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## **International Labour Organisation**

### **Invitation to Bid**

### **ITB N° 19/2014 – Procurement of Vehicles for SNRT Project Nepal**

International Labour Office  
Procurement Bureau  
4, route des Morillons  
CH-1211 Genève 22  
Tel. : + 41 22 799 76 02  
Fax : + 41 22 799 85 29  
E-mail: [procurement@ilo.org](mailto:procurement@ilo.org)



Dear Sir/Madam,

On behalf of the International Labour Office (ILO), I would like to invite your company to submit a quotation for delivery of vehicles as described in the Technical Specifications (**Annex I**). This solicitation letter, together with its Annexes listed below, form an integral part of the present Invitation to Bid (ITB). To ensure competition, all bidders will receive an ITB identical to the present one addressed to your company.

The vehicles shall be delivered **in Kathmandu (Nepal) at the latest by 31 August 2014.**

You may submit an offer to the ILO provided your company is qualified, able and willing to deliver the goods specified in the ITB. Participation in this ITB indicates acceptance of the terms and conditions provided. Failure to comply with the provisions of this ITB and its Annexes may render a proposal ineligible for consideration. Submission of an offer does not create any obligations for the ILO of any kind.

In your proposal, it is essential that you strictly comply with the ITB, particularly, the attached Technical Specifications and the **Terms and Conditions applicable to ILO Contracts (Annex III)**. **To this effect, your attention is drawn on Para. 3 related to Price and Payment Terms.**

Please note that your offer must include Submission Form (**Technical and Commercial Submission Form**), a signed copy of the Certification to be submitted by a Bidder in an ILO Competitive Bidding Procedure (**Annex II**).

**ITB Schedule Summary:**

• ITB release date:	28 March 2014
• Clarification questions, if any, related to this ITB must be submitted to <a href="mailto:procurement@ilo.org">procurement@ilo.org</a> by:	14 April 2014
• ILO response to clarification questions by:	17 April 2014
• Bids Receipt Deadline:	<b>4:00 PM CET Geneva on 28 April 2014</b>
• Estimated Contract Signature Date:	June 2014

I.

**II. BIDDING CONDITIONS**

2.1 The proposal shall be submitted in English. It shall be dated and signed by the organization's legal representative and bear the official organization stamp.

2.2 Prices in the commercial proposal may be quoted in US Dollars (USD) or other currency and should be quoted free of any taxes or duties. In the event that your original currency is not USD, please indicate the currency exchange rate to USD applied. The contractor will assume all exchange rate risks.



- 2.3 A proposal containing hidden costs is liable to be immediately rejected. Where a contract is executed prior to the detection of hidden costs in the proposal selected, the ILO will unilaterally suspend the contract and payments due thereunder immediately upon the detection of hidden costs. Notification of such suspension will be made by registered mail or direct delivery against signed receipt.
- 2.4 This ITB contains no contractual offer of any kind. Any proposal submitted shall be regarded simply as an offer and not as acceptance to an offer made by the ILO. Hence and in accordance with standard practice, the ILO reserves the right to accept or reject any proposal prior to the award of contract. It also reserves the right to:
- a) Negotiate with any of the bidders or other organization/public service provider/individual in any manner deemed appropriate in the best interest of the ILO; and to
  - (b) Negotiate and award separate or multiple contracts for the elements covered by this ITB in any combination it may deem appropriate in its sole discretion.
- 2.5 Advance Payment may be accepted (upon contract signature by both parties): 15,000 USD (in equivalent in local currency, at the prevailing United Nations rate of exchange), the rest upon delivery, installation and issuance of the acceptance certificate by the ILO.
- 2.6 If an advance payment of more than 15,000 USD (in equivalent local currency, at the prevailing United Nations rate of exchange) is required, the ILO retain the right to require a bank guarantee equal to the amount of such advance payment. The advance payment guarantee shall be issued or confirmed by the Swiss Headquarters or branch office of an internationally recognized bank and will remain valid until the date of issuing by the ILO of the Acceptance Certificate.

### III. SUBMISSION OF THE OFFER(S)

- 3.1 For this invitation to bid, **offers by fax or E-mail are not admissible**. Bidders must submit their offer strictly in compliance with the procedures described hereafter. Your offer should reach us at the latest **on 28-APR-2014 at 4.00 PM (Geneva time)**. Any proposal received after the official closing time and date will be rejected.
- 3.2 For this invitation to bid you are requested to submit your offer(s) in three copies (duly marked one "original" and two "copies") **in a SEALED ENVELOPE**.
- 3.3 For the purpose of identification, you are requested to cut and stick the label below and place it visibly on the outer envelope of your package, to avoid that it is opened by mistake (or reproduce the below label).

INTERNATIONAL LABOUR ORGANIZATION  
REGISTRY  
4 route des Morillons  
CH-1211 GENEVA SWITZERLAND  
  
**ITB 19/2014 – Supply of Vehicles for Kathmandu- (Nepal)**  
  
**NOT TO BE OPEN BEFORE: 28 April 2014 at 16:00 (Geneva time)**

- 3.4 The offer should be duly dated, signed and clearly identified as requested, to be receivable.



#### IV. QUESTIONS AND REPLIES

- 4.1 Any prospective Bidder requiring any clarification of the ITB document may notify the ILO in writing, via e-mail only at [procurement@ilo.org](mailto:procurement@ilo.org). The ILO will strive to respond in writing via e-mail to any request received for clarification of the ITB document for any questions received **by 14-April-2014 COB** quoting the ITB reference number (ITB N° 19/2014).
- 4.2 Written copies of the Organization's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders.
- 4.3 You will be informed in due course of time whether your proposal has been selected. The ILO however is not obliged to provide explanations or reasons for its selection.
- 4.4 We would be grateful to receive an e-mail acknowledging receipt of this invitation indicating whether you intend to submit a proposal or not.**

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Myriam Kunegel-Trochu', is enclosed in a rectangular box.

Myriam Kunegel-Trochu,  
Lead buyer ITB N° 32/2013,  
ILO/PROCUREMENT

#### Attachments:

Number	Title	Pages
Annex I:	Technical and Commercial Submission Form including Technical Specifications (one Form for Lot 1 to Lot 5)	5-13
Annex II:	Certification to be submitted by a Bidder in an ILO Competitive Bidding Procedure	14-16
Annex III:	Terms and Conditions applicable to ILO Contracts	17-28



## **ANNEX I**

Lot 1 – SUV VEHICLES

Lot 2 – PICK UP VEHICLES

### **Technical and Commercial Submission Form Including Technical Specifications**



## Lot 1 – MEDIUM-DUTY SUV VEHICLES

### TECHNICAL AND COMMERCIAL SUBMISSION FORM (to be returned)

*Address of Company Submitting*

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Date: 28 March 2014

**Closing Date: 28<sup>th</sup> April 2014 (4:00 PM Geneva time)**

Ship-to country: Kathmandu, Nepal

Reply Via sealed mail

The following should be completed by the Supplier

Your Bid Reference	Date	Currency	Bid Validity Date (Calendar Days) <sup>1</sup>
<b>Total Amount*</b> CIP (INCOTERMS 2010) ILO-Kathmandu, Nepal	To be delivered* latest by	Delivery and Installation Time (In Calendar Days)	Total Weight Kg & Total Volume/M <sup>3</sup>
	31-August-2014		

\*Prices should be without Taxes/VAT.

\* Vehicles should be preferably delivered into containers.

Responsible for sale

Signature

This Quotation has been prepared in accordance with  
“Terms and Conditions applicable to ILO Contracts”

<sup>1</sup> Minimum 90 calendar days.



**Lot 1 – SUV VEHICLES – DETAILED TECHNICAL AND COMMERCIAL SUBMISSION**  
**FORM (to be returned)**  
**including TECHNICAL SPECIFICATIONS**

Basic Requirements	Your Offer (To be filled in by Bidders)	Unit Price In (indicate currency)	QTY	Total Price In (indicate currency)
<p><b>VEHICLE SUV 4X4 – RHD as per detailed required specifications:</b></p> <p>Vehicle type: Station Wagon , 5 doors, Swing-out backdoor, 7 seats Min Engine: 2950 cc, 70 kW @ 3400 rpm Transmission: min 5 speed, Manual , Floor Mount Fuel type: Diesel Min Dimensions: L:4930 x W:1840 x H:1855 mm Min Wheelbase: 2790 mm Min Ground Clearance: 215 mm ABS Accessory connector, FR(DC12)+RR(DC)+DK(DC) Air bag system, driver &amp; passenger Air cleaner, square cyclone Air conditioner, single, manual Antenna, AM/FM Assist grip, front-4, rear-4 Clock, digital Cup holder, front-2, 2nd-2 Engine under cover Floor carpet, needle punch Front headrest, up &amp; down Fuel filler door opener Fuel tank capacity, min 87L Fuel tank protector, wheel base Headlamp, Low &amp; High: Parabola CL:Valve Heater, front High mounted stop lamp, w/ rear spoiler led Immobilizer, w/o alarm Lockable glove box,with illumination LSD (center differential) Mudguards Outside Rear View Mirror, remote control, black Overhead console, with sunglass holder and conversation mirror Owners manual, English Power door locks, switch at drivers seat Power steering Power windows, all seats Radio, AM/FM/CD/6sp (for 10khz countries AUX/USB/BT are added) Rear console box w/cooling box Rear headrest for 2nd seat, 3pcs</p>	<p><b>PROPOSED ITEM</b></p>		4	



Basic Requirements	Your Offer (To be filled in by Bidders)	Unit Price In (indicate currency)	QTY	Total Price In (indicate currency)
Rear quarter glass, green, UV Cut Rear spoiler Seat belt anchor, adjustable, front and rear Seat belts, 2nd seat, 3-point x3 Seat belts, front, 3-point x2 Seats, front separate, manual Seats, rear, 6:4 split, down hold/seat back 4:2:4 Side impact beams Side and rear steps Steel Spare wheel carrier, under floor, chain type Spare wheel, full size Steering column, tilt and telesco Sun visor, fabric w/ mirror Tire and disc <b>Alloy wheel</b> , 245/70R17 6.5J steel(or most similar) Towing hooks (2 front, 1 rear) Transfer VF4BM 3-mode Triangle caution plate 1PC Upholstery, fabric Window wiper, intermittent, time adjustment w/washer Window wiper, rear, w/defogger & washer Windshield, green, w/top shade Wireless door lock Notes: Preferable white or silver colour				
<b>Security Options for the 4 vehicles:</b>  Fire extinguisher Tool kit w/jack+ jack handle+ hub nut wrench	<b>PROPOSED ITEM</b>		4	
Other Requirements				
Warranty required: 1 year	<b>Warranty proposed:</b>			
Please provide detailed address of local Service Centre in Kathmandu, Nepal				
Please provide evidence that your company is an authorized dealer for sale of the proposed vehicles.				





Please provide at least three references for similar types of equipment supplied by the company in Nepal or in the neighbouring countries, preferably to UN agencies (please provide **Names and E-mails of references**).

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2.

3.



## Lot 2 – PICK UP VEHICLES

### TECHNICAL AND COMMERCIAL SUBMISSION FORM (to be returned)

*Address of Company Submitting*

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Date: 28 March 2014

**Closing Date: 28<sup>th</sup> April 2014 (4:00 PM Geneva time)**

Reply Via sealed mail

Ship-to country: Kathmandu, Nepal

The following should be completed by the Supplier

Your Bid Reference	Date	Currency	Bid Validity Date (Calendar Days) <sup>2</sup>
<b>Total Amount*</b> CIP (INCOTERMS 2010) ILO Kathmandu, Nepal	To be delivered* latest by	Delivery and Installation Time (In Calendar Days)	Total Weight Kg & Total Volume/M <sup>3</sup>
	31-August-2014		

\* Prices should be without Taxes/VAT.

\* Vehicles should be preferably delivered into containers.

Responsible for sale

Signature

This Quotation has been prepared in accordance with  
“Terms and Conditions applicable to ILO Contracts”

<sup>2</sup> Minimum 90 calendar days.



**Lot 2 – PICK UP VEHICLES-**  
**DETAILED TECHNICAL AND COMMERCIAL SUBMISSION FORM (to be returned)**  
**including TECHNICAL SPECIFICATIONS**

Basic Requirements	Your Offer <i>(To be filled in by Bidders)</i>	Unit Price In <i>(indicate currency)</i>	QTY	Total Price In <i>(indicate currency)</i>
<b>VEHICLE PICK-UP 4X4 – RHD as per detailed required specifications:</b> Vehicle type: Pick-up , 4 doors, 6 seats Min Engine: 3200 cc, 110 kW Transmission: 5 speed, Manual , Floor Mount Fuel type: Diesel Min Dimensions: L:5145 x W:1790 x H:1800 mm Min Wheelbase: 3180 mm Min Ground Clearance: 230 mm  Accessory plug, 12V, located in engine room Air cleaner, cyclone, w/ pre-cleaner Air conditioner non CFC Antenna <b>Alloy Wheels</b> Assist grip, front 2, Rear 4 Bumper step rear, black painted Cigarette lighter Clock Cup Holder Front bottle holder Door mirrors Engine Under Cover Free wheel hub, manual Front door fixed sash w/o vent window Fuel filter for diesel Fuel tank 130L Glove box with key Head restraints, 2 front Headlamp, 2 halogen Heater, front Instrument panel upper tray Intermittent wiper, intermittent, washer-linked Lockable fuel tank lid/cap Mud guards, front Owners manual, English Power steering Radio, AM/FM/CD 4sp and USB, BT Rear differential 4.300 4P LSD Seat belts, front & rear (ELR3-2-3) Seats, front & rear , bench Side and rear step, Aluminum Side defroster Spare wheel carrier guard frame w/lock Spare wheel, full size 1pc Steering column, tilt + telescope + collapsible Steel front and rear protection bar Sun visor, 2pcs	<b>PROPOSED ITEM</b>		39	



Basic Requirements	Your Offer (To be filled in by Bidders)	Unit Price In (indicate currency)	QTY	Total Price In (indicate currency)
Suspension, coil front, leaf rear Towing eye, front Towing pintle hook, rear Transfer 2-4 Selector Transfer Protector ( small type ) Tyres: 7.50R-16-8 (E) 5.50F steel (or most similar) Upholstery, vinyl Warning triangle Windscreen, green, laminated Notes: Preferable white or silver colour				
<b>Security Options for the 39 vehicles:</b>  Fire extinguisher, 1kg First Aid Kit, compact Tool kit with jack & jack handle	<b>PROPOSED ITEM</b>		39	
<b>Other Requirements</b>				
<b>Warranty required: 1 year</b>	<b>Warranty proposed:</b>			
<b>Please provide detailed address of local Service Centre in Kathmandu, Nepal</b>				
<b>Please provide evidence that your company is an authorized dealer for sale of the proposed vehicles.</b>				



Please provide at least three references for similar types of equipment supplied by the company Nepal or in the neighbouring countries, preferably to UN agencies (please provide **Names and E-mails of references**).

1.

2.

3.



# **ANNEX II**

  

# **CERTIFICATION**



**CERTIFICATION TO BE SUBMITTED BY A BIDDER  
IN AN ILO COMPETITIVE BIDDING PROCEDURE  
(to be returned duly signed)**

The ILO expects all participants in its procurement process to adhere to the very highest standards of moral and ethical conduct and transparency, to prevent any conflict of interest and not to engage in any form of coercive, collusive, corrupt, or fraudulent practices.

With respect to its proposal submitted in response to the ILO's Invitation to Bid mentioned above, the bidder hereby certifies that:

1. The prices in its proposal have been arrived at independently without consultation, communication or agreement with any other interested companies, competitor or potential competitor with a view to restricting competition.
2. No attempt has been made or will be made by the bidder to influence any other bidder, organization, partnership or corporation to either submit or not submit a proposal.
3. The bidder will not offer, solicit or accept, directly or indirectly, any gratuity, gift, favour, entertainment, promises of future employment or other benefits to or from anyone in the ILO.
4. The bidder (both parent company and/or any subsidiaries) is not identified on, or associated with any individual, groups, undertakings and entities identified on, the list established pursuant to UN Security Council Resolution 1267 (Consolidated List).<sup>3</sup>
5. The bidder (both parent company and/or any subsidiaries) will not use the funds received under any contract with the ILO to provide support to individuals, groups, undertakings or entities associated with terrorism.
6. The bidder (both parent company and/or any subsidiaries) is not the subject of any form of sanction imposed by an organization or body within the United Nations System, including the World Bank.

The ILO reserves the right to cancel or terminate with immediate effect and without compensation any offer of or contract arising from this bidding procedure in the event of any misrepresentation in relation to the above certifications.

Definitions of terms used in this declaration:

*"coercive practice"* is impairing or harming, or threatening to impair or harm, directly or indirectly, another or the property of another to influence improperly the actions of another.

*"collusive practice"* is any conduct or arrangement between two or more bidders or contractors, designed to achieve an improper purpose, including to influence improperly the actions of another or to set prices at an artificial level or in a non-competitive manner;

*"conflict of interest"* is a situation that gives rise to an actual, potential or perceived conflict between the interests of one party and another;

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<sup>3</sup> The Consolidated List can be found at the website [www.un.org/sc/committees/1267/consolist.shtml](http://www.un.org/sc/committees/1267/consolist.shtml).



*“corrupt practice”* is the offering, giving, receiving or soliciting, directly or indirectly, of any advantage, in order to influence improperly the actions of another;

*“fraudulent practice”* is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, another to obtain a financial or other benefit or to avoid an obligation;

The undersigned certifies/y to be duly authorized to sign this Certification on behalf of the bidder.

Name and Position

Signature

Date

\_\_\_\_\_

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## **ANNEX III**

### **Terms and Conditions applicable to ILO Contracts**



## TERMS AND CONDITIONS APPLICABLE TO ILO CONTRACTS

### 1. THE PARTIES

- 1.1. **LEGAL STATUS OF THE PARTIES:** The International Labour Organization, represented by the International Labour Office (ILO), and the Contractor (referred to individually as a “Party” and together as the “Parties”) have the following legal status:
- 1.1.1. The International Labour Organization has full juridical personality, including the ability to contract and enjoys such privileges and immunities as are necessary for the independent fulfillment of its purposes pursuant to the *Constitution of the International Labour Organisation*. Nothing in or related to the Contract will be deemed a waiver of any of the privileges and immunities of the International Labour Organization recognized in the Convention on the Privileges and Immunities of the Specialized Agencies (1947), and relevant national and international law.
- 1.1.2. The Contractor is an independent contractor. Nothing contained in or relating to the Contract will be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent.

### 2. CONTRACT DOCUMENTS AND VALIDITY

- 2.1. **NATURE OF THE CONTRACT:**
- 2.1.1. The Contract constitutes the complete and exclusive agreement between the Parties. It supersedes all proposals, verbal or written arrangements or agreements, and any other communications by one of the Parties or between the Parties relating to the Contract.
- 2.1.2. The Contract is composed of the following documents listed in their order of precedence:
- 2.1.2.1. **Purchase Order/Contract Document**, including any specific conditions;
- 2.1.2.2. Terms and Conditions applicable to ILO Contracts (**Annex I**); and
- 2.1.2.3. Any other document explicitly listed in the Purchase Order/Contract Document and attached to it (i.e., **Annex II, III**, etc).
- 2.1.3. Unless otherwise included in any of the documents listed in paragraph 2.1.2., the terms of business, conditions of contract, general reservations published or issued by the Contractor or written in any correspondence or documents emanating from the Contractor will not form part of the Contract.
- 2.2. **VALIDITY:** The Contract will expire upon fulfillment by the Parties of their respective obligations or otherwise in accordance with its provisions.
- 2.3. **NON-EXCLUSIVITY:** The ILO may purchase goods or equipment (referred together to as “Goods”), or contract for works or services (referred together to as “Services”) of the same or similar kind and quality described in the Contract from any other source at any time.
- 2.4. **COMMUNICATIONS:** Communications (e.g., notices, documents) will be addressed to:

**INTERNATIONAL LABOUR OFFICE**  
Procurement Bureau (PROCUREMENT)  
4 Route des Morillons  
CH 1211 Geneva 22  
Switzerland  
Facsimile: + (41)(22) 798 85 29  
Phone: + (41)(22) 799 76 02  
e-mail: [procurement@ilo.org](mailto:procurement@ilo.org)

### 3. PRICE AND PAYMENT

- 3.1. **PRICE AND CURRENCY:** The price and currency specified in the Contractor's offer are firm and not subject to revision. The ILO's financial liability under the Contract is restricted to the price and currency indicated in the Purchase Order/Contract Document.
- 3.2. **PAYMENT:** Upon receipt of the Contractor's written invoice and any related supporting documentation, the ILO will effect payment, normally within thirty (30) days, by bank transfer (the ILO will not pay through letters of credit or bank draft). The written invoice will be sent to the addressee specified in the Purchase Order/Contract Document and will contain the:



- 3.2.1. number of the Purchase Order/Contract Document that it relates to;
  - 3.2.2. invoiced amount (without the rounding of currency decimals and exclusive of VAT, duties or charges); and
  - 3.2.3. date of the delivery of Goods or the completion of Services.
- In no event will complete or partial payment by the ILO, in and of itself, constitute acceptance of the Goods or Services.

- 3.3. **TAX EXEMPTION:** The International Labour Organization, as a United Nations Specialized Agency, enjoys a special tax status in Switzerland and in other member States. Except with the prior written authorization of the ILO, invoices will be submitted exclusive of any amount representing taxes (including value added tax), duties or charges. Where such authorization has been provided, the Contractor will provide the ILO with written evidence that payment of such taxes, duties or charges has been made. In the event any government authority refuses to recognize the ILO's exemption from such taxes, duties or charges, the Contractor will immediately consult with the ILO to determine a mutually acceptable procedure.

#### 4. PERFORMANCE

- 4.1. **PACKAGING:** Where packaging is required, the following terms (including in any INCOTERM or similar trade term) apply:
- 4.1.1. The Contractor will package and mark all Goods for shipment and delivery in accordance with the highest standards of commercial packaging for the type and quantity of the Goods and the modes of transport used and the packaging will comply with any requirements imposed by applicable laws and standards. In addition, the Contractor will ensure that:
    - 4.1.1.1. packaging will be sufficient to withstand local conditions, including rough handling, exposure to extreme climate conditions, dusty environments, salt and precipitation, and open storage for up to several months after arrival at the Consignee's destination specified in the Purchase Order/Contract Document;
    - 4.1.1.2. packing container sizes and weights will be determined by reference to the conditions prevailing at the final destination, including where relevant, the absence of mechanical equipment for loading and offloading;
    - 4.1.1.3. dangerous or combustible Goods will be packed separately, in accordance with the highest safety standards of commercial packaging, and marked as containing dangerous or combustible Goods; and
    - 4.1.1.4. no markings on the outside of the packaging indicate the contents of the box. Boxes in shipments consisting of multiple boxes will be numbered and will identify the total number of boxes in the shipment (i.e., box 1 of 5, 2 of 5, etc.). A packing slip will be placed inside each box with all details of its contents. Packing lists will state complete shipping marks, number of boxes, contents, gross and net weights in kilograms of each box, measurements and volume in cubic meters.
  - 4.1.2. The Contractor will have no right to the return of packing materials.
  - 4.1.3. Any costs relating to or arising from packaging or marking deficiencies or deviations from the Contract will be borne by the Contractor.
- 4.2. **SHIPMENT, TRANSPORT, DELIVERY:** Where shipment, transport and delivery are required, the following terms (including in any INCOTERM or similar trade term) apply:
- 4.2.1. The Contractor is solely responsible for making all shipment, transport and delivery arrangements necessary for the performance of the Contractor's obligations under the Contract, including obtaining any permits, licenses, certifications, registrations, approvals or authorizations necessary for the shipment, transportation and delivery, including, as applicable, the importation and exportation of Goods.
  - 4.2.2. All costs associated with any shipment, transport and delivery, including all freight and insurance costs, and all costs relating to obtaining any permits, licenses, certifications, registrations, approvals or authorizations will be borne by the Contractor.
  - 4.2.3. The Contractor will insure the Goods against all risks, including war, strike and riot, until delivery at the final destination. The value of the Goods will be calculated on the basis of cost and freight plus ten (10) per cent. A duplicate of the insurance certificate will be sent to the ILO and the original to the Consignee.
  - 4.2.4. The Contractor will ensure that the Consignee receives all necessary transport documents in a timely manner, so as to enable the Consignee to take delivery in accordance with the requirements of the Contract. A duplicate of all necessary transport documents will be sent to the ILO in advance of the transport and delivery.
  - 4.2.5. Partial shipment and the combining of Goods supplied against different Purchase Orders to the same Consignee are not allowed, except with the prior written authorization of the ILO.



- 4.3. **INSPECTION, ACCEPTANCE, REJECTION:** Where inspection and acceptance or rejection are required, the following terms apply:
- 4.3.1. Delivery will not be deemed, in and of itself, as constituting acceptance by the ILO.
  - 4.3.2. Neither delivery into the physical custody of the Consignee nor complete or partial payment by the ILO or the Consignee constitute acceptance. The Consignee will have sixty (60) days after physical delivery into its custody has been completed in accordance with the Contract, to inspect and accept or reject the Goods for defects or other failures to meet the Contract's requirements. After sixty (60) days the Goods will be deemed to have been accepted by the Consignee.
  - 4.3.3. The Consignee's inspection of the Goods, failure to inspect and accept or reject the Goods, and acceptance or rejection of the Goods will not relieve the Contractor from its responsibility, nor impose liability on the Consignee or the ILO, for defects or nonconforming Goods. In addition to all other remedies available under the Contract, the Consignee or the ILO may reject all Goods that do not conform to the terms and conditions of the Contract.
  - 4.3.4. Goods in the possession of the Consignee or the ILO that have been rejected by the Consignee or the ILO will be removed at the Contractor's expense within such period as the Consignee or the ILO may specify in its notice of rejection. Upon such notice to the Contractor, the Goods or any part thereof will be held at the Contractor's risk and expense including, if necessary, the cost of transfer to and storage at a commercial or bonded warehouse, and no liability will attach to the Consignee or the ILO for any loss or damage thereto. The payment of any customs duties which may be required on rejected Goods that were imported duty free is the Contractor's responsibility. Should the Contractor fail to remove the Goods as required by the notice of rejection, the Consignee or the ILO may dispose of the rejected Goods in such manner as the Consignee or the ILO deem appropriate, without any liability owed to the Contractor whatsoever.
- 4.4. **TITLE:** Title to the Goods will not pass to the ILO until the Consignee has accepted the Goods. Accordingly, the Contractor assumes all liabilities associated with appropriation, confiscation, delay, damage (regardless of cause), destruction, loss or theft of the Goods until title to the Goods has passed to the ILO.
- 4.5. **ITEMS FURNISHED BY THE CONTRACTOR:** The Contractor is solely responsible for the arrangement, provision and operation of all equipment, supplies, related support services and personnel (including any related costs so incurred) necessary for the performance of the Contractor's obligations under the Contract.
- 4.6. **ITEMS FURNISHED BY THE ILO TO THE CONTRACTOR:** Where Goods are funded or provided by the ILO to the Contractor to support the performance of the Contractor's obligations under the Contract, the following terms apply:
- 4.6.1. The Contractor acknowledges and agrees that the ILO hereby disclaims any and all warranties regarding the functionality or installation of such Goods. The Contractor is solely responsible for the installation (including any personnel, tools, materials or other Goods necessary for installation), maintenance and functioning of all the Goods funded or provided by the ILO under the Contract.
  - 4.6.2. The Contractor will promptly report to the ILO each loss, damage or theft of such Goods.
  - 4.6.3. Title to the Goods that may be funded or provided by the ILO to the Contractor will be retained by the ILO. The Contractor will not cause or permit any lien, claim or other encumbrance to be attached to any or all such Goods, or to any other item that is the subject matter of the Contract.
  - 4.6.4. Upon the termination or expiration of the Contract, all such Goods will be returned to the ILO in the same condition as when delivered to the Contractor, excluding normal wear and tear. The return of such Goods, or other disposal as the ILO may direct, will be at the Contractor's expense. Upon termination or expiration of the Contract, the Contractor will take all reasonable measures to avoid any loss of or deterioration to such Goods. The Contractor will compensate the ILO for actual costs of any loss of, damage to or deterioration of such Goods that is beyond normal wear and tear.
- 4.7. **INSTALLATION, MAINTENANCE, TRAINING:** Where installation, maintenance (ongoing or as specified in the Purchase Order/Contract Document) or training is required, the following terms apply:
- 4.7.1. The Contractor, in a timely manner, will arrange for and provide all equipment, supplies, related support services and personnel necessary to complete the installation, maintenance or training.
  - 4.7.2. All costs related to the installation, maintenance or training will be borne by the Contractor.
  - 4.7.3. The ILO and the Consignee will be permitted to monitor the installation or maintenance work, as well as to oversee the training.
  - 4.7.4. In addition, where training is required the Contractor will train any persons identified by ILO or the Consignee in the installation, operation, maintenance, etc. of the Goods or Services described in the Contract.
- 4.8. **ACCESS:** If some or all of the contractual obligations will be performed on ILO premises, the ILO will facilitate access to its premises in line with requirements for such performance. The Contractor will comply with ILO security requirements and any other relevant ILO rules, regulations and guidelines while on ILO premises, as well as with the instructions given by designated ILO officials.
- 4.9. **RESPONSIBILITY FOR PERSONNEL:**



- 4.9.1. The employees, officials, representatives, staff or subcontractors (**Personnel**) of either of the Parties will not be considered in any respect as being the employees or agents of the other Party.
- 4.9.2. Each Party is solely responsible for the professional and technical competence of its respective Personnel, which will permit that Party to effectively perform its obligations under the Contract.
- 4.9.3. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to request at any time, in writing, the withdrawal or replacement of any of the Contractor's Personnel and such request will not be unreasonably refused by the Contractor.
- 4.9.4. Each Party is solely responsible for all claims arising out of or relating to the engagement of its respective Personnel.
- 4.9.5. All expenditures related to the assignment of the Contractor's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the Contractor. All expenditures related to the assignment of the ILO's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the ILO.

**4.10. INSURANCE:**

- 4.10.1. The Contractor, for the duration of the Contract, any extension thereof or any period following any termination of the Contract and reasonably adequate to deal with losses, will insure its Personnel against the consequences of the following risks:
  - 4.10.1.1. illness, injury and death; and
  - 4.10.1.2. incapacity to work due to accident and sickness either during normal working hours or outside working hours.
- 4.10.2. Time lost as a result of the occurrence of the risks identified in subparagraphs **4.10.1.1** or **4.10.1.2** will not be chargeable to the ILO.
- 4.10.3. The Contractor for the duration of the Contract, any extension thereof or any period following any termination of the Contract and reasonably adequate to deal with losses, warrants that it is insured with a coverage for a sufficient amount for the use of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor, as well as that it carries comprehensive civil liability insurance with regard to third-parties, including the ILO and its Personnel, in respect of physical injury, damage to property or theft, as well as the direct or indirect effects thereof, including the unavailability of premises and loss of production.
- 4.10.4. Where required by the ILO and as specified in the Purchase Order/Contract Document (except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by the ILO), the Contractor's insurance policies will:
  - 4.10.4.1. name the ILO as an additional insured under the liability policy/policies, including, if required, as a separate endorsement under the Contractor's policy/policies;
  - 4.10.4.2. include a waiver of subrogation of the Contractor's insurance carrier's rights against the ILO; and
  - 4.10.4.3. provide that the ILO will receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage.
- 4.10.5. The Contractor will take out any other insurance required by the ILO and as specified in the Purchase Order/Contract Document.
- 4.10.6. Upon written request by the ILO, the Contractor will provide the ILO with a copy of the general and specific conditions of the insurance policy/policies required under the Contract.

**4.11. INDEMNIFICATION:**

- 4.11.1. The Contractor is solely responsible for any claim or damage resulting from the negligence, acts, or omissions of its Personnel.
- 4.11.2. The Contractor will indemnify and hold the ILO harmless from and against any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO, its Personnel or third-parties which may result from the performance of the Contractor's obligations under the Contract or the Contractor's acts or omissions or those of the Contractor's Personnel.
- 4.11.3. The Contractor will immediately notify the ILO upon becoming aware of any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO or which could adversely affect the ILO.

**5. ASSIGNMENT AND SUBCONTRACTING**

- 5.1. **ASSIGNMENT:** The Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except



with the prior written authorization of the ILO. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, will not be binding on the ILO.

- 5.2. **SUBCONTRACTING:** In the event that the Contractor requires the services of any subcontractor, the Contractor will obtain the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected. The authorization and approval by the ILO of such a subcontractor does not relieve the Contractor of any of its obligations under the Contract and the Contractor is solely responsible for the Goods and Services provided by a subcontractor in the framework of the Contract, including their quality. The Contractor, to the same extent as for its own Personnel, will be liable for a subcontractor and its Personnel who are performing any part of the Contractor's obligations under the Contract. The terms of any subcontract will be subject to and be in conformity with the provisions of the Contract. Except with the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected, the Contractor will ensure that its subcontractor(s) do not subcontract, assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract. The provisions of this paragraph apply to any subcontractor who, in turn, requires the services of a subcontractor.

## 6. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

### 6.1. PROPRIETARY ITEMS AND INTELLECTUAL PROPERTY RIGHTS:

- 6.1.1. All documents (including drawings, estimates, manuscripts, maps, plans, records, reports, recommendations) and other proprietary items (including data, devices, gauges, jigs, mosaics, parts, patterns, photographs, samples, and software) (jointly referred to as **Proprietary Items**), either developed by the Contractor or its Personnel in connection with the Contract or furnished to the Contractor by or on behalf of the ILO to support the performance of the Contractor's obligations under the Contract, are the exclusive property of the International Labour Organization; and, will be used by the Contractor and its Personnel solely for the purposes of the Contract.
- 6.1.2. All intellectual property rights and all other proprietary rights (including copyrights, patents, trademarks, source codes, products, processes, inventions, ideas, know-how) with regard to any materials (jointly referred to as **Intellectual Property**), either developed by the Contractor or its Personnel in connection with the Contract or furnished to the Contractor by or on behalf of the ILO to support the performance of the Contractor's obligations under the Contract, are the exclusive property of the International Labour Organization; and, will be used by the Contractor and its Personnel solely for the purposes of the Contract.
- 6.1.3. During the course of development, Proprietary Items and Intellectual Property developed or utilized by or furnished to the Contractor will be made available for use and inspection by the ILO, upon request at reasonable times and in reasonable places.
- 6.1.4. Such Proprietary Items and Intellectual Property will be delivered only to ILO authorized officials on completion of the Contract.
- 6.1.5. The Contractor will disclose, throughout its performance, to the ILO's authorized officials full particulars of all source codes, products, processes, inventions, ideas, know-how, documents and any other materials developed or conceived by the Contractor, alone or jointly, in connection with the Contract.
- 6.1.6. At the request of the ILO, the Contractor will take all necessary steps to execute all necessary documents and generally assist the ILO in securing intellectual property rights and all other proprietary rights in compliance with the requirements of applicable law.
- 6.1.7. To the extent that any Intellectual Property due to the ILO under paragraph 6.1.2 includes any intellectual property:
- 6.1.7.1. of the Contractor that: (i) pre-existed the performance by the Contractor of its obligations under the Contract; or (ii) it may develop or acquire, or that may have been developed or acquired, independently of the performance of the Contractor's obligations under the Contract; or
- 6.1.7.2. of a third-party;
- the Contractor grants to the International Labour Organization a perpetual, royalty-free license to make unrestricted use of such intellectual property. The International Labour Organization will not claim any ownership interest in the intellectual property described in subparagraphs 6.1.7.1 or 6.1.7.2.
- 6.1.8. The Contractor undertakes to obtain, at its own expense, permission to use any third-party protected rights that are necessary for the performance of the Contract and, if requested, provide the ILO with evidence of such permission.
- 6.1.9. In the event that any Proprietary Items or Intellectual Property provided to the ILO by the Contractor are for some reason enjoined or found to infringe any rights of a third-party, or in the event of a settlement, are enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, will promptly:





- 6.1.9.1. procure for the ILO the unrestricted right to continue using such Proprietary Items and Intellectual Property provided to the ILO;
  - 6.1.9.2. replace or modify the Proprietary Items and Intellectual Property provided to the ILO, or part thereof, with the equivalent or better Proprietary Items and Intellectual Property, or part thereof, that are non-infringing; or,
  - 6.1.9.3. refund to the ILO the full price paid by the ILO for the right to have or use such Proprietary Items and Intellectual Property or part thereof.
- 6.2. CONFIDENTIAL NATURE OF AND RESPONSIBILITY FOR PROPRIETARY ITEMS, INTELLECTUAL PROPERTY AND OTHER INFORMATION:**
- 6.2.1. Unless otherwise made public with the authorization of the ILO, Proprietary Items, Intellectual Property and other information, irrespective of what form they are, developed, collected, known, marked or received by the Contractor, will be treated by the Contractor as confidential and be used only for the purposes of the Contract.
  - 6.2.2. The Contractor will not communicate at any time to any other person, government or entity external to the ILO, any Proprietary Items, Intellectual Property or other information known by reason of its association with the ILO, which has not been made public, except with the authorization of the ILO; nor will the Contractor at any time use such information for private advantage or in any manner prejudicial to or incompatible with the interests of the ILO. Where the Contractor is required by law to disclose such Proprietary Items, Intellectual Property or other information, it will give the ILO sufficient prior notice of the request to disclose in order to allow the ILO to have a reasonable opportunity to take protective measures or such other action as may be appropriate.
  - 6.2.3. The Contractor will be responsible for such Proprietary Items, Intellectual Property and other information. In case of loss of or damage to any Proprietary Items, Intellectual Property or other information the Contractor may be required to:
    - 6.2.3.1. replace or repair the lost or damaged Proprietary Items, Intellectual Property or other information; or
    - 6.2.3.2. provide compensation to the ILO for the cost of replacing or repairing the lost or damaged Proprietary Items, Intellectual Property or other information.
- 6.3. PUBLICITY AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL:**
- 6.3.1. The Contractor may neither disclose the terms and conditions of the Contract nor advertise or otherwise make public the fact that it is a Contractor to the ILO.
  - 6.3.2. The Contractor may not use or reproduce the name, emblem or the official seal of the International Labour Organization or of the International Labour Office, including their abbreviations, in connection with the Contractor's business or otherwise.
  - 6.3.3. In reporting its procurement activities, the ILO may publish (e.g., on the internet) the Contractor's name and amount of the Contract.

## **7. ETHICAL CONDUCT**

- 7.1. LABOUR CLAUSES:** The Contractor undertakes to respect, at all times and in all circumstances relevant to the performance of the Contract and in relation to all its Personnel, and to ensure that its subcontractors respect:
- 7.1.1. The following principles concerning international labour standards of the International Labour Organization:
    - 7.1.1.1. the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as the protection of those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;
    - 7.1.1.2. the prohibition of forced or compulsory labour in all its forms;
    - 7.1.1.3. equal remuneration for men and women for work of equal value;
    - 7.1.1.4. equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of the Contract takes place;
    - 7.1.1.5. the prohibition of the employment of children below fourteen (14) years of age or, if higher than fourteen (14), the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of the Contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher;
    - 7.1.1.6. the prohibition of the employment of persons under the age of eighteen (18) for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;



- 7.1.1.7. the payment of wages in legal tender, at regular intervals no longer than one month, in full and directly to the workers concerned. The Contractor shall keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and the workers concerned must be informed of such deductions at the time of each payment.
- 7.1.1.8. the provision of wages, hours of work and other conditions of work not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or, (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
- 7.1.1.9. the need to ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment and processes under their control are safe and without risk to health, and that the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health; and
- 7.1.2. All applicable laws or regulations concerning terms of employment and conditions of work, any collective agreements to which it is party, or any other related measure with which it must comply.
- 7.2. **PERSONNEL NOT TO BENEFIT:**
  - 7.2.1. The ILO requires bidders and contractors to observe the highest ethical standards during the procurement process and the execution of contracts. In order to ensure the respect of these obligations, the ILO provides the following definitions:
    - 7.2.1.1. “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, another to obtain a financial or other benefit or to avoid an obligation;
    - 7.2.1.2. “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of any advantage, in order to influence improperly the actions of another;
    - 7.2.1.3. “conflict of interest” is a situation that gives rise to an actual, potential or perceived conflict between the interests of one party and another;
    - 7.2.1.4. “collusive practice” is any conduct or arrangement between two or more bidders or contractors, designed to achieve an improper purpose, including to influence improperly the actions of another or to set prices at an artificial level or in a non-competitive manner;
    - 7.2.1.5. “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, another or the property of another to influence improperly the actions of another.
  - 7.2.2. The Contractor will not (and will ensure that its Personnel do not) place itself in a position that may, or does, give rise to a conflict between its interests and the ILO's interests during the procurement process or the execution of the Contract.
  - 7.2.3. If during any stage of the procurement process a conflict of interest arose or during contract execution a conflict of interest arises, or appears likely to arise, the Contractor will immediately notify the ILO in writing, setting out all relevant details, including any situation in which the interests of the Contractor conflict with the interests of the ILO, or in any situation in which any ILO official, employee or person under contract with the ILO may have, or appears to have, an interest of any kind in the Contractor's business or any kind of economic or personal ties with the Contractor. The Contractor will take such steps as the ILO may reasonably require to resolve or otherwise deal with the conflict to the satisfaction of the ILO.
  - 7.2.4. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to disqualify the Contractor for a specified or indefinite period from participating in the procurement process of the ILO or contracting with the ILO, if it is shown that the Contractor has, directly or indirectly, employed fraudulent, corrupt, collusive or coercive practices or failed to disclose a conflict of interest.

## 8. FULL DISCLOSURE

- 8.1. **FULL DISCLOSURE:** The Contractor warrants that it has made and will make full and proper disclosure to the ILO of all relevant information relating to its business activities, financial condition and ownership, prior to entering into this Contract and for its duration, including that it is not identified on or associated with<sup>i</sup> any individual, groups, undertakings and entities identified on the list established by the United Nations Security Council Resolution 1267 (**1267 Consolidated List**)<sup>ii</sup>; and that it is not, nor has been, subject to any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank.





## 9. DELAY, FORCE MAJEURE AND LIQUIDATED DAMAGES

### 9.1. DELAY:

- 9.1.1. Should the Contractor encounter conditions that do not constitute *Force majeure* and which impede or are likely to impede timely performance of the Contract (**Delay**), the Contractor will immediately notify the ILO in writing with full particulars of the Delay, including its likely duration, and its cause. At the ILO's request, the Contractor and the ILO will consult as soon as practicable after receipt of such notice, to evaluate any available means of mitigation or appropriate remedies provided under the Contract.
- 9.1.2. In addition to any other right or remedy available under the Contract, upon receiving notice of Contractor's Delay (or likely Delay) in performance, the ILO will have the right to:
  - 9.1.2.1. suspend the Contract, in whole or in part, and notify the Contractor not to proceed further with its performance which has been subject to (or will be subject to) Delay;
  - 9.1.2.2. withhold and/or deduct payment to the Contractor for the portion of the Contract subject to Delay; and
  - 9.1.2.3. procure all or part of the Goods or Services which the Contractor fails to provide in a timely manner.
- 9.1.3. Without prejudice to any other right or remedy available under the Contract, the Contractor will be liable for any increase in the price payable by the ILO resulting from the procurement of the Goods or Services from other sources and the ILO may apply such additional costs incurred, by deduction or otherwise, against future amounts owed by the ILO to the Contractor.
- 9.1.4. Upon receipt of notice of any decision by the ILO to suspend the Contract under subparagraph **9.1.2.1** and with respect to the suspended portion of the Contract, the Contractor will take immediate steps to reduce expenses to a minimum and will not undertake any further obligations; provided, however, that the ILO and the Contractor will continue performance of the Contract to the extent that it is not suspended or cancelled.

### 9.2. FORCE MAJEURE:

- 9.2.1. Neither Party will be liable to the other Party for failure to perform its respective obligations, if such failure is as a result of an unforeseeable and irresistible event, act of nature (including fire, flood, earthquake, storm, hurricane, epidemic or other natural disaster), any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, (**Force Majeure**) provided that such acts arise from causes beyond the control and without the fault or negligence of the invoking Party.
- 9.2.2. The defaulting Party will notify, as soon as possible after the occurrence of the *Force Majeure* event, the other Party in writing with full particulars of the *Force Majeure* event, including its likely duration, the estimated expenditures that will likely be incurred for the duration of the *Force Majeure* event, and any other conditions which threaten to interfere with the defaulting Party's performance of the Contract.
- 9.2.3. Without prejudice to any other right or remedy available under the Contract, if either Party is rendered unable, in whole or in part, by reason of *Force Majeure* to perform its obligations and meet its responsibilities under the Contract and where the Force Majeure event exists beyond sixty (60) days then that Party will have the right to suspend or terminate the Contract with a period of written notice of seven (7) days.

- 9.3. **NOTICE OF DELAY AND FORCE MAJEURE:** If notice is not received by a Party in accordance with paragraphs **9.1.1** or **9.2.2**, the Party who fails to notify of the Delay or *Force Majeure* event will be liable for damages resulting from such non-receipt, except where the Delay or *Force Majeure* event also prevents transmission of the notice.

- 9.4. **LIQUIDATED DAMAGES:** Without prejudice to any other right or remedy available under the Contract, the Parties agree that if the Contractor breaches the Contract, including a Delay in performance of the Contractor's obligations under the Contract, it will be impractical or difficult to quantify the damages suffered by the ILO. The Parties, therefore, agree that in the event of such a breach by the Contractor, the Contractor will pay to the ILO, as liquidated damages, a sum equal to three-tenths of one (0.3) per cent of the Contract price for each day of delay until actual delivery or performance, up to a maximum of ten (10) per cent of the Contract price. Each Party acknowledges and agrees that the liquidated damages amount specified herein are intended to reasonably compensate the ILO and not intended to punish the Contractor. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to recover such liquidated damages by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

## 10. TERMINATION



**10.1. TERMINATION BY THE ILO:**

- 10.1.1. Without prejudice to any other right or remedy available under the Contract and without the authorisation of a court or any other authorisation, the ILO may terminate the Contract immediately by written notice in the event that the Contractor:
  - 10.1.1.1. is found to have made any material or fraudulent misrepresentation in the making of or performance of the Contract regardless of when the misrepresentation is discovered;
  - 10.1.1.2. becomes bankrupt, otherwise insolvent, or the ILO reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract;
  - 10.1.1.3. fails to perform contractual obligations or to satisfy any guarantees or warranties it has made under the Contract and does not rectify such failure within sixty (60) days following receipt of a written notice by the ILO;
  - 10.1.1.4. is declared undesirable by the government where the Contractor is to perform any of its obligations under the Contract;
  - 10.1.1.5. is the subject of any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank; or
  - 10.1.1.6. the ILO's activities are curtailed or terminated.
- 10.1.2. Upon receipt of notice of termination by the ILO, the Contractor will take immediate steps to stop production or delivery of any Goods or bring any work or services to a close in a prompt and orderly manner, will reduce expenses to a minimum and will not undertake any further obligations from the date of receipt of notice of termination.
- 10.1.3. If the Contract should be terminated by the ILO, the ILO will make all payments which may be due up to the effective date of termination for any Goods or Services satisfactorily delivered or performed and accepted by the ILO.

**10.2. TERMINATION BY THE CONTRACTOR:**

- 10.2.1. Without prejudice to any other right or remedy available under the Contract and without the authorisation of a court or any other authorisation, the Contractor may terminate the Contract immediately by written notice in the event that the ILO:
  - 10.2.1.1. fails to make payments which are due under the Contract and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Contractor's written notice of default; or
  - 10.2.1.2. fails in its contractual obligations so as to make it unreasonable for the Contractor to proceed with the performance of its obligations under the Contract and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Contractor's written notice of default.

**11. WARRANTY**

**11.1. WARRANTY OF GOODS:**

- 11.1.1. In addition to conforming to the specifications contained in the Contract with respect to their quantity, quality, description and full compatibility with conditions prevailing in the final place of destination, the Contractor warrants that the Goods:
  - 11.1.1.1. will be new and unused, free from defects, and will conform to their respective product specifications which are incorporated by this reference in the Contract;
  - 11.1.1.2. are fit for the purposes for which such Goods are ordinarily used and for purposes made expressly known in writing in the Contract;
  - 11.1.1.3. are free from any right or claim by any third-party and unencumbered by any title or other rights, including any liens or security interests and claims of infringement of any intellectual property rights. The Contractor will indemnify, defend and hold harmless the ILO from any actions or claims brought against the ILO pertaining to the alleged infringement of any such third-party rights;
  - 11.1.1.4. are securely contained, packaged and marked, taking into account the modes of transport, in a manner so as to protect the Goods during delivery to their final destination; and
  - 11.1.1.5. conform with all applicable technical, safety, health and environment protection standards or recommendations, including those relating to ILO conventions on safety and health.
- 11.1.2. Where the Contractor is not the original manufacturer of the Goods, the Contractor will provide the ILO with the benefit of all manufacturers' warranties in addition to any other warranties required to be provided under the Contract.



11.1.3. With the exception of subparagraph 11.1.1.4, all warranties set forth in paragraph 11.1 will remain fully valid following the delivery of the Goods at the final destination for a period of not less than one (1) year.

11.1.4. During the period in which the Contractor's warranties are in effect, upon notice by the ILO that the Goods do not conform to the terms or requirements of the Contract or other breach of the warranties set forth in paragraphs 11.1.1 and 11.1.2, the Contractor will immediately undertake, at its sole expense, best efforts to cure such defects and non-conformities in the delivered Goods, or other breach of the warranties. If the Contractor is unable to correct such defects and non-conformities promptly, but in no case longer than fifteen (15) days, the Contractor will immediately replace the defective Goods with Goods of the same or better quality; or, at its own cost, remove the defective Goods and fully reimburse the ILO for the price paid for the defective Goods.

11.1.5. Without prejudice to any other right or remedy available under the Contract, in the event that the Contractor fails to meet its obligations under paragraph 11.1.4, the ILO has the right to independently replace or repair the Goods and the Contractor will be obligated to reimburse the ILO for all the additional costs so incurred, including by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

#### 11.2. WARRANTY OF SERVICES:

11.2.1. The Contractor warrants that any Services provided in accordance with the Contract will meet the specifications, timeframes and related requirements set forth in the Contract. All materials and workmanship utilized in performing the Services under the Contract will be of the respective kind(s) described in the Contract and free from defects. Materials not conforming to the specifications in the Contract will not be used in performance of the Services without prior written approval of the ILO.

11.2.2. If the Services do not meet the requirements referred to above, the Contractor will, at its sole expense, either by repair or replacement, correct, promptly modify or change any faulty workmanship materials, parts and equipment supplied by it to the extent necessary to satisfy the above warranty.

11.2.3. If any defect or failure in the Services cannot be rectified by remedial measures within the period agreed by the ILO and the Contractor, the Contractor will be considered to be in default and in addition to exercising any suspension or termination rights set forth in the Contract, the ILO has the right to independently replace or repair the Services and the Contractor will be obligated to reimburse the ILO for all the additional costs so incurred, including by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

### 12. MISCELLANEOUS

12.1. **CHANGE ORDERS:** The ILO may, by written notification, increase or decrease the number of items or the scope of Services of the Contract provided the stage reached in the performance of the Contract so allows. If any such changes increase or decrease the cost of and/or the time required for the performance of any part of the Contract, an equitable adjustment will be made in the Contract's price or time schedule, or both, and the Contract will accordingly be amended. Any request for consultation or claim for adjustment under this paragraph will be asserted by the Contractor within thirty (30) working days from the date of receipt of ILO's change order.

12.2. **AMENDMENTS:** The Parties may by mutual agreement amend the Contract. Amendments will be effective only if in writing and when executed and delivered on behalf of the ILO and the Contractor by persons duly authorized to do so.

12.3. **NON-WAIVER OF RIGHTS:** Termination of the Contract in whole or in part by a Party or the failure by either Party to exercise any rights available to it, will not affect the accrued rights or claims and liabilities of either Party to the Contract.

12.4. **SURVIVAL:** The obligations contained in paragraphs 4.10 (Insurance); 4.11 (Indemnification); 6.1 (Proprietary Items and Intellectual Property Rights); 6.2 (Confidential Nature of and Responsibility for Proprietary Items, Intellectual Property and Other Information); 6.3 (Publicity and Use of the Name, Emblem or Official Seal); 11.1 (Warranty of Goods); and 11.2 (Warranty of Services) survive the termination or expiration of the Contract.

12.5. **LIMITATION ON ACTIONS:** Irrespective of their nature, any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof (other than obligations enumerated in paragraph 12.4) must be asserted within six (6) months after the termination or expiration of the Contract.

### 13. SETTLEMENT OF DISPUTES

13.1. **AMICABLE SETTLEMENT:** The Parties will use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof by direct informal negotiations, including, where agreed, by referral, to an executive level of authority within the



Parties. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation will take place in accordance with the Conciliation Rules then prevailing of the United Nations Commission on International Trade Law (**UNCITRAL**) or according to such other procedure as may be agreed between the Parties in writing.

- 13.2. **ARBITRATION:** Unless settled amicably under paragraph **13.1**, within sixty (**60**) days, after receipt by one Party of the other Party's written request, any dispute, controversy or claim arising out of the Contract, or the breach, termination or invalidity thereof, will be settled by arbitration in accordance with the UNCITRAL Arbitration Rules then prevailing. In addition:
- 13.2.1. the place of arbitration will be Geneva;
  - 13.2.2. the decisions of the arbitral tribunal will be based on general principles of international commercial law;
  - 13.2.3. the arbitral tribunal will have no authority to award punitive damages; and
  - 13.2.4. the Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim arising out of the Contract, or the breach, termination or invalidity thereof.
- 13.3. **LANGUAGE:** The conciliation and the arbitration proceedings will be conducted in the language in which the Contract is signed provided that it is one of the three working languages of the ILO (English, French and Spanish). In the event the Contract is in a language other than English, French or Spanish, the conciliation or the arbitration proceedings will be conducted in English, French or Spanish.

### **HOW TO PREPARE QUOTATIONS**

- a) Quotations shall, unless otherwise requested, be made on the BID FORM and signed. If specifically mentioned in the invitation to bid, the bidder is allowed to submit the quotation by E-mail or facsimile. In this case the complete original quotation shall be mailed to ILO the same day. The bidder shall bear all costs associated with his quotation.
- b) Quotations shall give a detailed description of the proposed items, clearly indicating name, model, make, etc. and be accompanied by comprehensive technical information in the language required, such as leaflets, brochures or catalogue pages. If proposed items do not comply exactly with the technical specifications and descriptions provided by ILO, the nearest better functional equivalent or closest standard should be offered as an alternative. The Supplier shall state in his bid the full name and address of the manufacturer's representative closest to the consignee, who can provide after-sales service, spare-parts and warranty services.
- c) Any deviation from the requested specifications shall be highlighted and explained. When comparative specification tables or other tables are provided by ILO, such tables shall be completed and ILO's item reference numbers shall be referred to. The country of origin, as defined for EUR 1 certificates, shall be specified for each item offered.
- d) All prices shall, unless otherwise stated, be expressed in the bidders national currency. Unless otherwise stipulated, quotations shall remain valid for 2 months after the closing date. Quotations must specify delivery time. Delivery time offered shall be firm and calculated in calendar days from receipt of order to delivery.
- e) The ILO will not acknowledge the receipt of offers and is not bound to inform unsuccessful bidders.
- f) ILO reserves the right to accept or reject any bid prior to the award of contract, and to annul the bidding process at any time without giving reasons therefore.

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<sup>i</sup> United Nations Security Council Resolution 1617 defines "associated with" and it is available at <http://www.un.org/sc/committees/1267/resolutions.shtml>.

<sup>ii</sup> The 1267 Consolidated List is available at [www.un.org/sc/committees/1267/consolist.shtml](http://www.un.org/sc/committees/1267/consolist.shtml).