

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Contract Identification No.: MBJCL-069/70-CE-02



BIDDING DOCUMENTS FOR SUPPLY AND DELIVERY OF HYDRAULIC EXAVATOR WITH BREAKER



JANUARY 2013

MADHYA BHOTEKOSHI Jalavidyut Company Limited
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Section I. Invitation for Bids

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Invitation for Bids for Supply & Deliver of Construction Equipment

(First Publication Date: January 21, 2013)

1. MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED (MBJCL), a subsidiary company of Chilime Hydropower Company Limited (CHCPL), invites sealed Bids from eligible bidders (Manufacturers/Registered Suppliers or their authorized representatives) for the procurement of heavy Equipment (HE) as mentioned in the table below for the company.
2. MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED (MBJCL) invites sealed bids from eligible bidders for the procurement of **Construction Equipment under International Competitive Bidding (ICB) procedures.**
3. Eligible Bidders may obtain further information at the office of MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, Kathmandu, Nepal, Phone: +977-01-4721641, +977-01-4721642, Fax: 01-4721643.
4. Eligible Bidders may obtain the complete set of Bid Document from MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, Kathmandu, Nepal during office hours on submission of a written application accompanied by copies of 1) Firm Registration Certificate, 2) VAT Registration Certificate, 3) Income Tax Registration and 4) Bank Voucher evidencing the deposit of non-refundable cash amount as mentioned in table below.
5. Bid Proposal shall be sealed in a single envelope and submitted to MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, Kathmandu, Nepal on date and time mentioned in the table below. Documents received after this deadline and timeline shall not be accepted.
6. Bids shall be opened as mentioned in the table below at the office of MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, Kathmandu, Nepal in the presence of Bidders' representatives who choose to attend. Bids must be valid for a period of 90 days counting from the date of 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 minimum 30 days beyond the Bid validity period in favor of MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED.
7. If any information/data provided in the Submitted Bid is unclear, illegible or not substantiated by supporting document, such information/data shall not be taken into account for qualification.
8. If the last date of Bid submission/opening falls on a Company holiday, the same time of next working day shall be considered for such events.
9. The Company reserves the right to accept or reject, wholly or partly any or all the Bids without assigning any reason whatsoever.

Contract Identification Nos.	Particulars	Last date for purchasing Bid Documents	Last date and time for submission of Bid Documents	Bid Opening date and time	Bid Document Price (NRs.)	Bank Voucher Detail
MBJCL-069/70-CE-01	Supply and Delivery of 1 No. of Wheel Loader	Within 45 days of first notice publication	46 th day of first notice publication at 12:00 hrs	46 th day of first notice publication at 14:00 hrs	5,000.00	Account No.00200105200313, Everest Bank, New Road, Kathmandu, Nepal in favor of Madhya Bhotekoshi Jalavidyut Company Limited
MBJCL-069/70-CE-02	Supply and Delivery of 1 No. of Hydraulic Excavator with Breaker	Within 45 days of first notice publication	46 th day of first notice publication at 12:00 hrs	46 th day of first notice publication at 14:00 hrs	5,000.00	Account No.00200105200313, Everest Bank, New Road, Kathmandu, Nepal in favor of Madhya Bhotekoshi Jalavidyut Company Limited

Section II. Instructions to Bidders

Instructions to Bidders (ITB)

A. Introduction

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| 1. Scope of Bid | <p>1.1 The purchaser as defined in the Bidding Data invites Bids for supply, delivery, Installation and Commissioning of goods, materials, and Equipment (such goods, materials and equipment and related services hereinafter referred as "Goods").</p> <p>1.2 All Bids are to be completed and returned to the Purchaser in accordance with these Instructions to Bidders.</p> |
| 2. Source of Funds | <p>2.1 The MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED intends to procure from its own resources the specified Equipment for its use. Payments shall be subject to the terms and conditions of payment specified in Conditions of the Contract.</p> |
| 3. Eligible Bidders | <p>3.1 This Invitation for Bids is open to all eligible suppliers and manufacturers indicated in the Bid Data Sheet.</p> <p>3.2 Government owned enterprises in Nepal and abroad may participate only if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Purchaser.</p> <p>3.3 Bidders should not be associated or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of goods to be purchased under this Invitation for Bid.</p> <p>3.4 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the GoN and/or the Agencies in accordance with sub-clause 38.1.</p> |
| 4. Eligible Goods and Services | <p>4.1 All goods and related services to be supplied under the contract shall have their origin in eligible source countries, as specified in the ITB Clause 3.1 and all expenditures made under the contract will be limited to such goods and services.</p> <p>4.2 For purposes of this clause, "Origin" means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.</p> <p>4.3 The origin of goods and services is distinct from the nationality of the Bidder.</p> |
| 5. Cost of Bidding | <p>5.1 Bidders shall bear all costs associated with the preparation and submission of their bids, and the Purchaser will, in no case, be responsible or liable for those cost, regardless of the conduct or out come of the bidding process.</p> |
| 6. One Bid per Bidder | <p>6.1 Each Bidder shall submit only one Bid, either individually or as a joint venture partner. A Bidder who submits or participates in more than one Bid shall cause all proposals with the Bidder's participation to be disqualified.</p> |

- 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 during the bidding process and 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 authorized signatories of all the partners; and 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; and
 - e. a copy of agreement entered into by the Joint-venture partners and notarised by a public notary shall be submitted with the Bid which shall define clearly their respective proportions and the area of responsibilities.
- 8. Assurance**
- 8.1 The successful Bidder will be required to give satisfactory assurance of its ability and intention to deliver 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 for Bids, the Bidding Documents include:
- a. Invitation for Bids
 - b. Instructions to Bidders (ITB);
 - c. Bid Data Sheet;
 - d. Forms of Bid, Qualification Information, Letter of Acceptance and Agreement;
 - e. General Conditions of Contract (GCC);
 - f. Special Conditions of Contract (SCC);
 - g. Forms of Securities;
 - h. Technical Specifications;
 - i. Bill of Quantities;
 - j. Schedule of Requirements; and
 - k. Addendum issued in accordance with Sub-Clause 11, if any,
- 9.2 The Bidder is expected to examine all instructions, forms, terms and specifications in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or 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 Documents**
- 10.1 A prospective Bidder requiring any clarification of the Bidding Documents may request the Purchaser in writing or by fax at the Purchaser's address indicated in Bid Data Sheet. The Purchaser will respond in writing or by fax to any request for 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 query without identifying the source of inquiry) will be sent in writing or by fax to all perspective 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, modify the Bidding Documents by issuing Addenda.
- 11.2 The amendment shall be a part of the Bidding Documents, pursuant to Sub-Clause 9.1, will be notified in writing or 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 the Bids in accordance with Sub-Clause 24.2.

C. Preparation of Bids

- 12. Language of Bid**
- 12.1 The bids prepared by Bidders and all correspondence and supporting documents relating to the bid exchanged by the Bidder and the Purchaser, shall be written in the English language.
- 13. Documents Comprising the Bid**
- 13.1 A Bidder's Bid shall comprise the following components:
- A Bid Form and a price schedule completed in accordance with clauses 14, 15 and 16 hereof.
 - Documentary evidence established in accordance with Clause 18 that the Bidder is eligible to bid and is qualified to perform the contract if its bid is accepted;
 - Documentary evidence established in accordance with Clause 18 and 19 that the goods to be supplied by the Bidder are genuine and newly manufactured goods and conform to the Bidding Documents; and
 - Bid security furnished in accordance with Clause 20
- 14. Bid Form**
- 14.1 Bidders shall complete the Bid Form and the appropriate price schedule furnished in the Bidding Documents, indicating for the goods to be supplied, a brief description of the goods, their country of origin, quality and prices.
- 15. Bid Price**
- 15.1 Bidder shall indicate on the appropriate Price Schedule the unit prices (where applicable) and total bid price of the goods it proposes to supply under the Contract. Prices indicated on the Price Schedule which shall be entered separately in the following manner:
- the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all

- customs, excise and other 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 *Bid Data Sheet*;
 - iii. the price of other (incidental) services, if any, listed in the *Bid Data Sheet*.
- 15.2 The terms EXW, CIF, CIP, etc. shall be governed by the rules prescribed in the current edition of *Incoterms* published by the *International Chamber of Commerce, Paris*.
- 15.3 Bidders' separation of price components in accordance with ITB Clause 15.1 above will be solely for the purpose of facilitating the comparison of bids by the Purchaser and will not in any way limit the Purchaser's right to contract on any of the terms offered.
- 15.4 Price quoted by Bidder shall remain fixed and valid until completion of the Contract performance and will not be subject to variation on any account.
- 15.5 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 participates in the procedure of payment,
 - iv. Other agreement with the 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:
1. Source of information about tender invitation,
 2. The remuneration given to the individual or firm/company or organization to work on his behalf for submitting Bid, representation in the bid opening and other required action in connection with the Bid,
 3. Transfer or handover an evidence of foreign currency exchanged which required to be submitted with the Bid,
 4. 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 exchanged issued by the bank.
- 15.6 If a 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 If a Foreign Bidder in his Bid, has not provided the information mentioned in sub- Clause 15.5 or has submitted his bid stating that the Bidder does not have 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.

- 15.8 A bid submitted with an adjustable price quotation shall be treated as non-responsive and rejected.
- 16. Currency of Bid**
- 16.1 Prices shall be quoted in the following currencies:
- For goods and services that the Bidder will supply from within Nepal, the prices shall be quoted in Nepali Rupees, unless otherwise specified in the Bidding Data.
 - For goods and services that the Bidder will supply from outside Nepal, the price shall be quoted in any convertible currency. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but use no more than three currencies.
- 17. Document Establishing Eligibility of the Bidders and the Goods and Services**
- 17.1 Pursuant to 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 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 proposed to supply under the Contract.
- 18. Documents Establishing the Bidder's Qualifications to Perform the Contract**
- 18.1 The documentary evidence of Bidder's qualifications to perform the Contract if its Bid is accepted shall establish to the Purchaser's satisfaction:
- that, in the case of a Bidder offering to supply goods under the Contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized solely by the Goods manufacturer or Producer to supply and install the Goods in Nepal.
 - 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
 - that, in 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 fulfil the contractual obligations regarding:
 - maintenance and repair of the supplied Goods,
 - after sales service'
 - maintaining stock for supply of spare parts
 - that, the Bidder in the last Ten years has supplied Goods of nature and quality to government enterprises or private institutions as specified in the Bid Data Sheet.
 - that the Bidder meets the Qualifications as specified in Bid Data Sheet.
- 19. Documents Establishing Goods' Conformity to Bidding Documents**
- 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.
- 19.2 The documentary evidence of the eligibility of the Goods and Service shall consist of a statement in the Price Schedule on 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 conformity of the Goods and Services to the Bidding documents may be in the form of Literature, Drawings, and Data, and shall consist of:

- a. a detailed description of the essential Technical and Performance characteristics of the Goods;
- b. a list giving full particulars, including available sources and current prices of Spare Parts, Special Tools, etc., necessary for the proper and continuing functioning of the Goods for a period to be specified in the *Bid Data Sheet* following commencement of the use of the Goods by the Purchaser;
- c. an item by item commentary and Technical Specifications demonstrating substantial responsiveness of the Goods and Services to those specifications, or 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 and 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 number in its Bid, provided that it demonstrates to the Purchaser's satisfaction that the substitutions are equivalent or superior to designate in the technical Specifications, except if the Technical Specifications specifically provide otherwise.

20. Bid Security

20.1 Pursuant to Clause 13, a Bidder shall furnish as part of its Bid, a Bid security as specified in *Bid Data Sheet*.

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 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 VI; other formats may be permitted, subject to the prior approval of the Employer.

20.3 Any bid not secured in accordance with Sub-Clause 20.1 and 20.2 will be rejected by the Purchaser as non-responsive pursuant to clause 29.

20.4 The Bid Security of unsuccessful Bidders will be discharged or returned within 14 days after the expiration of the Bid validity period prescribed in sub-clause 21.1.

20.5 The Bid Security of the successful Bidder will be discharged when the Bidder has furnished the required performance Security and signed the Contract.

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 the successful Bidder, if the Bidder fails within the specified time limit to:
 - i. sign the contract in accordance with Clause 39 or
 - ii. furnish performance security in accordance with Sub-Clause 40.

21. Period of Validity of Bids

- 21.1 Bids shall remain valid for the period as specified in the *Bid Data Sheet* after the last date of bid submission prescribed by the Purchaser in 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 Bidders' consent to an extension of the period of Bid validity. The request and the responses thereto shall be in writing or by fax. The validity of bid security period 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 A Bidder shall submit 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 copy, the original shall govern.
- 22.2 The original bid shall be typed or written in indelible ink and shall be signed by Bidder or a person or persons duly authorised to sign on behalf of the Bidder. The latter authorisation shall be indicated by written power-of-attorney accompanying the bid. All pages of the bid, where entries or amendments have been made, shall be initialled 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 Bidder or those to comply with instructions issued by the Purchaser, in which case, such corrections shall be initialled by the person or persons signing the Bid.

D. Submission of Bids

- 23. Sealing and Marking of Bids**
- 23.1 A Bidder shall seal the Original and 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. The documents shall be sealed into Envelope as described above, and clearly marked BIDDING DOCUMENTS FOR SUPPLY AND DELIVERY OF HYDRAULIC EXCAVATOR WITH BREAKER "ORIGINAL" as appropriate.
- 23.2 The inner and outer envelopes shall:
- be addressed to the Purchaser at the address given in the *Bid Data Sheet*.
 - bear the Project Name, the Invitation for Bids number or Identification number if any.
 - provide a warning "**Not to Open Before**" the time and date for Bid opening as specified in the *Bid Data Sheet*.
- 23.3 In addition to the identification required in sub-clause 23.2, the inner envelope shall indicate the name and address of Bidder to enable the Bid to be returned unopened in case it is declared "Late", pursuant to sub-clause 25.
- 23.4 If the outer envelope is not sealed and marked as required by Sub-Clause 23.2, the Purchaser will assume no responsibility for the Bid's misplacement or premature opening.
- 24. Deadline for Submission of Bids**
- 24.1 Bids must be received by the Purchaser at the address and no later than time and date as specified in the *Bid Data Sheet*.
- 24.2 The Purchaser may, at its discretion, extend this deadline for the submission of Bids by issuing an amendment in accordance with Clause 8, in which case, all rights and obligations of the Purchaser and Bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.
- 25. Late Bids**
- 25.1 Any bid not received within the date and time specified in ITB Clause 24 will not be accepted and will be returned unopened to the Bidder.
- 26. Modification and Withdrawal of Bid**
- 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 the 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 Bidders' representatives who choose to attend, at *Date and Time* and at the place specified in the *Bid Data Sheet*. The Bidders' representatives who are present will sign a register evidencing their attendance.
- 27.2 The Bidders' names, Bid modifications or withdrawals, Bid prices, discounts offered, and alternative offers the presence or absence of the requisite Bid security and such other details as the Purchaser, at its discretion, may consider appropriate will be announced and recorded by the Purchaser at the Bid opening session.
- 27.3 The Purchaser will prepare minutes of the bid opening, including the information disclosed to those present in accordance with sub-clause 27.2.
- 28. Clarification of Bids**
- 28.1 To assist in the examination, evaluation and comparison of Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing and no change in the price or 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 Bids.
- 29. Examination of Bids and Determination of Responsiveness**
- 29.1 Prior to detail evaluation of Bid, the Purchaser will determine whether each Bid;
- meets the eligibility criteria defined in Clause 3;
 - has been properly signed;
 - is accompanied by the required securities;
 - contains all the required forms and documents correctly completed.
 - is substantially responsive to the requirements of the Bidding documents.
 - meets the technical requirements
 - meets the financial capability requirement
- The Purchaser will determine 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 total price shall be corrected accordingly.
 - 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 affects 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 rights or the Bidder's obligations under the contract; or
- c. whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.

29.4 The Purchaser may waive any minor informality or non-conformity 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 may not subsequently be made responsive by the Bidder by correction or withdrawal of non-conforming 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 a 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 only the Bids 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 as specified in the *Bid Data Sheet* and if quantified in Clause 31.6:

- 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 (SCC);
- d. the cost of components, special tools, mandatory 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 cost during the life of the equipment;
- g. contractual and Commercial Deviations;
- h. other specific criteria indicated in the *Bid Data Sheet* and/or in the Technical Specifications.

31.5 Comparison of Bids will be between the main Bids only unless otherwise specified in the Bid Data Sheet.

31.6 For factors retained in the *Bid Data Sheet* pursuant to Sub-Clause 31.4, one or more of the following quantification methods will be applied, as detailed in the *Bid Data Sheet*:

- a. **Inland Transportation from EXW/port of entry/border point, insurance, and incidentals:** Inland transportation, insurance, and other incidental costs for delivery of the goods from EXW/port of entry/border point to Project site named in Bid Data Sheet will be computed for each Bid by the Purchaser on the basis of published tariffs by 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 appropriate EXW/CIF/CIP value of each package. The above cost will be added by the Purchaser to EXW/CIF/CIP border point price.
- b. **Delivery schedule:** The Goods covered under this Invitation are required to be delivered (shipped) within an acceptable range of days/weeks/months *[as applicable]* 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 day, as specified in the *Bid Data Sheet*, 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 the 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 Bid Data Sheet.
- d. **Cost of Spare parts:** The list items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the Bid Data Sheet are annexed to the Technical Specifications. The total cost of those 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 for establishing the minimum service facilities and parts inventories, as outlined in the Bid Data Sheet or elsewhere in the Bidding Documents, if quoted separately, shall be added to the Bid price.
- f. **Operating and maintenance costs:** Since the operating and maintenance costs of the goods under procurement from a major part of the life cycle cost of the equipment, these costs will be evaluated in accordance with the criteria specified in the Bid Data sheet or in the Technical specifications.
- g. **Contractual and Commercial Deviations:** The cost of all quantifiable deviations and omissions from the contractual and commercial conditions shall be evaluated. The Purchaser will make its own assessment of the cost of any deviations for the purpose of ensuring fair comparison of Bids.

- | | |
|-------------------------------------|--|
| 32. Domestic Preference | Not Applicable |
| 33. Contacting the Purchaser | <p>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 a Bidder wishes to bring additional information to the notice of the Purchaser, it should do so in writing.</p> <p>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.</p> |

F. Award of Contract

- | | |
|--|--|
| 34. Post qualification | <p>34.1 In the absence of prequalification, the Purchaser will determine to its satisfaction whether the Bidder selected as having submitted the lowest evaluated responsive Bid is qualified to satisfactorily perform the Contract, in accordance with criteria listed in Sub-Clause 18.1.</p> <p>34.2 The determination will take into account the Bidder's financial, technical and production capabilities/ resources. 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.</p> <p>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 Bid Data Sheet.</p> <p>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.</p> |
| 35. Award Criteria | <p>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 as the lowest-evaluated bid, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.</p> |
| 36. Purchaser's Right to Vary Quantities at Time of Award | <p>36.1 The Purchaser reserves the right at the time of award of Contract to increase or decrease by the percentage as specified in the <i>Bid Data Sheet</i>, the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit prices or other terms and conditions.</p> |
| 37. Purchaser's Right to Accept Any Bid and to Reject Any or All Bids | <p>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 award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders.</p> |
| 38. Notification of | <p>38.1 The Bidder whose Bid has been accepted will be notified of the award</p> |

- Award** by the Purchaser prior to expiration of the Bid validity period by facsimile confirmed by a letter that his/her/its 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 performance security pursuant to Clause 40, the Purchaser will promptly notify 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 the successful Bidder.
- 38.5 If, after notification of award to the successful Bidder, an unsuccessful Bidder wishes to ascertain the ground on which its Bid was not selected, it should address its request to the Purchaser within thirty (30) days of issue of award notice. The Purchaser will promptly respond in writing to the unsuccessful Bidder.
- 39. Signing of Contract**
- 39.1 At the same time as the Purchaser notifies the successful Bidder that its bid has been accepted, the Purchaser will call the successful Bidder in order to sign the Contract through Notification of Award.
- 39.2 Within Fifteen (15) days of receipt of the Notification of Award, the successful Bidder shall submit the performance guarantee and sign the Contract.
- 40. Performance Security**
- 40.1 Within days as specified in *Bid Data Sheet* of 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; denominated in the type and proportion of amount as specified in the Notification of award.
- 40.2 Failure of the successful Bidder to comply with the requirement of Clause 36 or sub-clause 39.1 or 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 MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED requires that Bidders/ Suppliers/Contractors under the Contracts observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the following terms shall be interpreted as indicated:
- a. "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
 - b. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract, 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 benefits of free and open competition;
 - c. 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;
 - d. will declare a firm ineligible for a stated period of time, to be

awarded a MBJCL 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 MBJCL funded Contract.

41.2 Furthermore, Bidder shall be aware of the provision stated in sub-clause 5.4 and 24.1 of the General Conditions of Contract (GCC).

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 MBJCL's Procurement Act and Regulations and Public Procurement Act 2063.

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 procurements 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) and MBJCL 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 ITB, a Bidder declared blacklisted and ineligible by the MBJCL, CHPCL, GoN, public procurement monitoring Office and or concerned Agencies in 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.

Bid Data Sheet

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

Introduction	
ITB 1.1	Name of the Purchaser: MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED (MBJCL)
ITB 2.1	The Work: Supply and Delivery of HYDRAULIC EXCAVATOR WITH BREAKER as specified in the Technical Specifications.
ITB 3.1	<p>Eligibility requirement for the Bidders are:</p> <p><u>Nepalese Bidders</u></p> <ul style="list-style-type: none"> (a) Up to date Firm/Company Registration Certificate, (b) VAT and PAN Registration Certificate, (c) Tax Clearance Certificate for F.Y. 2068/2069. (d) A written declaration made by the Bidder stating that the Bidder is not ineligible to participate in the Bid; has not conflict of interest in the proposed Bid procurement proceedings and has not been punished for the profession or businesses related offence. (e) Joint Venture Agreement (if any) (f) Power of Attorney (g) Other documents as needed <p><u>Foreign Bidder</u></p> <ul style="list-style-type: none"> (a) Eligible suppliers from any country having diplomatic relationship with Nepal
ITB 10.1	<p>Purchaser's Name: MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED</p> <p>Address : Kathmandu, Nepal</p> <p>Telephone: + 977 (01) 4721641/4721642</p> <p>Telephone: + 977 (01) 4721643</p>
Bids	
ITB 12.1	Language of the Bid: English.
ITB 12.1	Any printed literature furnished by a BIDDER may be written in another language, provided that this literature is accompanied by an English translation duly authenticated, in which case, for the purpose of interpretation of the Bid, the English translation shall govern.
ITB 14.1	<p><i>Add text at the end of the paragraph:</i></p> <p>The Bidder shall quote the price for all items mentioned in the Price Schedule. In the event the Bidder fails to quote the price for any item, the bid shall be considered as non-responsive.</p>
ITB 15.1 (i)	<p>The Price quoted shall be:</p> <ul style="list-style-type: none"> (a) For Goods to be offered from outside Nepal other than from India, bidders are required to quote separately in foreign currency the CIF Kolkata prices, and in local currency for port clearance, forwarding and inland transportation costs up to delivery site. (b) For Goods to be offered from India, the Bidder shall quote separately

	<p>the CIP Nepal border price and the local transportation cost within Nepal. The excisable Goods of Indian origin shall be brought under DRP (if applicable).</p> <p>(c) For Goods offered from within Nepal, the price of the Goods shall be quoted on FOB ex-factory basis and the cost of transportation to delivery site as specified in the Bid Package. The FOB prices shall include all customs duties and sales and other taxes already paid or payable on the components and raw materials used in the manufacture or assembly of the item.</p>
ITB 15.4	The prices shall be fixed.
ITB 16.1	The prices shall be quoted as specified in Payment condition.
Preparation and Submission of Bids	
ITB 18.1	<p>The Qualification requirements in Sub-Clause 18.1 (b), (d) & (e) are modified as follows:</p> <p>To be qualified, the Bidder:</p> <ul style="list-style-type: none"> (a) must submit a notarized written power of attorney authorizing the signatory of the Bid to commit the Bidder. (b) must meet the qualification requirements set forth below regarding their legal status, minimum manufacturing experience, financial capacity and technical and production capability: <p>i) Legal Status:</p> <ul style="list-style-type: none"> 1. If the Bidder is the supplier of the tendered goods, it must be a company legally registered at least for ten (10) years for such works within Nepal. If the Bidder is the manufacturer of the tendered goods, then it must be legally registered at least for ten (10) years for foreign manufacturers and at least five (5) years for the domestic manufacturers. 2. The Bidder and joint venture partners, if any, must submit notarised registration certificate to confirm its legal status. 3. Failure to meet legal status or furnish appropriate certificates with adequate information to support the qualification of the Bidder as required under above sub clause 1 and 2 shall result in disqualification of the bid. <p>ii) Manufacturing Experience:</p> <ul style="list-style-type: none"> 1. The Bidder's proposed manufacturer, who supply major items of the goods under this tender shall have experience in manufacturing similar type of goods for at least the past ten (10) years for foreign manufacturers and at least five (5) years for the domestic manufacturers. 2. In case the Bidder is not the manufacturer of any Plants or Goods offered, the Bidder must submit manufacture's certificate authorizing the Bidder to supply the manufacturers' Plants, and Goods. This certificate must be provided on the manufacturer's original letterhead with seal/stamp of the company and details on the Plant and Goods, which the manufacturer will be supplying under the authorization. 3. The manufacturer of Goods to be supplied under this tender must hold valid quality ISO certificate as required by the specifications. In case of validity expiring after bid opening, the Bidder shall furnish letter from quality auditor/certifying agent evidencing that quality audit is in progress for the renewal of the certificate. 4 The minimum annual production capacity of the manufacturers shall not be less than 10 (ten) times the bid quantity during last 3 (three)

	<p>years.</p> <p>5. The offered equipment and goods shall be in conformity with the specifications. The Bidder shall fill in technical Data Sheet provided in the Bidding document. In order to prove that the Goods offered are of acceptable quality and standard and in conformity with the specifications, the Bidder shall furnish documentary evidence in the form of literature (catalogue), drawings, detailed description of goods with essential technical and performance characteristics and type test reports wherever called for.</p> <p>6. The Bidder shall fill in qualification forms provided in the Bidding document and shall furnish the information required by these forms.</p> <p>7. To substantiate the manufacturing experience for the offered Goods (model), the Bidder (including all joint venture partners) must submit notarised end user certificates at least for twenty numbers of such goods in total issued by owner within Nepal. The end user certificates must be on the letterhead of owner and shall include but not be limited to relevant information such as rating, year of purchase, quantity, name and address of owner, name of contact person, telephone and fax numbers.</p> <p>iii) Financial Capacity of the Bidder:</p> <p>1. Annual Turnover</p> <p>(a) The Bidder must have an average annual turnover (defined as the total payments received by the bidder for contracts completed or under execution) of at least equivalent to NRs. 35,000,000.00 over the last three years. However annual turnover for each year must be equivalent to NRS. 15,000,000.00 at least.</p> <p>2. Availability of Financial Resources</p> <p>The documents submitted by the Bidder including the audited financial statement for the last fiscal year must demonstrate that the Bidder has the working capital of at least NRs. 5,000,000.00 or equivalent amount. If the Bidder's working capital is inadequate, the bidder should supplement this with banker's letter confirming the availability of a line of credit such that the arithmetical sum of the Bidder's working capital for the last fiscal year and the line of credit is at least NRS. 5,000,000.00 or equivalent amount.</p> <p>3. Financial Statements</p> <p>(a) The Bidder and joint venture partners, if any, must submit audited financial statements (Balance Sheet and Profit and Loss Account) for the last three (3) fiscal years. Balance sheet and Profit & Loss Account sheet must be signed and sealed by the auditor(s). Financial statements as published in annual report shall have the same value as signed and sealed.</p> <p>(b) In case the Bidder is a joint venture, the lead partner must satisfy at least 51% of the financial qualification criteria stipulated above. But the joint venture partners together must fulfill the overall financial qualification criteria indicated in the above Clause.</p> <p>(c) To evaluate the financial resources, the Bidder must submit following original documents with the name and number of the bid in question indicated therein. In case of Joint Venture, all partners must submit these documents.</p> <p>Bank references: Original letter of reference from a bank confirming that the Bidder has fulfilled his financial obligations and the bank will give its full financial support in case the Bidder is awarded the contract.</p>
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	<p>The amount of line of credit, if necessary as per above Clause, shall be clearly mentioned in the letter.</p> <p>(iv) Joint Venture Bids submitted by a joint venture of two or more (maximum 3 partners) firms/ companies as partners must comply with the following requirements:</p> <p>(a) the bid, and in case of a successful bid, the Form of Contract Agreement, shall be signed so as to be legally binding on all partners;</p> <p>(b) one of the partners shall be designated as the lead partner and authorized to be in charge; and this authorization shall be evidenced by submitting a notarized power of attorney signed by legally authorized signatories of all the joint venture partners.</p> <p>(c) the partner in charge (lead partner) shall be authorized to incur liabilities, receive payments and receive instructions for and on behalf of any or all partners of the joint venture and the entire execution of the Contract;</p> <p>(d) all partners of the joint venture shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Bid Form and the Form of Contract Agreement (in case of a successful bid); and</p> <p>(e) a copy of the agreement entered into by the joint venture partners shall be submitted;</p> <p>(f) power of attorney, certification of legal status, end user certificates, auditor's reports, bank's reference letter and all other documents necessary for the Bidder to substantiate their qualifications shall be submitted for all joint venture partners.</p> <p>(v) Others: Litigation history: The Bidder including all joint venture partners, if any, shall submit all claims, arbitration or other litigation, pending or already resolved from the contracts executed or currently under execution. The Bidder shall indicate for each case the year, name of employer, cause of litigation, matter of dispute, dispute amount, and whether the award was for or against the company. A continued history of awards against the Bidder or any partner of a joint venture may result in rejection of the bid.</p>
ITB 18.1 (e)	<p>Qualification requirements:</p> <ol style="list-style-type: none"> 1. The offered goods/equipment shall be latest and in current production for a minimum of 2 years. If the offered model is new, the manufacturer must have experience in producing the similar model for a minimum of 2 years. 2. The bidder shall furnish a list of users who had purchased same/similar goods in the last 10 years, and number of goods sold to them. They will be used as references to check the performance of the offered model, if necessary. 3. Compliance with or variation from the departmental requirement of the technical specifications shall be duly filled in the offered specification column of the Technical Specifications.

	<p>4. The bidder is required to submit documentary evidence showing that s/he has already supplied at least 30 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 10 years.</p> <p>5. No bid will be considered if the offered quality is different from that specified in the Technical Specifications.</p> <p>6. An agent can submit bids on behalf of more than one manufacturer but separate completed bids including bid security shall be submitted for each manufacturer.</p> <p>7. If an Agent submits bids on behalf of more than one Manufacturer, unless each such bid is accompanied by a separate Bid Form and a bid security, and authorization from the respective Manufacturer, all such bids will be rejected as non-responsive.</p>
ITB 20.1	Minimum Amount of Bid Security: NRs. 310,000.00
ITB 21.1	Bid Validity Period: <i>90 days from last submission date + 30 days</i>
ITB 22.1	Numbers of copies of Bids to be submitted: <i>Two (2) Copies</i>
Bids Submission	
ITB 23.2(a)	<p>Address for Bid submission:</p> <p>Managing Director MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED Kathmandu, Nepal Telephone: 977-01-4721641/4721642</p>
ITB 23.2 (b)	Contract Identification No: MBJCL –2068/2069 - CE- 03: Supply and Delivery of Tipper Truck.
ITB 24.1	<p>Deadline for bid submission :</p> <p>Date : 2069/11/24 (Mar 07, 2013) Time : 12.00 hours local time Place: MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, Kathmandu, Nepal</p>
ITB 27.1	<p>Bid Opening :</p> <p>Date : 2069/11/24 (Mar 07, 2013) Time : 14.00 hours local time Place: MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, Kathmandu, Nepal</p>
Bid Evaluation	
ITB 29	<p>1 Screening Criteria</p> <p>1.1 Corporate Registration in GoN 1.2 Income tax clearance of the year 2068/69 1.3 VAT/PAN Registration in GoN 1.4 Minimum 2 years of continuous standing till date 1.5 Manufacturer's Authorization Letter, end user certificates, etc.</p>
ITB 31.4	<p>Delivery schedule : 180 Days</p> <p>Adjustment expressed as a percentage of: 0.05% per week of the value of delayed Goods.</p>
ITB 34.3	<p>Documentary evidence of technical and production capabilities:</p> <p>1. Documents sought in qualification criteria as specified in ITB 18.1</p>

	and its modification/elaboration. 2. Dully filled out Technical Data Sheet, Type Test Report 3. Clause by clause commentary on Technical Specification without any deviation 4. ISO certificate 5. Standard Catalogues and Brochures etc.
Contract Award	
ITB 36.1	Percentage for quantity increase or decrease: Maximum 15%.
ITB 38.1	Notification of Award shall be sent to the successful Bidder at any time prior to expiration of Bid Validity.
ITB 40.1	Bidder shall deliver a Performance Security in the amount as specified in the Notification of Award and in the form of Bank Guarantee from A class Nepalese Bank within 15 days of the receipt of Notification of Award.

Section III. Forms of Bid, Qualification Information, Notification of Award and Agreement

1. Bid Form

Date: _____

To: Managing Director

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Kathmandu, Nepal

Gentlemen and/or Ladies:

Having examined the bidding documents, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and delivery ----- Numbers of Hydraulic Excavator with Breaker in conformity with the said bidding documents for the sum of NRs(*Amount* *in words*.....) 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 (five) 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(*number as specified in bid validity period*) days from the date fixed for Deadline for Bid submission, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

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

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____
(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*].

[signature]

[in the capacity of]

Duly authorized to sign Bid for and on behalf of _____

2. Qualification Information Form

1. For Individual Bidders

1.1 General Information on the Bidder

Name of the Bidder:

Name of Chief Executive Officer:

Name of the BIDDER's authorised representative in Nepal:

Office Address:

Telephone: Fax:

Is the Bidder himself the manufacturer of the GOODS?:	Yes	No
Is a copy of the company's registration included?:	Yes	No
Is the Bidder an agent or seller of another manufacturer?:	Yes	No

Principal manufacturer / provider of the GOODS:

Address of manufacturer:

Telephone: Fax:

Has authorization letter from the manufacture been included?: Yes No

Has the BIDDER's Organization Chart been included?: Yes No

No. of Administrative Staff: No. of technical staff: Yes No

No. of specialized Technicians: Availability of sales service Yes No

Does the Bidder maintain a permanent minimum stock of GOODS: Yes No

Signature and Stamp of the Bidder

1.2 Financial Performance

(To be completed by Bidder)

	Financial Year 2068/2069	Financial Year 2067 / 2068	Financial Year 2066/ 2067
1. Share Capital
2. Total current assets
2.1 Total cash and deposits.....
2.2 Accounts receivable
2.3 Buildings and Lands
3. Total current liabilities
3.1 Notes payable
3.2 Accounts payable
3.3 Other current liabilities
4. Total assets
5. Total Liabilities
6. Working capital
7. Net worth
8. Total Profit before tax
9. Net Profit after tax
10. Annual Turnover

11. Volume of orders currently under execution :

12. No of orders currently under execution :

13. No of orders currently under process :

Signature and Stamp of Bidder

Audited Financial Statements for the above mentioned three years shall be submitted.

1.3 Supply Records

Procurement Work performed as prime Supplier on works of similar nature and volume over the last Ten years. The value should be indicated in the same currency used for Item 1.2 above. Also list details of procurement work under way or committed, including expected completion date. (*Attach separate sheet, if required*)

Procurement ID No.	Name of Purchaser	Type of goods supplied	Agreement date	Delivery completion date	Value of contract

Signature and Stamp of the Bidder

1.4 Bidders Manufacturing Experience.

Manufacturing Experience (To be filled up by manufacturer)

Product name:

First Year of manufacturing:

Quantity of products produced : (for last three years)	Year	Year	Year
.....
.....

Manufactured under own development: Yes No

Manufactured under license from:

Manufactured collaboration with:

Other relevant information:

Has the Bidder R & D section Yes No

No. of staff in R & D section: Level of education:

Has the manufacturer a quality assurance system in place? Yes No

Is the manufacturer certified or accredited by any organization? Yes No

Name the organization/s and type of accreditation/s or certification/s:

.....
.....

Signature and Stamp of Manufacturer

2. Additional Requirements

2.1 Statement of Due Performance

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Kathmandu, Nepal

Gentleman,

The Bidder hereby declares that, till date, no dispute has raised in any contract executed or under execution other than the cases herewith mentioned. All claims raised have been settled amicably between MBJCL and the bidder beside the cases listed here below. No civil or criminal case against the bidder has been raised or is currently being raised or being dealt with in court other than the cases here with listed.

List of disputes raised in other contracts:

Contract	Employer	Date of dispute	Amount	Remarks
.....

List of claims pending from other contracts:

Contract	Employer	Date of claim	Amount	Remarks
.....

List of civil criminal cases:

Contract	Employer	Date	Court	Case
.....

Signed and sealed this day of

.....
BIDDER's Name in Print and Signature

2.2 Statement of Non-involvement in Bankruptcy

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Kathmandu, Nepal

Gentleman,

It is here by certify that (Name of Bidder) has never either himself or any of his direct associates or any of his administrators has been involved in any case of bankruptcy or suspension of payments.

Signed and sealed this day of

.....
Bidder's Name in Print and Signature

2.3 Joint Venture Data

(If the Bidder is Joint Venture partner)

S. N.	Name of the JV partner	Share of liability	Contact address
-------	------------------------	--------------------	-----------------

1.

2.

3.

Name of the lead partner

Each JV partner shall fill up the necessary forms individually.

2.4 Statement of Agent or Representative In Nepal

1. Name of Local Agent :
2. Address & Telephone/Fax Number of the Local agent:
.....
.....
.....
3. Amount of Commission:
.....
4. Currency of Payment :
.....
5. Method of Payment :
.....
6. Other Condition of the Agreement (if any) :
.....
.....
.....

Note: Last fiscal year's tax declaration certificate shall be attached herewith.

Signature of Bidder: _____

For and on behalf of: _____

Date: _____

2.5 Manufacturer's Authorization Form

Date:

To: Managing Director
MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED
Kathmandu, 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*)

I hereby authorise (*name and address of Agent*)
to submit a bid, and subsequently negotiate and sign the Contract with you against Bid MBJCL -
-2069/70-CE- 02 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.

3. 0 Technical Data Sheet

(To be filled by the Bidder)

Technical Specifications for HYDRAULIC EXCAVATOR, CRAWLER MOUNTED WITH BREAKER						
S.N.	Description	Details	Specification Requirement of Purchaser	Major/ Minor	Offered Specification by supplier	Remarks
	Make: Model: Country of origin:					
1	General		Crawler mounted hydraulic excavator, with Breaker suitable for operation under rough working conditions and adverse climatic condition.			
2	Weather Conditions	Temperature: Relative humidity: Altitude:	Range - 5° C to + 45°C Upto 95% Upto 2300 m amsl			
3	Engine	Type	Water cooled, Diesel, 4 cycle with turbocharger and Intercooler	Major		
		Min. Engine Capacity, not less than	5700 CC	Major		
		Min. Output (kW) net, not less than	100 kW at Optimum speed	Major		
		Starter motor	DC 24 V with ample power to start machine			
		Governor	All-speed Electronic type	Major		
		Air filter	Dry, inner and outer type			
4	Steering system		Two levers with pedals			
5	Hydraulic system		Hydraulic system shall be capable of operating all the working system. Ample pump and reservoir capacity shall be furnished for maximum operating cycles without overheating. Replaceable element type oil filter shall be fitted.			
6	Fuel System	Fuel Tank Capacity	≥ 400 Litres	Major		
			Fuel tank inlet pipe shall be provided with strainer and standard system			
7	Swing System	Drive Type	Hydrostatic			
		Swing reduction	Planetary Gear			

Technical Specifications for HYDRAULIC EXCAVATOR, CRAWLER MOUNTED WITH BREAKER						
S.N.	Description	Details	Specification Requirement of Purchaser	Major/ Minor	Offered Specification by supplier	Remarks
		Service Brake	Hydraulic Lock			
		Holding Brake	Mechanical disc type			
		Speed	≥ 11 rpm	Major		
8	Working Range	Maximum cutting height	9000 - 10000 mm	Major		
		Maximum digging depth	6000 – 6500 mm	Major		
		Maximum digging reach (ground level)	9000 - 9500 mm	Major		
		Ground clearance	≥ 440 mm	Major		
		Bucket digging force without booster (ISO rating)	≥ 145 kN	Major		
		Arm digging force without booster (ISO rating)	≥ 120 kN	Major		
9	Bucket	Type	General purpose bucket with bolt on teeth SAE rated capacity (heaped) 1.0 m ³ approx.			
10	Under carriage		Track type undercarriage, heavy duty with track adjustment, sprocket, track rollers and idlers, sealed and lubricated. Track type Approx. 600 mm triple grouser track shoe.			
11	Cab		The excavator shall be furnished with an operator's cab. The cab shall be completely enclosed and shall be equipped with tinted safety glass to provide 360 degree visibility. The operator's position shall have an adjustable seat with armrests.			
12	Operating Weight		20,000 kg Class (±10 %)	Major		

Technical Specifications for HYDRAULIC EXCAVATOR, CRAWLER MOUNTED WITH BREAKER						
S.N.	Description	Details	Specification Requirement of Purchaser	Major/ Minor	Offered Specification by supplier	Remarks
13	Breaker		<p>The excavator shall have all the arrangements for the attachment and operation of hydraulic Breaker.</p> <p>Details of the Breaker to be supplied along with hydraulic excavator:</p> <p>Breaker Service Weight: 1700 kg Class ($\pm 20\%$)</p> <p>Working tool Diameter : Approx. 120 mm Useful tool length : Not less than 350 mm (The breaker should be compatible with supplied hydraulic excavator and be supplied under the same contract package along with hydraulic excavator)</p>	Major		
14	Gauges		Gauges and meters as necessary for efficient operation and maintenance			
15	Instructions		All signs and instructions shall be in English			
16	Tools		A set of tools for general maintenance shall be supplied in a lockable cabinet			
17	Essential Accessories and equipment		<ul style="list-style-type: none"> - two working lights - Service Hour meter - windscreen, wipers, door locks, rear view mirror - Adjustable cushioned operator's seat -Cassette player - heater and defroster, etc. <p>Breaker tools: 1. Conical point type chisel - 1 no. 2. Flat type Chisel - 1 nos., etc.</p>			

Technical Specifications for HYDRAULIC EXCAVATOR, CRAWLER MOUNTED WITH BREAKER						
S.N.	Description	Details	Specification Requirement of Purchaser	Major/ Minor	Offered Specification by supplier	Remarks
18	Proven performance		a. The machine shall be a current model under standard production by manufacturer for at least two years. b. The bidder shall provide the manufacturer's data of the performance of the unit to include the fuel consumption rate, performance curve of the engine and production capacity of the unit.			
19	Warranty		One year from the date of acceptance			
20	Manual		a. Two copies of the Operator's and Owner's Instruction and maintenance manual in English shall be supplied with the Equipment b. Two copies of Spare parts catalogue and comprehensive workshop manual shall be supplied			
21	Colour		Construction Equipment yellow colour.			
22	Initial Service		The supplier shall provide with the equipment all the necessary filters and spare parts required for the first two services, after the equipment has been commissioned and accepted			

Technical Specifications for HYDRAULIC EXCAVATOR, CRAWLER MOUNTED WITH BREAKER						
S.N.	Description	Details	Specification Requirement of Purchaser	Major/ Minor	Offered Specification by supplier	Remarks
23	Incidental Service		The supplier shall arrange and conduct training at his own cost for two concerned engineers of the MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, in operation, maintenance and/or repair of the equipment supplied for 7 days in the country of origin of the equipment or in places as may be mutually agreed upon as per SCC 9 (Name of Country to be specified).			
24	Delivery		The Excavator One unit shall be delivered to: Middle Bhotekoshi Hydroelectric Project, Sindhupalchowk, Nepal			

Note:

a) Items marked as Major in the technical specifications are not allowed to be deviated. Non-compliance of these major items shall be considered as non-responsiveness of the bid offer as per ITB 29.

b) The bidder is required to submit documentary evidence showing that s/he has already supplied at least 30 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 10 years, as mentioned in bidding data ITB 18.1 e, Qualification requirements.

4. Notification of Award Form

[This letter should be in the form of letterhead paper of the Purchaser]

Date

To: (name of the Supplier)
..... (address of the Supplier)

Subject: Notification of Award

This is to notify you that your Bid dated for execution of the contract of *[name and identification number of the Bid, as given in figures]* *[amount in words]*, as corrected in accordance with the Instructions to Bidders is hereby accepted.

This Notification of Award will constitute the formation of Contract. However, until and unless you furnish the Performance Security of NRs. *[amount of Performance Security in figures, i.e. 5% of the Successful Bidders Bid Price]* and send it to us within fifteen (15) days of the receipt of this Notification of Award, the Contract shall not be deemed as active. You are hereby instructed to proceed the fulfilment of performance Security and Signing of Contract within fifteen (15) days of receipt of this letter. Failure to comply with the fulfilment of Performance Security and Signing of Contract within the time will constitute the failure of formation of contract and forfeiture of Bid Security.

You are hereby instructed to proceed for the necessary action for the execution of the said Procurement in accordance with the Bidding and Contract documents.

Authorised Signature:

Name and Title of Signatory:

Name of Agency:

Address for correspondence:

5. Contract Agreement 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) the Bid Form and the Price Schedule submitted by the Bidder;
 - (b) the Schedule of Requirements;
 - (c) the Technical Specifications;
 - (d) the General Conditions of Contract;
 - (e) the Special Conditions of Contract;
 - (f) the Purchaser's Notification of Award; and
 - (g) 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 their respective laws the day and year first above written.

On behalf of the Purchaser

On behalf of the Supplier

Name :

Name :

Signature:

Signature:

Designation:

Designation:

Seal:

Seal:

Section IV. General Conditions of Contract

General Conditions of Contract

1. Definitions

- 1.1 In this contract, the following terms shall be interpreted as indicated:
- a. "The Contract" means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein;
 - b. "The Contract Price" means the price payable to the Supplier under the contract for the full and proper performance of its contractual obligation;
 - c. "The Goods" means equipment, machinery, related Accessories, spare-parts and/or other materials which the Supplier is required to supply to the Purchaser under the contract;
 - d. "The Services" means services ancillary to the supply of the goods such as transportation and insurance and any other incidental services, such as installation, commissioning, the operational and maintenance training of the supplied equipment and other such obligations of the supplier covered under the Contract.
 - e. "The Purchaser" means the organisation purchasing the goods.
 - f. "The Supplier" means the individual or organisation supplying the goods and services under this contract.
 - g. "The Purchaser's Country" is Nepal.
 - h. "GCC" means General Conditions of Contract.
 - i. "The Delivery Site" where applicable, means the place or places where supply of goods to deliver and performance of services to be complete.
 - j. "Day" means calendar day.

2. Application

- 2.1 These General Conditions shall apply to the extent that they are not superseded by provisions in other parts of the contract.

3. Country of Origin

- 3.1 All goods and services supplied under the contract shall have their origin in Nepal or in the countries as specified in Special Conditions of Contract.
- 3.2 For purposes of this clause "origin" means the place where the goods are mined, grown, produced or manufactured, 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**
- 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 sub-clause 5.1 except for purposes of performing the Contract.
- 5.3 Any document, other than the Contract itself, enumerated in sub-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.
- 6. Patent Rights**
- 6.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Purchaser's country.
- 7. Performance Security**
- 7.1 Within fifteen (15) days after the Supplier's receipt of notification of award of the contract, the successful Bidder shall furnish performance security to the Purchaser in the amount specified in the Special Conditions of Contract and in the form specified in Section VI.
- 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 the form of an unconditional bank guarantee issued by a bank in Nepal acceptable to the Purchaser and in the form provided in the Bidding Documents or another form acceptable to the Purchaser.
- 7.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than 28 days after expiring of one year of warranty period following the date of issue of certificate of final acceptance of equipment after installation and commissioning of equipment at the final destination.
- 8. Inspections and Tests**
- 8.1 The Purchaser or its Representative shall, at no extra cost, have the right to inspect and/or to test the goods to confirm their conformity to the Contract. The Special Conditions of Contract and/or 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 sub-Supplier(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its sub-Suppliers(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 alternations necessary to meet specification requirements free of cost to the Purchaser.
- 8.4 The Purchaser's right to inspect, test and, where necessary, reject the goods after the goods' arrival in the Purchaser's country shall in no way be limited or waived by reason of the goods having previously been inspected, tested and passed by the Purchaser or its Representative prior to the goods' shipment from the country of origin.
- 8.5 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.
- 8.6 A Certificate of Acceptance shall be issued by the Purchaser after necessary inspection and tests of the Goods supplied as specified in SCC.

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, as Specified in Clause 16, and in any subsequent instructions issued 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 by the Purchaser in its Schedule of Requirements. The details of shipping and/or other documents to be furnished by the supplier are specified in Special Conditions of Contract.
- 10.2 For purposes of the Contract, "FOB," "C&F," "CIF," "CIP," "EXW" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of the International Rules for the Interpretation of the Trade Terms (INCOTERMS) published by the International Chamber of Commerce (ICC), Paris.
- 10.3 Documents to be submitted by the Supplier are specified in Special Conditions of Contract.

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 Special Conditions of Contract. Such insurance shall be arranged and paid for by the supplier.
- 11.2 Where delivery of the goods is required by the Purchaser on a CIF, CIP basis, the Supplier shall arrange and pay for marine insurance, naming the Purchaser as the beneficiary. Where delivery is on an FOB or C&F basis, marine insurance shall be the responsibility of the Purchaser.

12. Transportation

- 12.1 Where the Supplier is required under the Contract to deliver the goods FOB, transport of the goods, up to and including the point of putting the goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
- 12.2 Where the Supplier is required under the Contract to deliver the goods C&F, CIP or CIF or to a specified destination within the Nepal, transport of the goods to the port of discharge or such other point in the country of destination including insurance and storage, as shall be specified in the Contract shall be arranged and paid for by the Supplier, and the related cost thereof shall be included in the Contract Price.
- 12.3 Where the Supplier is required to effect delivery under any other terms, the Supplier shall be required to meet all transport and storage expenses until delivery.
- 12.4 In all of the above cases, transportation of the goods after delivery shall be the responsibility of the Purchaser.
- 12.5 Where the Supplier is required under the Contract to deliver the goods CIF or CIP or C&F, no further restriction shall be placed on the choice of the ocean carrier. Where the Supplier is required under the Contract (i) to deliver the goods FOB, and (ii) to arrange on behalf and at the expense of the Purchaser for ocean transportation on specified conference vessels or on national flag carriers of the Purchaser's country, the Supplier may arrange for such transportation on alternative carriers if the specified conference vessels or national flag carriers are not available to transport the goods within the time 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.

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 materials 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 The warranty shall remain valid for (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract and installed and commissioned to the satisfaction of the Purchaser.
- 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 as 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 to the final destination.
- 15.5 If the Supplier, having been notified, fails to take remedial action within forty-two (42) days from date of receipt of notice, the Purchaser may proceed to take such 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 the Contract shall be specified in the Special Conditions of Contract.
- 16.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 10, and upon fulfilment of other obligations stipulated in the Contract.

- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.
- 17. Prices**
- 17.1 Prices charged by the Supplier for goods and services 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 Special Conditions of Contract 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. drawing, 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 may be made in the Contract Price or delivery schedule, or both, and the Contract may be accordingly 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 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 the 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 specified by the Purchaser in the Schedule of Requirement.
- 22.2 Except as provided under clause 25, an unexcused delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to any or all of the following sanctions: forfeiture of its performance security, imposition of liquidated damages, and/or termination of the Contract for default.
- 22.3 If at any time during performance of the Contract, the Supplier or its sub-supplier(s) should encounter conditions impeding timely delivery of the goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's

notice, the Purchaser shall evaluate the situation and may, at its discretion, extend the Supplier's time for performance, with or without liquidated damages, in which case, the extension shall be ratified by the parties by amendment of the Contract.

23. Liquidated Damages

23.1 Subject to Clause 25, if the Supplier fails to deliver any or all of the goods or to perform within the time 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 (0.05%) of the contract price of the delayed goods for each week of delay until actual delivery, up to a maximum deduction of (10%) percent of the delayed goods Contract Price. 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 may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate the Contract in whole or in part:

- a. if the Supplier fails to deliver any or all of the goods within the time period(s) specified in the Contract, or 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 anything of value to influence the action of a public official in the procurement process or in contract execution; and

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract, 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 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 For purposes of this Contract, "Force Majeure" means an event beyond the control of the parties to the Contract and not involving either party's fault or negligence and not foreseeable.

25.2 If, at any time during the existence of the Contract, either party is unable to perform in whole or part any obligation under this Contract because of such events which include, but are not restricted to, acts of God, acts of Government in its sovereign capacity, war, revolutions, hostility, civil commotions, strikes, fires, floods, epidemics, quarantine restrictions, freight embargoes, explosions, then the date of fulfilment of Contract shall be postponed during the period when such circumstances are operative.

- 25.3 The party which is unable to perform its obligations under the present Contract shall, within fourteen (14) days of occurrence of the Force Majeure event, inform the other party with suitable documentary evidence. Non-availability of raw materials from regular sources shall not be an excuse for the Supplier for not performing its obligations under this clause.
- 25.4 Any waiver/extension of time in respect of the delivery/ acceptance of any instalment or part of the goods shall not be deemed to be a waiver/extension of time in respect of the remaining deliveries.
- 25.5 If such inability to perform continues for a period of more than three (3) months, each party shall have the right to be released from further performance of the Contract, in which case, neither party shall have the right to claim damages from the other. All prior performance shall be subject to Contract terms.
- 25.6 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 Force Majeure.
- 25.7 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, without compensation to the Supplier, if the Supplier becomes bankrupt or otherwise insolvent, 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 is 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 Suppliers.
- 28. Resolution of Disputes**
- 28.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 28.2 If, after twenty eight (28) days from the commencement of such

informal negotiations, the Purchaser and the Supplier have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the Special Conditions of Contract. These mechanisms may include, but are not restricted to, conciliation mediated by a third party, adjudication in an agreed national or international forum, and/or national and international arbitration.

- | | |
|---|--|
| 29. Limitation of Liability | <p>29.1 Except in case of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6,</p> <p style="padding-left: 20px;">c) 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</p> <p style="padding-left: 20px;">c. 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..</p> |
| 30. Governing Language | <p>30.1 The Contract shall be written in the language as specified in SCC. Subject to GCC Clause 31, the version of the Contract written in English language shall govern its interpretation. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in English and/or Nepali language.</p> |
| 31. Applicable Law | <p>31.1 The Contract shall be interpreted in accordance with the laws of Nepal unless otherwise specified in Special Conditions of Contract.</p> |
| 32. Notices | <p>32.1 Any notice given by one party to the other pursuant to the Contract shall be sent to the other party in writing or by facsimile and confirmed in writing to the other party's address specified for that purpose in the Special Conditions of Contract.</p> <p>32.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.</p> |
| 33. Taxes and Duties | <p>33.1 A local Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser or final destination.</p> <p>33.2 A Foreign Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Nepal.</p> |
| 34. Supplier's Responsibilities | <p>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 Delivery and completion schedule as per GCC clause 10.</p> |
| 35. Purchaser's Responsibilities | <p>35.1 Whenever the supply of Goods and related Services requires that the Supplier obtain permits, approval, import and other licenses 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.</p> <p>35.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with Sub-Clause 35.1.</p> |
| 36. Extension of Time | <p>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 10,</p> |

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 obligation 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

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 General Conditions of Contract.

- | | |
|---|---|
| 1. Definitions
(GCC Clause 1) | <p>1.1 e. The Purchaser is
MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED
Kathmandu, Nepal</p> <p>1.1 f The Supplier is : the individual or firm to whom the Contract has been awarded for Supply and Delivery of Goods and Services under this Contract.</p> <p>1.1 i The Delivery site is:
MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED
Madhya Bhotekoshi Hydroelectric Project, Site office, Sindhupalchowk, Nepal</p> |
| 2. Country of Origin
(GCC Clause 3) | <p>2.1 Any country of the World.</p> |
| 3. Performance Security
(GCC Clause 7) | <p>3.1 The performance security will be as follows:</p> <p style="padding-left: 20px;">i. The amount of performance security shall be not less than five percent (5%) of the contract amount.</p> <p>3.2 The validity of Performance Security shall be one year from the date of issue of the certificate of final acceptance of goods and services under this contract.</p> <p>3.3 Unconditional Bank Guarantee issued by a bank in Nepal acceptable to the purchaser.</p> |
| 4. Inspections and Tests (GCC Clause 8) | <p>GCC 8.1—Inspection and tests prior to shipment of Goods and at final acceptance are as follows:</p> <p><i>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.</i></p> <p><i>b. The Supplier or his representative 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.</i></p> <p><i>c. All expenses involved in assembling and commissioning the goods including fuels, oils, machines etc. to meet the requirements of the contract, and the cost of any unsuccessful test or tests for this purpose shall be at the expense of the Supplier. Should there be any defect in material or workmanship, the Supplier will correct or cause to be corrected such defects or deviation from the contract requirement at his</i></p> |

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 of acceptance and the warranty period of the said goods shall be enforced from the date of this certificate. All manuals and books as specified in the Technical Specifications shall be submitted by the Supplier before issuing the acceptance certificate.**

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

- 5.1 The packaging shall be suitable for goods to be supplied and it should be as per the International Standard.

6. Delivery and Documents (GCC Clause 10)

- 6.1 For Goods Supplied from abroad:
- a. 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, (or the flight number), the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall submit or mail the following documents to the Purchaser, with a copy to the Insurance Company:
 - i. **4** Copies of the Supplier's Invoice showing Good's description, quantity, unit price and total amount;
 - ii. Original and **2** copies of the negotiable, clean on board, bill of lading (consignment note) marked "freight prepaid" and **2** copies of non-negotiable bill of lading (consignment note)
 - iii. **4** 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 or the factory inspection report; and
 - vii. Certificate of origin, certified/verified by the manufacturing company in case of Goods manufactured locally.
- 6.2 The documents as per clause 6.1 shall be received by the Purchaser at least one week before arrival and, if not received, the Supplier will be responsible for any consequence expenses.
- 6.3 For Goods within Nepal: Upon delivery of the goods to the transporters, the Supplier shall notify the Purchaser and mail the following documents to the Purchaser:
- i. **4** Copies of the Supplier's Invoice showing Goods' description, quantity, unit price and total amount;
 - i. Delivery note, transport receipt, railway receipt;
 - ii. Manufacturer's or Supplier's Warranty Certificate
 - iii. Inspection Certificate, issued by the nominated inspection agency or the factory inspection report; and
 - iv. 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 shall be responsible for any consequence expenses.
- 7. Insurance (GCC Clause 11)** 7.1 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 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:
- a. At site training and familiarization of components of the machine during commissioning shall be provided free of cost.
 - b. Furnishing a detailed operations and maintenance manual as specified in the Technical Specifications for each appropriate unit of the supplied Goods.
 - c. The supplier shall arrange and conduct training for two concerned engineers of the Madhya Bhotekoshi Jalavidyut Company Limited, in operation, maintenance and/or repair of the equipment supplied. Such training shall be conducted for 7 days in the country of origin of the equipment or in places as may be mutually agreed upon. All the cost incurred in this training program for the trainees shall be borne by the supplier and such cost to include training fees, lodging, fooding, traveling expenses and allowances of US\$ 150.00 or equivalent per day per person of the trainees.
- 10. Warranty (GCC Clause 15)** 10.1 In partial modification of the provisions, the warranty period shall be 12 months from date of acceptance of the Goods or 3000 hours of operation, whichever occurs earlier as *per Technical Specification or Schedule of Requirements*. 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, modification, 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 acceptable norms.
- 10.2 The period for correction of defects in the warranty period is: Within 30 days of the request from the Purchaser.
- 11. Payment (GCC Clause 16)** Delete GCC Clause 16 entirely and replace by
- a) Payments to the Supplier for Goods furnished according to the terms of this Contract will be made in the same currencies as contracted in the manner stated below; provided however that the total cost shall not exceed the Contract Price as set forth in

the Contract Agreement unless such excess shall have been approved in writing by Purchaser.

- b) Payments to the Supplier will be made through the letter of credit for the foreign currency portion of the invoices submitted in accordance with the provision specified below. In the case of goods manufactured in Nepal. Payment may be made through the letter of credit upon request of the Supplier. Payments to the Supplier for the local currency portion of the invoices submitted in accordance with the provision specified below will be paid by Purchaser. However, Purchaser reserves the right to withhold monies from subsequent invoices to cover damages or shortages, of Goods for which payments had been previously made.

Supplier's Invoices

- a) Invoices, detailed and documented as required by other Clauses of the Contract, shall be submitted by the Supplier for payment of all Goods furnished under the Contract. The Supplier shall address his invoices to Purchaser as payee quoting Letter of Credit No. and date.
 - i) Invoices for the foreign currency portion of the Contract Price shall be submitted to the paying bank nominated by the Supplier subject to the approval of Nepal Rastra Bank. The Supplier shall make the following distribution of the foreign currency invoice:
 - 1) Original and three (3) copies to the Paying bank.
 - 2) Three (3) copies to MBJCL.
 - ii) Invoices for the local currency portion of the Contract Price shall be submitted to Purchaser for payment. The Supplier shall make the following distribution of the local currency invoice:
 - 1) Original and five (5) copies to Purchaser.
- b) Invoices shall include the following:

Description, including Contract unit designation of the Goods furnished, Contract unit prices, Extended price totals, Total invoice value of Goods furnished, Amount of retention to be withheld, Net amount payable, Any such Documentation as Purchaser may require, Inspection and test certificates as required.
- c) The shipping documents shall include the following documentation:
 - i) Foreign currency invoice
 - ii) Detailed packing list
 - iii) Supplier's "Certificate of Completion of Manufacture and Inspection."
 - iv) Clean On-Board Bill of Lading from ocean carrier or air-way bill or other carrier receipt.

- v) Insurance Certificate including Marine Insurance Certificate if appropriate.
- vi) Any such Documentation as Purchaser may require.
- vii) Inspection and test certificates as required.
- d) The Supplier shall within five (5) days from date of shipment forward, via air courier to Purchaser, three (3) copies of complete set of shipping documents of each shipment through Letter of Credit opening Bank and any other documentation required to clear the material through Nepal Customs that may be required.
- e) The Supplier shall submit to Purchaser sixty (60) days prior to arrival of the Goods at Nepal customs, eight (8) copies of Pro-forma Invoices in foreign currency of all equipment and materials to be imported and delivered for obtaining import licenses if required.
- f) Approval or certification of any invoice by Purchaser or payment of invoice or acceptance of any payment by the Supplier shall not constitute a waiver of any claims for errors of omission in invoices or payment.
- g) Invoices for progress payments for supply and delivery of materials shall contain or be accompanied by the following certification:

"The undersigned certifies that the amount payable to the Supplier in accordance with the terms of the Contract, up to date of this certificate, are not more than the total payments received or claimed by the Supplier under the Contract (including the payments claimed under this invoice), and that the Supplier has fully complied with the terms and conditions of the Contract, including the plans and specifications.

" _____ "

Name	Contractor	Title
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Letter of Credit

- a. Purchaser shall, within Fifteen (15) calendar days after the signing of Contract, arrange for the establishment of A Letter of Credit through Nepal Rastra Bank, or any A class Bank of Nepal authorized by Govt. of Nepal.
- b. The Letter of Credit shall be in favor of the Supplier for the full amount of the foreign currency portion of the total Contract price. The Letter of Credit shall permit partial payments for Goods delivered in accordance with the terms of the Contract.
- c. Within ten (10) calendar days after the Supplier has been notified of the opening of an operative Letter of Credit in his favor by the paying bank, the Supplier shall notify Purchaser by fax of his acceptance of said Letter of Credit.

- d. The Supplier may nominate a paying bank, subject to the approval of Nepal Rastra Bank.

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

For Goods offered from outside Nepal:

- a) Eighty-five (85) percent of the foreign currency component of the invoice value will be paid through the letter of credit against shipping documents.
- b) Ten (10) percent of the invoice value of the foreign currency component will be paid after certification by Purchaser that all Goods invoiced have been delivered at the appropriate warehouses of Purchaser delivery of Goods being defined as on GCC.
- c) Five (5) percent of the invoice value of the foreign currency component shall be withheld as retention. The retention thus held shall be paid after the expiry of the warranty period;
- d) Regarding payment of local component price for Port clearance and Inland transportation 85% payment shall be made to the supplier's authorized agent responsible for clearing forwarding against submission of bills upon delivery of materials at site. Out of remaining 15%, 5% shall be retained for income tax provision to be released later against production of documentary proof of relevant income tax submission/clearance certificate from the concerned GON Tax Office and 10% shall be released against acceptance of materials at site.

For Goods of offered from Ex-show room in Nepal:

- a) Ninety-three and half (93.5) percent of the invoice value will be paid after certification by Purchaser that all Goods invoiced has been delivered at the appropriate warehouses of Purchaser delivery of Goods being defined as on GCC.
- b) One and half (1.5) percent of the invoice value will be deducted as advance income tax payment and sent to the concerned GoN office. However this is subject to change as per the prevailing rule of Govt. of Nepal.
- c) Five (5) percent of the invoice value of the contract amount shall be withheld as retention. The retention thus held shall be paid after the expiry of the warranty period;

The final payment to the Supplier to be reflected in the Supplier's final invoice shall be determined as the final adjusted amount of the Contract less all previous payments of any kind made to the Contractor and less any Liquidated Damages imposed as per

Clause 13.

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|--|--|
| 12. Prices
(GCC Clause 17) | 12.1 (GCC17.1) The Price is fixed and not subjected to adjustment and/or change. |
| 13. Liquidated Damages
(GCC Clause 23) | 13.1 Applicable rate for the Liquidated damages is: 0.05 % per week of delay until actual delivery and maximum liability shall not exceed ten (10) percent of the Contract Price. |
| 14. Resolution of Disputes
(GCC Clause 28) | <p>14.1 The dispute resolution mechanism to be applied pursuant to clause 28.2 of the General Conditions of Contract shall be as follows:</p> <p style="margin-left: 40px;">a. in the case of a dispute between the Purchaser and a Supplier which is a national of Nepal, the dispute shall be referred to adjudication/arbitration in accordance with the Arbitration Act, 2055 B.S.</p> |
| 15. Governing Language
(GCC Clause 30) | 15.1 The governing Language shall be English. |
| 16. Notices
(GCC Clause 32) | <p>16.1 For the notice purposes Purchaser and Supplier's address shall be as follows:</p> |

Purchaser's address for notice purposes:

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED
Kathmandu, Nepal

Supplier's address for notice purposes:

Please fill up address:

Section VI. Forms of Securities

1. Performance Security Form (Unconditional)

Date:

To: Managing Director

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Kathmandu, Nepal

WHEREAS (name and address of Supplier) (hereinafter called "the Supplier") has undertaken, in pursuance of Contract No. (reference number of the contract) datedyy/mm/dd] to Supply and Delivery of One(1) number of Hydraulic Excavator with Breaker.(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(not less than 5% of the Contract Price) (in wordsNepalese 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 thereunder 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 30 days from the date of issue of the Certificate of final Acceptance of goods and services under this contract

Signature and seal of the Guarantors

 (Name of bank)

 (Address)

 (Date)

2. Bid Security Form

Date:

To Managing Director

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED

Kathmandu, 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]* Sanjen Jalavidhyut Limited (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 twenty eight (28) 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 waved.

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. Bank Guarantee Form for Advance Payment

----- (Bank's Name and Address of Issuing Branch or Office)

Beneficiary: Managing Director
MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED
 Kathmandu, Nepal

Date: -----

ADVANCE PAYMENT GUARANTEE No. -----

We have been informed that (Name of Supplier) (hereinafter called "the Supplier") has entered into Contract No. (reference No. of the Contract) dated ----- with you, for the supply and Delivery of (description of goods) (hereinafter called Contract).

Furthermore, we understand that, according to the conditions of Contract, an advance payment in the sum (amount in figure) (-----) (amount in words) is to be made against an advance payment guarantee.

At the request of the Supplier, we (name of Bank) hereby irrevocably undertake to pay any sum or sums not exceeding in total an amount of (amount in figure) (-----) (amount in words) upon receipt by us of your first demand in writing accompanied by written statement stating that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of goods.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Supplier on its account number ----- at ----- (name and address of Bank).

This guarantee shall expire, at the latest, upon our receipt of copy(ies) of -----, or on the ----- day of -----2 ----- whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

(Signature of the bank)

Seal of the issuing Bank:

Witness:

Signature:

Name:

Address:

Section VII. Schedule of Requirements

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 or port of destination when the contract is placed on CIF or FOB terms, or (iii) to the first carrier when the contract is placed on CIP or FCA 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 Kathmandu.

S. No.	Description	Quantity	Delivery Period
1	Supply and Delivery of HYDRAULIC EXCAVATOR WITH BREAKER	1 (One) No.	180 days from the date of L/C opening

Section VIII. Technical Specifications

A) Technical Specifications for Hydraulic Excavator with Breaker

S.N	Description	Details	Specification Requirement of Purchaser	Major/ Minor
	Make: Model: Country of origin:			
1	General		Crawler mounted hydraulic excavator, with Breaker suitable for operation under rough working conditions and adverse climatic condition.	
2	Weather Conditions	Temperature: Relative humidity: Altitude:	Range - 5° C to + 45 ⁰ C Upto 95% Upto 2300 m amsl.	
3	Engine	Type	Water cooled, Diesel, 4 cycle with turbocharger and Intercooler	Major
		Min. Engine Capacity, not less than	5700 CC	Major
		Min. Output (kW) net, not less than	100 kW at Optimum speed	Major
		Starter motor	DC 24 V with ample power to start the machine in cold	Major
		Governor	All-speed Electronic type	Major
		Air filter	Dry, inner and outer type	
4	Steering system		Two levers with pedals	
5	Hydraulic system		Hydraulic system shall be capable of operating all the working system. Ample pump and reservoir capacity shall be furnished for maximum operating cycles without overheating. Replaceable element type oil filter shall be fitted.	
6	Fuel System	Fuel Tank Capacity	≥ 400 Litres	Major
			Fuel tank inlet pipe shall be provided with strainer and standard system	
7	Swing System	Drive Type	Hydrostatic	
		Swing reduction	Planetary Gear	
		Service Brake	Hydraulic Lock	
		Holding Brake	Mechanical disc type	
		Speed	≥ 11 rpm	Major
8	Working Range	Maximum cutting height	9000 - 10000 mm	Major
		Maximum digging depth	6000 – 6500 mm	Major
		Maximum digging reach (ground level)	9000 - 9500 mm	Major
		Min. Ground clearance	≥ 440 mm	Major
		Bucket digging force without booster (ISO rating)	≥ 145 kN	Major

S.N	Description	Details	Specification Requirement of Purchaser	Major/ Minor
		Arm digging force without booster (ISO rating)	≥ 120 kN	Major
9	Bucket	Type	General purpose bucket with bolt on teeth SAE rated capacity (heaped) 1.0 m ³ . approx.	
10	Under carriage		Track type undercarriage, heavy duty with track adjustment, sprocket, track rollers and idlers, sealed and lubricated. Track type Approx. 600 mm triple grouser track shoe.	
11	Cab		The excavator shall be furnished with an operator's cab. The cab shall be completely enclosed and shall be equipped with tinted safety glass to provide 360 degree visibility. The operator's position shall have an adjustable seat with armrests.	
12	Operating Weight		20,000 kg Class (± 10 %)	Major
13	Breaker		The excavator shall have all the arrangements for the attachment and operation of hydraulic Breaker. Details of the Breaker to be supplied along with hydraulic excavator: Breaker Service Weight: 1700 kg Class (± 20 %) Working tool Diameter : Approx. 120 mm Useful tool length : Not less than 350 mm (The breaker should be compatible with supplied hydraulic excavator and be supplied under the same contract package along with hydraulic excavator)	
14	Gauges		Gauges and meters as necessary for efficient operation and maintenance	
15	Instructions		All signs and instructions shall be in English	
16	Tools		A set of tools for general maintenance shall be supplied in a lockable cabinet	
17	Essential Accessories and equipment		<ul style="list-style-type: none"> - two working lights - Service Hour meter - windscreen, wipers, door locks, rear view mirror - Adjustable cushioned operator's seat -Cassette player - heater and defroster, etc. Breaker tools: 1. Conical point type chisel - 1 nos. 2. Flat type Chisel - 1 nos., etc.	
18	Proven performance		a. The machine shall be a current model under standard production by	

S.N	Description	Details	Specification Requirement of Purchaser	Major/ Minor
			manufacturer for at least two years. b. The bidder shall provide the manufacturer's data of the performance of the unit to include the fuel consumption rate, performance curve of the engine and production capacity of the unit.	
19	Warranty		One year from the date of acceptance	
20	Manual		a. Two copy of the Operator's and Owner's Instruction and maintenance manual in English shall be supplied with the Equipment b. Two copies of Spare parts catalogue and comprehensive workshop manual shall be supplied	
21	Colour		Construction Equipment yellow colour.	
22	Initial Service		The supplier shall provide with the equipment all the necessary filters and spare parts required for the first two services, after the equipment has been commissioned and accepted	
23	Incidental Service		The supplier shall arrange and conduct training at his own cost for two concerned engineers of the MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED, in operation, maintenance and/or repair of the equipment supplied for 7 days in the country of origin of the equipment or in places as may be mutually agreed upon as per SCC 9 (Name of Country to be specified).	
24	Delivery		The Excavator One unit shall be delivered to: Middle Bhotekoshi Hydroelectric Project, Sindhupalchowk, Nepal	

Note:

- a) Items marked as Major in the technical specifications are not allowed to be deviated. Non-compliance of these major items shall be considered as non-responsiveness of the bid offer as per ITB 29.
- b) The bidder is required to submit documentary evidence showing that s/he has already supplied at least 30 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 10 years, as mentioned in bidding data ITB 18.1 e, Qualification requirements.

Section IX. Price Schedule (Bill of Quantity)

MADHYA BHOTEKOSHI JALAVIDYUT COMPANY LIMITED**PRICE SCHEDULE**

Contract Identification No.: MBJCL - 2069/70 - CE - 02

F/C: Foreign Currency
L/C: Local Currency, NRs

S. No.	Description	Qty. (1)	Unit (2)	Foreign Currency Component (F/C)		Local Currency Component (L/C)		Total Amount	
				Unit rate (In Figure) (3)	Unit rate (In Words) (4)	Unit rate (In Figure) (5)	Unit rate (In Words) (6)	F/C	L/C
								(In Figure) (7=1x3)	(In Figure) (8=1x5)
1.	Supply and Delivery of HYDRAULIC EXCAVATOR WITH BREAKER as Specified in Technical Specifications and Bidding Documents	1	No.						
Total									

In Words:

Name and Seal of the Bidder:

Date:

Authorised signature: