expressed in the term of EXW in Nepalese Rupees.
<b>(ii)</b>	The Prices for inland transportation : NRs..... The prices for insurance : NRs..... The prices for other local cost : NRs..... <b>Sub-total : NRs.....</b>
<b>(iii)</b>	The price of other incidental services : (i) ..... NRs..... (ii) ..... NRs..... (iii) ..... NRs..... <b>Sub-total : NRs.....</b>  <b>Grand Total CIP to Ministry of physical planning and works, Railway Construction Project, Nayabaneshwor, Kathmandu, Nepal : NRs.....</b>
<b>ITB 15.3</b>	The price shall be fixed.
<b>ITB 16.1</b>	The prices shall be quoted in Nepalese Rupees.
<b>Preparation and Submission of Bids</b>	
<b>ITB 18.1 (d)</b>	Bidders supply experience of last 3 years: <i>To government, non-government enterprises or private institutions</i> Nature of Goods supplied: <i>Vehicle ( car)</i> Quantity supplied : Contract amount :
<b>ITB 18.1 (e)</b>	Qualification requirements: i) The offered goods/equipment shall be latest and in current production for a minimum of 2 years. If the offered model is a new, the manufacturer must have experience in producing the similar model for a minimum of 2 years. ii) The bidder shall furnish a list of users who had purchased same/similar goods/equipment in last 3 years., and number of equipment sold to them, the contract amount. They will be used as references to check the performance of the offered model, if necessary. iii) Compliance with of variation from the departmental requirement of the technical specification shall be duly filled in the offered specification column of the Technical Specification. iv) No bid will be considered if the offered quantity is different from that specified in the Technical Specification. v) An agent can submit bids on behalf of more than one manufacturer but separate complete bids including bid security shall be submitted for each manufacturer.

	vi) If an Agent submits bids on behalf of more than one Manufacturer, unless each such bid is accompanied by a separate Bid Form for each bid, and a bid security, when required, for each bid, and authorization from the respective Manufacturer, all such bids will be rejected as non-responsive.
<b>ITB 20.1</b>	Amount of Bid security: NRs.....[ <i>not less than two point five 2.5 percent of bid price.</i> ]
<b>ITB 21.1</b>	Bid validity period : <b>90 days</b> counted from the date of bid submission deadline.
<b>ITB 22.1</b>	Number of copies: <b>Two (2) copies.</b>
<b>ITB 23.2 (a)</b>	Address for Bid submission: <b><i>Ministry of physical planning and works, Railway Construction Project, Naya baneshwor, Kathmandu .</i></b>
<b>ITB 23.2 (b)</b>	IFB title and number:
<b>ITB 24.1</b>	Deadline for bid submission :  Date : <b><i>068/01/06</i></b> Time : <b><i>12:00 Noon</i></b> Place : <b><i>Ministry of physical planning and works, Railway Construction Project, Naya baneshwor, Kathmandu .</i></b>
<b>ITB 26.1</b>	Deadline for Bid Modification and Withdrawal :  Date : <b><i>068/01/06</i></b> Time : <b><i>12:00 Noon</i></b> Place : <b><i>Ministry of physical planning and works, Railway Construction Project, Naya baneshwor, Kathmandu .</i></b>
<b>ITB 27.1</b>	Bid Opening.  Date : <b><i>068/01/06</i></b> Time : <b><i>1:00 PM</i></b> Place : <b><i>Ministry of physical planning and works, Railway Construction Project, Naya baneshwor, Kathmandu .</i></b>
<b>Bid Evaluation</b>	
<b>ITB 31.4</b>	Criteria for Bid evaluation. are:  The Purchaser's evaluation of a Bid will take into account, in addition to the Bid price quoted in accordance with Clause 15  (i) <i>delivery schedule offered in the Bid</i>

<b>ITB 31.4 (a)</b>	Inland transportation from EXW/port of entry/border point to <i>[name of Project site(s)]</i> , and insurance and incidentals.  <i>Not Applicable</i>
<b>ITB 31.4 (b)</b>	Delivery schedule : Relevant parameters of delivery  (i) <i>30 days from the date of agreement</i>
<b>ITB 31.4 (c)</b>	Reduction in Bid Price for Deviation in payment schedule: <i>Not Applicable</i>
<b>ITB 31.4 (d)</b>	Cost of spare parts : <i>Not Applicable</i> Initial year of operation : <i>Not Applicable</i>
<b><u>ITB 31.4 (e)</u></b>	Spare parts and after sales service facilities in Nepal:  <i>After Sales Service is required.</i>
<b>ITB 31.4 (f)</b>	Operating and maintenance costs.  <i>Not Applicable</i>
<b>ITB 31.5</b>	<i>Alternative Bid shall not be permitted.</i>
<b>ITB 34.3</b>	Documentary evidence of technical and production capabilities:  (i) <i>As specified in the Technical Specification.</i>
<b>Contract Award</b>	
<b>ITB 36.1</b>	Percentage for quantity increase or decrease : <i>15% Maximum</i>
<b>ITB 38.1</b>	Notification of Contract Award shall be sent to the successful Bidder at any time prior to expiration of Bid Validity.

## Section IV. 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. "Contract Documents" means the documents listed in the Agreement, including amendments thereto. Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory.
  - c. "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
  - d. "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.
  - e. "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.
  - f. "Delivery" means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the contract.
  - g. "Completion" means the fulfillment of the related services by the Supplier in accordance with the terms and conditions set forth in the contract.
  - h. "Purchaser Country" is the country specified in the Special Conditions of Contract (SCC).
  - i. "GCC" means the General Conditions of Contract contained in this section.
  - j. "SCC" means the Special Conditions of Contract.
  - k. "The Purchaser" means the organization purchasing the Goods, as named in SCC.
  - l. "The Supplier" means the individual or firm supplying the Goods and Services under this Contract and named in SCC.
  - m. "The Project Site," where applicable, means the place or places named in SCC.
  - n. "Day" means calendar day.
  - o. "The Governing Language" of the contract shall be English/Nepali.

### 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 Nepal or in the countries and territories eligible under the rules of the Donor Agency, 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.
- 4.2 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 shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national or relate to a particular country or region, other authoritative standards that ensure substantial equivalence to the standards and codes specified will be acceptable.
- 5. Use of Contract Documents and Information; Inspection and Audit by the Donor Agency**
- 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 the GoN/Donor Agency to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the GoN/Donor Agency, if so required by the GoN/Donor Agency.
- 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 Nepal.
- 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 Nepal 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 recognized as good for payment.

7.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than thirty eight (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 Nepal 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," "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 Nepal, 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 Nepal, defined as the Project Site, transport to such place of destination in Nepal, 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 Nepal, 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 fulfillment of other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than thirty (30) days after approval of the invoice by the Purchaser.
- 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.
- 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 authorised 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 twenty eight (28) 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 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 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 Purchaser, 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 Purchaser 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 Sub - Clause 24.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Services

similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

**25. Force Majeure**

- 25.1 Notwithstanding the provisions of 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 seven (7) 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 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 such 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 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 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 Nepal, 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 facsimile and confirmed in writing to the other party's address specified in SCC.
- 32.2 If a notice given pursuant to Sub Clause 32.1 fails to be delivered due to failure to trace the address of the party then the notice shall be published as public notice in a National daily newspaper and when the notice is so published then the notice shall be considered to be delivered to the concerned party.
- 32.3 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 Nepal.
- 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.

**34. Supplier's Responsibilities**

34.1 The Supplier shall supply all the goods and related services included in the scope of supply and change order in accordance with GCC Clause 18 and the Delivery and completion schedule, as per GCC clause 10.

**35. Purchaser's Responsibilities**

35.1 Whenever the supply of Goods and Rental Services requires that the Supplier obtain permits, approval and import and other licences from local public authorities, the Purchaser shall, if so required by the Supplier, makes its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

35.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with sub-clause 35.1.

**36. Extension of Time**

36.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of related services pursuant to GCC clause 10, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be rectified by the parties by amendment of the Contract

Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaws having the force of law is enacted, promulgated, abrogated, or changed in the place of Nepal where the site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the delivery date and/or the Contract Price, then such delivery date and/or the Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC clause 17.

## Section V. 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)

1.1 (GCC 1.1 (k)) — The Purchaser is: *Ministry of physical planning and works, Railway Construction Project, Nayabaneshwor, Kathmandu .*

1.2 (GCC 1.1 (i)) — The Supplier is: .....

1.3 (GCC 1.1 (m))—The Project Site is: *Ministry of physical planning and works, Railway Construction Project, Nayabaneshwor, Kathmandu, Nepal*

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

3.1 All countries and territories as indicated in Section IX of the Bidding documents, “Eligibility for the Provisions for Goods.

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

3.1 (GCC 7.1)—The amount of performance security, as a percentage of the Contract Price, shall be: *Five (5) percent of the Contract Price*

3.2 (GCC 7.4)The validity of performance Security shall be one (1) year after the final delivery, installation and commissioning of the goods and the issuance of final acceptance certificate to the supplier. 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. The supplier shall promptly extend the validity suitably to cover agreed extension of the warranty period of the supplied goods.

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

4.1 (GCC 8.1)—Inspection and tests the Purchaser requires:

6. a. The purchaser shall appoint an inspection committee to inspect the goods delivered by the supplier under this contract. The inspection shall be carried out at the place of delivery soonest possible after the arrival of the complete consignment and not later than fifteen days from the date of receipt of notification from the supplier stating that the goods are ready for inspection.

7. b. The supplier or his representatives shall be responsible for commissioning, testing and demonstrating to the purchaser’s inspection committee that the goods meet the specification requirements and also the claimed performances of the manufacturer.

8. c. All expenses involved in assembling and commissioning the goods including fuels, oils, etc. to meet the requirements of the contract and the cost of any unsuccessful test or tests for this purpose shall be of the supplier. The supplier will correct or cause to be corrected such defects or deviation form the contract requirement at his own expenses within thirty days from the date of such inspection.

d. The supplier shall be completely responsible for the goods until accepted by the purchaser and should there be any items missing (according to the Invoice and / or packing list) or damaged, the supplier shall restore such items. As soon as the goods have been found to meet the requirements of the contract, the purchaser shall issue a certificate. All manual and books as specified in the Technical Specification shall be submitted by the Supplier before issuing the acceptance certificate.

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

5.1 (GCC 9.2)—Additional requirement for packing and marking as per GCC Clause 9.2 are as follows:

- a) Packing must be sufficient to assure full protection of goods until arrival at destination.

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

**A. For Goods supplied from abroad: NA**

6.1 (GCC 10.3)—Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by facsimile 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) copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) original and \_\_ copies of the negotiable, clean, on-board bill of lading marked "freight prepaid" and \_ 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.

6.2 The **documents as per sub-clause 6.1** 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.

**B. For Goods from within Nepal:**

6.3 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) 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.

6.4 The **documents as per sub-clause 6.3** 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)**

7.1 (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. Transportation (GCC Clause 12)**

8.1 (GCC 12.1)—Obligation and responsibility of transportation of the goods shall be in accordance with the current edition of INCOTERMS published by the International Chamber of Commerce, Paris

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

9.1 GCC 13.1—Incidental services to be provided are:  
(i) The supplier shall be responsible for the arrangement to transfer ownership of goods.

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

10.1 GCC 14.1—Additional spare parts requirements are:  
*Not Applicable*

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

11.1 (GCC 15.2)—In partial modification of the provisions, the warranty period shall be 12 months from date of acceptance of the Goods. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either:

- (a) make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with SCC 4,
- or**
- (b) pay liquidated damages to the Purchaser with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be point five (0.5) percent per day.

11.2 (GCC 15.4 & 15.5)—The period for correction of defects in the warranty period is: 50% time of the delivery schedule of the particular goods.

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

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

**A. Payment for Goods supplied from abroad:** Payment for Goods supplied from abroad shall be made in Nepalese Currency, as follows:

- (i) **Letter of Credit:** Letter of Credit shall be opened within thirty (30) days of signing of the Contract.
- (ii) **Advance Payment:** Ten (10) percent of the contract price shall be paid within thirty (30) days of signing of the contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the bidding documents or another form acceptable to the Purchaser.

- (iii) **On Shipment:** Eighty (80) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 10.
- (iv) **On Acceptance:** Ten (10) percent of the Contract Price of Goods received shall be paid within twenty eight (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Purchaser.

**B. Payment for Goods and Services supplied from within Nepal:** Payment for Goods supplied from within Nepal shall be made in Nepalese Currency, as follows:

- (i) **On Delivery:** Eighty (80) percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 10.
  - (ii) **On Acceptance:** The remaining twenty (20) percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the Purchaser.
9. 12.2 Payments as per Clause 12.1 (A) and (B) shall be made against the handing over by the Supplier of the following documents:
- As regards to the LC opening mentioned above: an official request letter to the Purchaser.
  - As regards the installment mentioned above: all documents described and listed in Clause B above.
  - As regards the final installment mentioned above: a certificate from the Purchaser to the Supplier acknowledging that the goods have been accepted by the Purchaser. In order to release the performance bond/Bank Guarantee, a letter will be sent by the Purchaser to the Supplier acknowledging that the Supplier has fulfilled his obligations as to the Warrantee and/or Guarantee for the goods.

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

- 13.1 (GCC 17.1)—Prices shall be adjusted : *Not Applicable*
- 12.2 Purchaser shall not entertain Contract Price variation due to the effect of any notice of exchange rate variation of any convertible currency.
- 12.3 Conversion of any convertible currency into the Nepali currency, if in any case required, shall be in the base of selling exchange rate established by the Nepal Rastra Bank.

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

- 15.1 (GCC 23.1)— Liquidated damages for delay in performance is: *0.05% of the contract price per day with maximum deduction not to exceed ten (10) percent of the contract price.*

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

- 16.1 GCC 28.2.2—Arbitration Proceedings:
- 10. (i) in the case of a dispute between the Purchaser and a Supplier which is a national of Nepal, the dispute shall be referred to arbitration in accordance with the rules of Nepal Council of Arbitration ; and
  - (ii) in the case of dispute between the Purchaser and the Foreign Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.

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

17.1 (GCC 30.1) —The Governing Language shall be: English but correspondence may be done in Nepali.

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

18.1 (GCC 31.1) —The Applicable Law shall be: The laws of Nepal

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

(GCC 32.1) —Purchaser’s address for notice purposes *Ministry of physical planning and works, Railway Construction Project, Nayabaneshwor, Kathmandu .*

Supplier’s address for notice purposes: .....

**20. Taxes and Duties (GCC Clause 33)**

20.1 (GCC 33.1) —A foreign Supplier shall be responsible for all duties and taxes imposed until the delivery of Goods to the Purchaser both outside and inside Nepal

20.2 (GCC 33.2) —A local Supplier shall be responsible for all duties, taxes, licence fees etc. incurred until delivery of the contracted Goods to the Purchaser.

## Attachment to SCC: Sample Price Adjustment Formula (Not Applicable)

Prices payable to the Supplier, if stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components in accordance with the formula:

$$\Delta P = P_0 \left( a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

in which:

- $\Delta P$  = adjustment amount payable to the Supplier.
- $P_0$  = Contract Price (base price).
- a = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent.
- b = estimated percentage of labor component in the Contract Price.
- c = estimated percentage of material component in the Contract Price.
- $L_0, L_1$  = labor indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.
- $M_0, M_1$  = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

The coefficients a, b, and c shall be specified by the Purchaser in the Bidding documents. The sum of the three coefficients should be one (1) in every application of the formula.

The Bidder shall indicate the source of the indices and the base date indices in its Bid.

Base date = thirty (30) days prior to the deadline for submission of the Bids.

Date of adjustment = \_\_\_\_\_ weeks prior to date of shipment (representing the mid-point of the period of manufacture).

The above price adjustment formula shall be invoked by either party subject to the following further conditions:

- (a) Price adjustment will be applied only if the resulting increase or decrease is more than \_\_\_\_ percent of the Contract Price.

***[Two (2) percent would be an acceptable percentage.]***

- (b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely responsible. The Purchaser will however be entitled to any decrease in the prices of the Goods and Services subject to adjustment.
- (c) The total adjustment under this clause shall be subject to a ceiling of plus or minus \_\_ percent of the Contract Price.

***[Ten (10) percent would be an acceptable percentage.]***

- (d) If the currency in which the Contract Price  $P_0$  is expressed is different from the currency of origin of the labor and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (e) No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.

## Section VI. Schedule of Requirements

The delivery schedule expressed as weeks/months stipulates hereafter a delivery date which is the date of delivery (i) at EXW premises, or (ii) to the carrier at the port of shipment when the contract is placed on FOB or CIF terms, or (iii) to the first carrier when the contract is placed on FCA or CIP terms. In order to determine the correct date of delivery hereafter specified, the Purchaser has taken into account the additional time that will be needed for international or national transit to the Project Site or to another common place.<sup>1</sup>

<b>Number</b>	<b>Description</b>	<b>Quantity</b>	<b>Delivery schedule in days from the date of contract agreement</b>
1.	car	1(One) unit	30 days

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<sup>1</sup> The delivery may be specified for a single shipment, or for several partial shipments, for a specific date, or range of acceptable delivery periods.

## Section VII. Technical Specification

Car 800 CC Class ( $\pm 10\%$ )

1 Unit

S.N.	CRITERIA	BUYER'S REQUIREMENT	OFFERED SPECIFICATION
1	General	<b>Four door Right Hand Drive model. Gross Vehicle Weight of the vehicle shall not be less than 1000 Kg and shall have seating capacity for at least 4 persons.</b>	Make: Model: Country of Origin:
2	Engine	Water cooled petrol Engine, developing <b>Maximum rated power output not less than 35 bhp at governed RPM</b> , engine fully equipped with accessories for efficient full load operation of the vehicle at operating conditions, cold starting device, direct electric starting system, heavy duty fuel filter.	Make: Model:
3	Gauges	To include water temperature, fuel, oil pressure, transmission gauge etc. as necessary for efficient operation and maintenance.	
4	Emission Standard	The Emission Standard of the vehicle should comply with the latest "Vehicle Mass Emission Standard" of Nepal which is to be certified by Department of Transport Management, Nepal.	
5	Clutch	Dry, single plate.	
6	Transmission	Manual shift with four forward and one reverse, floor mounted.	
7	Ground clearance	High ground clearance preferred. <b>Minimum 160 mm</b>	
8	Suspension	Leaf springs / coil springs, torsion bar / Shock absorbers at rear.	
9	Tires	Standard size	
10	Steering	Manual / Power-assisted	
11	Brakes	Front disc type, rear drum type, hydraulically operated on all wheels; and parking brake.	
12	Cab	4 side doors and 1 back door, all metallic cab with insulated roof, laminated glass windscreen, front windscreen washers and wipers, glass windows on doors, through ventilation, comfortable and adjustable seats for driver and co-passenger. Floor mats, two sun visors, and two side view mirrors.	
13	Chassis and frame	Heavy duty Steel	

14	Essential Accessories	<ol style="list-style-type: none"> <li>1. Head light, tail and rear light, reversing light and turn signals.</li> <li>2. Cabin lights</li> <li>3. Rear view mirrors.</li> <li>4. Two sun visors.</li> <li>5. Speedometer / odometer.</li> <li>6 Heavy duty front bumper.</li> <li>7. One Spare wheel with tyre and tube.</li> <li>8. Suitable Jack.</li> <li>9. Seat belts.</li> <li>10. Rear Wiper &amp; Washer.</li> </ol>	
15	Instructions	All signs and instructions in the vehicle shall be in English.	
16	Manuals	One copy of the Operator's / Owner's Instructions in English shall be supplied with each vehicle.	
17	Tools	A set of tools as required for general maintenance shall be supplied.	
18	Color	Standard color.	
19	Proven performance	<ol style="list-style-type: none"> <li>1. The vehicle offered shall be a current model under standard production by the manufacturer for at least one year.</li> <li>2. The bidder shall provide the manufacturer's data of the performance of the unit to include the fuel consumption, performance curve of the engine and production capacity of the unit.</li> </ol>	
20	Warranty	Manufacturer shall provide warranty for <b>minimum of one year after acceptance.</b>	
21	Delivery	<p>The 1 unit car shall be delivered to:</p> <p style="text-align: center;"><b>Ministry of Physical planning &amp; works Railway Construction Project Nayabaneshwor, Kathmandu</b></p>	

## Section VIII. Sample Forms

### 1. Bid Form and Price Schedules

Date: \_\_\_\_\_  
 Loan /Grant No (if applicable): \_\_\_\_\_  
 Contract Identification No: VEH/01/067/68

To:  
**Ministry of physical planning and works,**  
**Railway Construction Project, Naya baneshwor, ,Nepal**

Gentlemen and/or Ladies:

Having examined the Bidding documents including Addenda Nos. *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver *[description of goods and services]* 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 and services in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Bid is accepted, we will provide a Bank Guarantee acceptable to the Purchaser in a sum equivalent to 5 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 a period of ..... *[insert number as specified in bid validity period]* days from the date fixed for Deadline for Bid submission, and it shall be 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 gratuit
_____	_____	_____
_____	_____	_____
_____	_____	_____

(if none, state "none")

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 3 of the Bidding documents.

Dated this \_\_\_\_\_ *[dd]* day of \_\_\_\_\_ *[mm]* month of 20\_\_\_\_ *[yy]*.

*[Name]* \_\_\_\_\_

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

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

Duly authorised to sign Bid for and on behalf of :

**Price Schedule for Goods Offered from Abroad**  
**(Not Applicable)**

Name of Bidder \_\_\_\_\_ . Contract Identification Number \_ . 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 15.2 of the Instructions to Bidders and the related provisions in the Bidding Data.
2. Currencies to be used in accordance with Clause 16 of the Instructions to Bidder.
3. Optional, but in accordance with Clause 15.2(ii) and (iii) in the Instructions to Bidders and the related provisions in the Bidding Data.

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

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

### Price Schedule (Bill of Quantities)

Name of Bidder \_\_\_\_\_

IFB Number:  
VEH/01/067/68

1	2	3	4	5	6	7	8	9	10	11
Sr. No.	Description	Country of origin	Qty.	Unit price EXW..... (specify place)	Total price EXW..... (col. 4 x 5)	Total price of inland delivery to final destination	Total CIP Site Delivery Price	VAT and other taxes payable if Contract is awarded	Total Bid Price (col. 8+9)	Remarks

Page \_\_\_\_ of \_\_\_\_ .

The total bid Price for the above schedule is .....  
(In Words)

of.....

Dated .....this ..... day

Bidder.....

(Affix Corporate seal)

- Note:
1. In case of discrepancy between unit price and total, the unit price shall prevail.
  2. In case of discrepancy between unit price in figure and unit price in words the unit price in words shall prevail.
  3. Bidder must have to accept the correction of arithmetic error pursuant to ITB Clause 26.2

Signature  
Title  
Business Address

## 2. Bid Security Form

Date:

To :

**Ministry of physical planning and works,  
Railway Construction Project, Naya baneshwor, Nepal**

Whereas [*name of the Bidder*] (hereinafter called “the Bidder”) has submitted its bid dated [*date of submission of bid*] for the supply of [*name and/or description of the goods and services*] (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*] Government of Nepal (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 \_\_\_\_\_ [*mm*] 20 \_\_\_\_.

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 Form of Agreement in accordance with the Instructions to Bidders, if required; or
  - (b) fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders;
  - (c) does not accept the provision of bidding document.

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 him is due to him, owing to the occurrence of one or any 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 or as it may be extended by the Purchaser, notice of which extension(s) to the Bank is hereby waived.

And any demand in respect thereof should reach the Bank not later than the above date.

\_\_\_\_\_  
[signature of the bank]

Seal of the issuing Bank:

Witness :  
Signature:  
Name :  
Address :

### 3. Contract Form

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_\_[mm] 20\_\_\_\_ between [name of Purchaser] of [country of Purchaser] (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., [brief description of goods and services] and has accepted a bid by the Supplier for the supply of those goods and services in the sum of [contract price in words and figures in Nepalese Rupees] (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) Contract Agreement
  - (b) the Bid Form and the Price Schedule submitted by the Bidder;
  - (c) the Schedule of Requirements;
  - (d) the Technical Specifications;
  - (e) the General Conditions of Contract;
  - (f) the Special Conditions of Contract;
  - (g) the Purchaser’s Notification of Award; and
  - (h) any other document which the Purchaser wants to add in the particular procurement.
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 Law of Nepal the day, month and year first above written.

**On behalf of the Purchaser**

**On behalf of the Supplier**

Name :

Name :

Signature:

Signature:

Designation:

Designation:

Seal:

Seal:

#### 4. Performance Security Form

Date:

To: *Ministry of physical planning and works,  
Railway Construction Project, Naya baneshwor, Nepal*

WHEREAS *[name and address of Supplier]* (hereinafter called “the Supplier”) has undertaken, in pursuance of Contract No. *[reference number of the contract]* dated \_\_\_\_\_ *[yy/mm/dd]* 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 such a Bank guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantors and responsible to you, on behalf of the Supplier, up to a total of *[amount of the guarantee in words and figures Nepalese Rupees]*, and we undertake to pay you, upon your first written demand such sum being payable in the types and proportions of currencies in which the contract price is payable, and without cavil or argument, any sum or sums within the limits of *[amount of guarantee in Nepalese Rupees]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of demanding the said debt from the Supplier before presenting us with the demand.

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

This Guarantee is valid until a date thirty (30) days from the date of issue of the Certificate of Acceptance.

Signature and seal of the Guarantors

---

*[name of bank]*

---

*[address]*

---

*[date]*

## 5. Bank Guarantee Form for Advance Payment

To:

*Ministry of physical planning and works,  
Railway Construction Project, Naya baneshwor, Nepal*

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

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

The validity period of the guarantee shall be 30 days beyond the period scheduled for repayment of the advance payment and the guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until the Purchaser receives full repayment of the same amount from the Supplier.

Signature and seal of the Guarantors

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*[name of Bank]*

---

*[address]*

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*[yy/mm/dd]*  
*[date]*

## **6. Manufacturer's Authorization Form**

Date:

To:

***Ministry of physical planning and works,  
Railway Construction Project, Naya baneshwor, Nepal***

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]*

We hereby authorize *[name and address of Agent]* solely 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.

---

*[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.

## **Section IX. Eligibility for the Provision of Goods**