

GOVERNMENT OF THE INDEPENDENT STATE OF SAMOA

BIDDING DOCUMENT FOR THE PROCUREMENT OF INTERNET SERVICES FOR THE SAMOA POLICE PRISONS AND CORRECTIONS SERVICES HEADQUARTERS AND OPERATIONAL CONNECTIVITY

Standard Bidding Document

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PART 1 – BIDDING PROCEDURES

Section I - Instructions to Bidders

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A. General

1. Scope of Bid

1.1 The Procuring Entity, as **specified in the BDS**, issues this Bidding Document for the Supply of goods and if applicable, any related services incidental thereto as specified in **Section VI- Schedule of Requirements**.

1.2 The name and identification number of this **Limited Bidding Procurement** are **specified in the BDS**. The name, identification, and number of lots of are also **provided in the BDS**.

1.3 The application of this Bidding Document is permitted for the following funding notes:

(a) Government of Samoa regular budget only;
(b) Public Bodies own budget with Government of Samoa supplementary funds;
(c) development partner budget support;
(d) co-funded financing arrangements through sector wide approach programs (for example: SWAP)
(e) fully donor funded activities wherein the Government has delegated authority for control of funds; and
(f) fully donor funded activities under donor supervision, for national procurement – use with prior donor approval.

1.4 Throughout this Bidding Document:

(a) "**day**" means calendar day;
(b) "**Government**" means the Government of the Independent State of Samoa including Government Department and Public Body (as defined in the ***Public Finance Management Act 2001***);
(c) the term "**in writing**" means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt;
(d) "**Procuring Entity**" is the Government or delegate or proxy for the Government and the Executor of the Contract;
(e) "**Contact Entity**" is the Procuring Entity's assigned agency or person for conducting the bidding and contract administration processes; and
(f) if the context so requires, "**singular**" means "**plural**" and vice versa.

2. Source of Funds

2.1 The Procuring Entity has received public funds toward the cost of the **project named in the BDS** for the execution of this procurement.

2.2 Payment shall be in accordance with the Government's Treasury Instructions and Payment Policy.

2.3 For co-funded and fully donor funded projects, payments by the Government will be made only at the request of the Procuring Entity and upon approval by the Government in accordance with the terms and conditions of the financing agreement between the Government and the Donor Agency ("Donor Agreement"). This will be subject in all respects to the terms and conditions of that Donor Agreement.

2.4 Such Donor Agreement may prohibit a withdrawal from the donor imprest account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Government, is prohibited by decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

2.5 No party other than the Government shall derive any rights from the Donor Agreement or have any claim to the funds.

3. Fraud and Corruption

3.1 The Procuring Entity shall require that the Supplier, its Contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants, and service providers under Government-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.

3.2 Accordingly, the Government shall clarify the terms where it becomes necessary, but for the purposes of this provision the following are considered unacceptable practices;

(a) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

(b) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to

obtain a financial or other benefit or to avoid an obligation;

(c) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party

(d) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party; and/or

(e) "obstructive practice" means:

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(bb) acts intended to materially impede the exercise of the Government's inspection and audit rights.

3.3 A person who commits an offence relating to corrupt activities in Samoa shall:

(a) be liable for conviction under the provisions of the laws of the Independent State of Samoa relating to corrupt activities in Samoa;

(b) have their bid rejected if it is determined that the Bidder is not in compliance with the laws of the Independent State of Samoa relating to corrupt activities in Samoa;

(c) risk other sanctions in accordance with the Procurement Suspensions and Debarments Procedure.

3.4 The Procuring Entity will:

(a) reject a bid for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

(b) cancel the portion of the funding appropriation allocated to a contract if it determines at any time that representatives of the Procuring Entity or of a beneficiary of the appropriation were engaged in corrupt, fraudulent, collusive, or coercive practices during the selection process or the execution of that contract, without the Procuring Entity having taken timely and appropriate action satisfactory to the Procuring Entity to remedy the situation or address such practices when they occur;

(c) sanction a Bidder, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a Government financed contract if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for, or in executing, a Government financed contract; and

(d) have the right to require that, in contracts financed by a Government appropriation, a provision be included requiring Bidders to submit audited financial statements and the same to be certified by an independent auditor, and also to permit the Government to inspect their accounts and records and other documents relating to the submission of proposals and contract performance and to have them audited by auditors appointed by the Government.

3.5 Furthermore, Bidders shall be aware of the provision stated in GCC Sub-Clause 35.1 of this Bidding Document with regard to termination for fraudulent and corrupt behaviour.

4. Eligible Bidders

4.1 A Bidder may be a natural person, private entity, or government-owned entity or a joint venture (JV), under an existing agreement, or with the intent to constitute a legally-enforceable JV (supported by a letter of intent). All partners shall be jointly and severally liable for the execution of the Contract in accordance with the terms and conditions of Contract. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. Unless **specified in the BDS**, there is no limit on the number of members in a JV.

4.2 A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.

4.3 An eligible Bidder (regardless of its country of registration and including any director, officer, manager or supervisor of the Bidder) shall not within a period of **3 years** preceding the date of issuance of the invitation to bid have been:

(a) convicted of any criminal offence, whether in Samoa or elsewhere:
  (i) relating to his or her professional conduct;
  (ii) relating to the making of false statements or misrepresentations as to his or her qualifications to enter into a procurement contract;
  (iii) involving dishonesty; or
  (iv) under anti-corruption legislation; or

(b) suspended or disbarred by administrative or judicial proceedings from participating in procurements, whether in Samoa or elsewhere; or

(c) convicted of an offence involving dishonesty, obstruction of justice or a lack of honesty or business integrity; or

(d) convicted for an offence involving corruption; or

(e) convicted for engaging in anti-competitive practices, whether or not involving collusion; or

(f) deliberately neglectful or failed without good cause to perform a contract in accordance with its terms, if so serious in nature as to justify suspension or debarment.

4.4 The bidding process is open to all eligible Bidders.

4.5 A Bidder shall not have a conflict of interest. All Bidders found to have conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in the bidding process if:

(a) they are or have been associated in the past, with a firm or any of its affiliates (including third parties, controlling partner in common or a leading partner of a joint venture, or a common representative) which have been engaged by the Procuring Entity to provide

consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this bidding document; or

(b) they are associated, or have been associated in the past, with a firm or any of its affiliates (including third parties, controlling partner in common or a leading partner of a joint venture, or a common representative) that have been hired (or is proposed to be hired) by the Procuring Entity as Project Manager for the Contract.

4.6 Bidders shall not submit more than one bid in this bidding process, except for alternative bids permitted under **ITB 13**. This does not limit the participation of Subcontractors in more than one bid.

4.7 A firm that has been sanctioned by the Government in accordance with **ITB 3** shall be ineligible to be awarded a contract, or benefit from a Government-financed contract, financially or otherwise, during such period of time as the Government shall determine. The list of debarred rims shall be made available as **specified in the BDS**.

4.8 In accordance with the Instructions, the Bidder and any named Sub-contractors shall certify in the Bid Submission Form that they are in good standing with the Government and have paid all taxes, duties, fees and other impositions as may be levied in Samoa prior to the award of contract. Evidence of such certification may be required from the successful Bidder prior to award of contract.

4.9 Foreign Government-owned enterprises and Public Bodies in Samoa shall be eligible only if they can establish that they:

(a) are legally and financially autonomous,

(b) operate under commercial law, and

(c) are not a dependent agency of the Procuring Entity or other department or agency of the Government.

4.10 Failure to directly obtain the Bidding Documents from the Procuring Entity will result in ineligibility of that Bidder from participating in the procurement process.

4.11 Bidders shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity as the Procuring Entity shall reasonably request.

4.12 In case a pre-qualification process is conducted prior to the tendering process, this tendering is open only to pre-qualified Bidders as **confirmed in the BDS**.

4.13 Bidders shall be excluded if:

(a) as a matter of law, the Government prohibits commercial relations with that country, provided that the Government is satisfied that such exclusion does not preclude effective competition for the supply of services as required; or

(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits importation or contracting of general services from that country or payments to a person or entity in that country.

5. Eligible Goods and Related Services

5.1 All the goods and related services to be supplied under the Contract and financed by the Government may have their origin in any country not that excluded in the list **specified in the BDS** and expenditures under the contract are limited to such goods and related services. At the Procuring Entity's request, the Bidders may be required to provide evidence of the origin of goods.

5.2 For purposes of this Clause, the term:
"goods" includes commodities, raw material, machinery, equipment, and industrial plants; and
"related services" includes services incidental to the supply of the goods such as insurance, minor construction, installation, commissioning, training, initial maintenance, preparation of operating and maintenance manuals.

5.3 The term **"origin"** means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed or through manufacture, processing, or assembly, another commercially recognized article results that differ substantially in its basic characteristics from its components.

B. Contents of Bidding Documents

6. Sections of bidding documents

6.1 The Bidding Documents consist of Parts 1, 2 and 3 which include all the Sections indicated below and should be read in conjunction with any Addendum issued in accordance with **ITB 8**.

PART 1 Bidding Procedures

- Section I - Instructions to Bidders ("**ITB**")
- Section II - Bid Data Sheet ("**BDS**")
- Section III - Evaluation and Qualification Criteria
- Section IV - Bidding Forms
- Section V - Eligible Countries

PART 2 Supply Requirements

- Section VI - Schedule of Requirements

PART 3 Contract

- Section VII - General Conditions of Contract ("GCC")
- Section VIII - Special Conditions of Contract ("SCC")
- Section IX - Contract Forms

6.2 "Bidding documents" means the **SBD** developed and prescribed by the Ministry of Finance for use in public procurement proceedings and all amendments made to the document for the purposes of a Procuring Entity and documents attached or incorporated by reference, that individually or collectively

(a) invite bids;
(b) establish the objects of a bid;
(c) specify the conditions of a proposed procurement contract; and
(d) establish the applicable bidding procedures.

6.3 The Procuring Entity is not responsible for the completeness of the bidding documents and their addenda if they were not obtained directly from the Procuring Entity and by the process stated by the Procuring Entity in the Invitation to Bidders.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding documents. Failure to furnish all information or documentation required by the bidding documents may result in the rejection of the bid.

7. Clarification of bidding documents

7.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Procuring Entity in writing at the Procuring Entity's address **specified in the BDS** ***within seven (7) working days before closing date and time for submission of*** **Bids** ***or*** **raise his/her inquiries during the pre-bid meeting**. The Procuring Entity shall respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of bids no later than the **number of days specified in the BDS** prior to the deadline for submission of bids. The Procuring Entity shall forward copies of its response to all those who have acquired the Bidding Documents directly from it, including a description of the inquiry but without identifying its source.

7.2 Should the Procuring Entity deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under **ITB 8 and ITB 23.2** of the Bidding Documents.

8. Amendment of bidding documents

8.1 At any time prior to the deadline for submission of bids, the Procuring Entity may amend the Bidding Documents by issuing an addendum.

8.2 Any addendum issued shall form part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the Procuring Entity.

8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids the Procuring Entity may, at its discretion, extend the deadline for the submission of bids, pursuant to **ITB 23.2** of this Bidding Document.

C. Preparation of Bids

9. Cost of Bidding

9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Procuring Entity shall not be liable for those costs, regardless of the conduct or outcome of the bid process.

10. Language of Bid

10.1 The bid as well as all correspondence and documents relating to the same, shall be written in the English language. Supporting documents and any other printed materials that are part of the bid may be in another language provided they are accompanied by an accurate translation of the relevant passages of the bid in the English language, in which case and for the purposes of interpreting the bid, the translated version shall take precedent.

11. Documents Comprising the Bid

11.1 The bid shall comprise the following:

(a) the Bid Submission Form and the applicable Price Schedules in accordance with **ITB 12, 14, and 15**;

(b) Bid Security or Bid-Securing Declaration in accordance with **ITB 20** if required;

(c) written confirmation authorising the signatory of the bid to commit the Bidder in accordance with **ITB 21**;

(d) documentary evidence in accordance with **ITB 16** establishing the Bidder's eligibility to bid. A fraudulent declaration is an offence punishable under the laws of the Independent State of Samoa;

(e) documentary evidence in accordance with **ITB 17 and ITB 29** that the goods and related services conform to the Bidding Documents;

(f) documentary evidence in accordance with **ITB 18** establishing the Bidder's qualifications to bid and perform the contract if its bid is accepted; and

(g) any other document **required in the BDS**.

11.2 In addition to the requirements under **ITB 11.1**, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all partners. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed agreement.

12. Bid Submission Form and Price Schedules

12.1 The Bidder shall submit the Bid Submission Form using the form in **Section IV - Bidding Forms**. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

12.2 The Bidder shall submit the Price Schedules for goods and related services, according to their origin as appropriate, using the forms provided for in **Section IV - Bidding Forms**.

13. Alternative Bids

13.1 Unless otherwise **specified in the BDS**, alternative bids shall not be considered.

14. Bid Prices and Discounts

14.1 The prices and discounts quoted by the Bidder in the Bid Submission Form and in the Price Schedules shall conform to the requirements specified in this **ITB 14**.

14.2 If so indicated in **ITB 1.1**, bids are invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise **indicated in the BDS**, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction (discount) for the award of more than one Contract shall specify the applicable price reduction in accordance with **ITB 12.1** provided the bids for all lots are submitted and opened at the same time.

14.3 All lots and items must be listed and priced separately in the Price Schedules.

14.4 The price to be quoted in the Bid Submission Form shall be the total price of the bid, including VAGST, and excluding any discounts offered and withholding tax.

14.5 The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form.

14.6 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce as **specified in the BDS**.

14.7 Prices shall be quoted as specified in each Price Schedule included in **Section IV- Bidding Forms**. The disaggregation of price components is required solely for the purpose of facilitating the comparison of bids by the Procuring Entity. This shall not in any way limit the Procuring Entity's right to contract on any of the terms offered. In quoting its prices, the Bidder shall be free to use transportation and insurance services from eligible sources. Prices shall be entered in the following manner:

(a) **For goods manufactured in Samoa**:

(i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the goods;

(ii) any sales tax and other taxes in accordance with the laws of the Independent State of Samoa which will be payable on the goods if the contract is awarded to the Bidder; and

(iii) the price for inland transportation, insurance, and other local services required to convey the goods to their final destination (Project Site) as **specified in the BDS**.

(b) **For goods manufactured outside Samoa, to be imported:**

(i) the price of the goods, quoted CIP named place of destination, or CIF port of destination as **specified in the BDS**;

(ii) the price for inland transportation, insurance, and other local services required to convey the goods from the named place of destination to their final destination **(Project Site) specified in the BDS**;

(iii) in addition to the CIP prices specified in (b)(i) above, the price of the goods to be imported may be quoted FCA (named place of destination) or CPT (named place of destination), if so **specified in the BDS**; and

(iv) **Bidders shall note that the basis of Customs charges assessment is CIF**.

(c) **For goods manufactured outside Samoa, already imported:**

[For previously imported goods, the quoted price shall be distinguishable from the original import value of those goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Procuring Entity. For clarity the Bidders are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference from those values.]

(i) the price of the goods, including the original import value of the goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the goods already imported.

(ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the goods already imported;

(iii) the price of the goods, obtained as the difference between (i) and (ii) above;

(iv) any sales and other taxes in accordance with the laws of the Independent State of Samoa which will be payable on the goods if the contract is awarded to the Bidder; and

(v) the price for inland transportation, insurance, and other local services required to convey the goods from the named place of destination to their final destination **(Project Site) specified in the BDS**.

(d) **for related services**, other than inland transportation and other services required to convey the goods to their final destination, whenever such related services are specified in the Schedule of Requirements:

(i) the price of each item comprising the related services (inclusive of any applicable taxes).

14.8 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any

account, unless otherwise **specified in the BDS**. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to **ITB 29**. However, if **in accordance with the BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

15. Currencies of Bid

15.1 The currency(ies) of the bid and the currency(ies) of payments shall be the same. The Bidder shall quote in Samoan Tala (SAT$), the portion of the bid price that corresponds to expenditures incurred in Samoa, unless otherwise **specified in the BDS**.

15.2 The Bidder may express the bid price for expenditure outside of Samoa in any freely convertible currency. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three freely convertible international currencies in addition to Samoan Tala (SAT$).

16. Documents Establishing the Eligibility of the Bidder

16.1 To establish their eligibility in accordance with **ITB 4**, Bidders shall complete the Bid Submission Form included in **Section IV - Bidding Forms**.

17. Documents Establishing the Conformity of the Goods and Related Services

17.1 To establish the conformity of the goods and related services to the bidding documents, the Bidder shall furnish as part of its bid the documentary evidence that the goods conform to the technical specifications and standards specified in **Section VI-Schedule of Requirements**.

17.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the goods and related services, demonstrating substantial responsiveness of the goods and related services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.

17.3 Technical Specifications shall be presented in a clearly itemised format identifying major features of material importance as "**Specification Required**", against which the Bidder shall provide "**Specification Offered**", for each feature indicating in the column headed "**Complies?**": "**YES**" for compliance (substantial responsiveness) or "**NO**" for non-compliance.

17.4 The Bidder shall also furnish 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 during the period **specified in the BDS** following commencement of the use of the goods by the Procuring Entity.

17.5 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Procuring Entity in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.

18. Documents Establishing the Qualifications of the Bidder

18.1 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the Procuring Entity's satisfaction:

(a) that it has the financial, technical, and production capability necessary to perform the Contract, meets the qualification criteria specified in the **BDS and Section III - Evaluation and Qualification Criteria**, and has a successful performance history. If a pre-qualification process has been undertaken for the Contract(s) for which these Bidding Documents have been issued, the Bidder shall, as part of its bid, update any information submitted with its application for pre-qualification. For the purposes of establishing a Bidder's qualifications, and unless stated to the **contrary in the BDS**, the experience and / or resources of any Subcontractor will not contribute to the Bidder's qualifications; only those of a Joint Venture partner will be considered.

(b) that if **required in the BDS**, a Bidder that does not manufacture or produce the goods it offers to supply

shall submit the Manufacturer's Authorisation using the form included in **Section IV- Bidding Forms** to demonstrate that it has been duly authorised by the manufacturer or producer of the goods to supply these goods in Samoa;

(c) that if **required in the BDS**, in case of a Bidder not doing business within Samoa, the Bidder is or will be (if awarded the contract) represented by an Agent in Samoa equipped and able to carry out the supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications;

(d) that the Bidder meets each of the qualification criterion specified in **Section III - Evaluation and Qualification Criteria of the bidding documents**.

(e) national Bidders, individually or in joint ventures, applying for eligibility for domestic margin of preference shall supply all information required to satisfy the criteria for eligibility as described in **ITB 4**.

19. Period of Validity of Bids

19.1 Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the Procuring Entity. A bid valid for a shorter period shall be rejected by the Procuring Entity as being non-responsive.

19.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the validity period of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with **ITB 20**, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid.

20. Bid Security/ Bid Securing Declaration

20.1 The Bidder shall furnish as part of its bid, either a Bid Security or a Bid Securing Declaration, as **specified in the BDS**.

20.2 The Bid Security shall be in the amount **specified in the BDS** and denominated in Samoan Tala (SAT$) or the currency of the bid, and shall:

(a) at the Bidder's option, be in the form of either a letter of credit, bank cheque or an unconditional bank

guarantee from a banking institution, or a bond issued by a surety;

(b) be issued by a reputable institution selected by the Bidder. If the institution issuing the bond is located outside Samoa, it shall have a correspondent financial institution located in Samoa to make it enforceable;

(c) be substantially in accordance with one of the forms of Bid Security in **Section IV- Bidding Forms**;

(d) be payable promptly upon written demand by the Procuring Entity in case the conditions listed in **ITB 20.5** are invoked;

(e) be submitted in its original form as copies will not be accepted; and

(f) remain valid for a period of **twenty-eight (28) days** beyond the validity period of the bids as extended if applicable, in accordance with **ITB 19.2**.

20.3 If a Bid Security or a Bid Securing Declaration is required in accordance with **ITB 20.1**, any bid not accompanied by a substantially responsive Bid Security or Bid Securing Declaration in accordance with **ITB 20.1** shall be rejected by the Procuring Entity as being non-responsive.

20.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the Performance Security pursuant to **ITB 44**.

20.5 The Bid Security may be forfeited:

(a) if a Bidder withdraws or modifies its bid during the period of bid validity in accordance with **ITB 19.1**, and as provided for in **ITB 19.2** if applicable; or

(b) if a Bidder does not accept a correction of errors (arithmetic) in accordance with **ITB 30.3**; or if the successful Bidder fails to:

(i) sign the Contract in accordance with **ITB 43**; and

(ii) furnish a Performance Security in accordance with **ITB 44**.

20.6 In the case where a bid securing declaration is forfeited the Bidder will be disqualified for one year from participation in any Government procurement regardless of the source of funding.

20.7 The Bid Security or Bid Securing Declaration of a JV must be in the name of a legally constituted JV that submits the bid or otherwise in the names of all future partners as named in the letter of intent mentioned in **Section IV - Bidding Forms - Bidder Information Form**.

20.8 If a Bid security **is not required in the BDS**, and if a Bidder withdraws its bid during the period of bid validity specified by the Bidder in accordance with **ITB 19.1** and **ITB 19.2** where applicable, if the Bidder fails to sign the Contract that bid will be disqualified for one year from participation in any Government procurement regardless of the source of funding.

20.9 If a Bid Securing Declaration is required, it must be in the form in **Section IV - Bidding Forms**, and the same shall remain valid for a period of **twenty-eight (28) days** or beyond the validity period of the bids as extended if applicable, in accordance with **ITB 19.2**.

21. Format and Signing of Bid

21.1 The Bidder shall prepare one original of the documents comprising the bid as described in **ITB** and clearly mark it "**ORIGINAL**." If alternative bids are permitted in accordance with **ITB 13**, the documents shall be clearly marked "**ALTERNATIVE**" In addition, the Bidder shall submit the required amount of copies of that bid, **in accordance with the BDS** and clearly mark them "**COPY**". In the event of any discrepancy between the Original and the Copies, the Original prevails.

21.2 The Original and all Copies of the bid shall be typed or written in indelible ink and **shall be signed by the Bidder** as follows:

(a) **In the case of a company**, the bid must be signed by the directors of the company; or

(b) **In the case of a sole trader**, the bid must be signed by the persons whose names are on the business license; and/ or

(c) **In the case of joint venture (JV)**, the bid must be signed by all parties if so required in accordance with **ITB 4.1**.

21.3 The Bidder may authorise a person by way of a duly executed Power of Attorney to sign the Bid on behalf of the Bidder.

21.4 Any interlineation, erasures, or overwriting shall be valid only if they are signed or initialled by the authorised person signing the bid.

D. Submission and Opening of Bids

22. Submission, Sealing and Marking of Bids

22.1 Bidders must always submit their bids by mail or by hand delivery. Bidders submitting bids by mail or by hand delivery, shall enclose the original and each copy of the bid, including alternative bids, if permitted in accordance with **ITB 13**, in three (3) separate envelopes, sealed and duly marked as "**ORIGINAL**", "**COPY**" and "**ALTERNATIVE**", respectively. All three (3) envelopes shall then be enclosed in one (1) single envelope. The rest of the procedure shall be in accordance with **ITB 22.2 and ITB 22.3**. Electronic submission may be permitted **if specified in the BDS**.

22.2 The inner and outer envelopes shall:

(a) bear the name and address of the Bidder;

(b) be addressed to the Procuring Entity in accordance with **ITB 23.1**;

(c) bear the specific identification of this bidding process indicated in **ITB 1.1** and any additional identification marks as **specified in the BDS**; and

(d) bear a warning to the effect that the envelope must not be opened before the time and date for bid opening in accordance with **ITB 26.1** of this Bidding Document.

22.3 If all envelopes are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of any bid. The Procuring Entity also assumes no responsibility for delay in courier or any other form of delivery.

23. Deadline for Submission of Bids

23.1 Bids must be received by the Procuring Entity at the address and no later than on the date and time **specified in the BDS**.

23.2 The Procuring Entity may at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with **ITB 8**, in which case all rights and obligations of the Procuring Entity and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

24. Late Bids

24.1 The Procuring Entity shall not consider any bid that arrives after the deadline for submission of bids in accordance with **ITB 23**. Any bid received by the Procuring Entity after the deadline for submission of bids shall be declared late, rejected and returned unopened to the Bidder.

25. Withdrawal, Substitution and Modification of Bids

25.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice in accordance with **ITB 21**, duly signed by the Bidder or an authorised representative of the Bidder, and shall include a copy of the authorisation (the power of attorney) in accordance with **ITB 21.3**, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

(a) submitted in accordance with **ITB 21 and ITB 22** (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "**WITHDRAWAL**", "**SUBSTITUTION**" or "**MODIFICATION**", respectively; and

(b) received by the Procuring Entity prior to the deadline prescribed for submission of bids in accordance with **ITB 23**.

25.2 Bids requested to be withdrawn in accordance with **ITB 25.1** shall be returned unopened to the Bidders.

25.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity.

26. Bid Opening

26.1 The Procuring Entity shall conduct the bid opening at the **address, date and time specified in the BDS** in the presence of Bidders (or designated representatives of the Bidders), who choose to attend representatives of the Procuring Entity and Tenders Board.

26.2 First, envelopes marked "**WITHDRAWAL**" shall be opened and read out and the envelope with the corresponding bid shall not be opened but returned to the Bidder. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorised to sign on

behalf of the Bidder, the corresponding bid previously submitted will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at bid opening.

26.3 Next, envelopes marked "**SUBSTITUTION**" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid previously submitted shall not be opened but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorisation by means of a copy of the power of attorney to request the substitution and is read out at bid opening.

26.4 Next envelopes marked "**Modification**" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorisation to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.

26.5 All other envelopes shall be opened and read out identifying the following:

(a) the name of the Bidder and whether there is a modification; the bid prices, including any discounts and alternative offers; and

(b) the presence of a Bid Security or Bid Securing Declaration if required; and

(c) any other details as the Procuring Entity may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation. No bid shall be rejected at bid opening except for late bids, in accordance with **ITB 24.1**.

26.6 The Procuring Entity shall prepare a record of the bid opening that shall include as a minimum:

(a) the name of the Bidder and whether there is a withdrawal, substitution, or modification;

(b) the bid price, per lot if applicable, including any discounts, and alternative offers if they were permitted;

(c) the presence or absence of a Bid Security or Bid-Securing Declaration, if one was required.

(d) The Bidders' representatives who are present shall be requested to sign the attendance record sheet. The omission of a Bidder's signature (or signature of Bidder's authorised representative) does not invalidate the contents and effect of the record sheet.

26.7 A copy of the record shall be distributed to all Bidders who submitted bids on time.

E.Evaluation and Comparison of Bids

27. Confidentiality

27.1 Information relating to the examination, evaluation, comparison, and post-qualification of the bids, and recommendation of contract award, shall not be disclosed to the Bidders or any other persons not officially concerned with the bid process until the Contract Award has been formally made to the successful Bidder.

27.2 Any effort by a Bidder to influence the Procuring Entity in the examination, evaluation, comparison, and post qualification of the bids or contract award decisions may result in the rejection of its bid and may be subject to the provisions of the Government's antifraud and corruption policy.

27.3 Despite **ITB 27.2**, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Procuring Entity on any matter related to the bidding process, it should do so in writing.

28. Clarification of Bids

28.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Procuring Entity may, at its discretion, request in writing from any Bidder clarification of its bid. Any clarification submitted by a Bidder in respect to its bid that is not in response to a request by the Procuring Entity or if a Bidder does not provided clarification as requested by the Procuring Entity, the bid shall not be considered and rejected. The Procuring Entity's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the bids in accordance with **ITB 30**. Any variation of price as a result of

tax issues must be referred back to the Tenders Board for approval.

28.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Procuring Entity's request for clarification, its bid may be rejected.

29. Determination of Responsiveness of Bids

29.1 The Bid Evaluation Committee's determination of a bid's responsiveness is to be based on the contents of the bid itself.

29.2 A substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the bidding documents without material deviation, reservation, or omission.

29.3 A material deviation, reservation, or omission is one that:

(a) affects in any substantial way the scope, quality, or performance of the goods and related services specified in the Contract; or

(b) is inconsistent with the Bidding Documents, and substantially limits the Procuring Entity's rights or the Bidder's obligations under the Contract; or

(c) if rectified would unfairly affect the competitive position of the other Bidders who have submitted substantially responsive bids.

29.4 If a bid is not substantially responsive to the Bidding Documents, it shall be rejected by the Bid Evaluation Committee and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.

30. Non-conformities, Errors, and Omissions

30.1 Provided that a bid is substantially responsive, the Bid Evaluation Committee may waive any non-conformities or omissions in the bid that do not constitute a material deviation.

30.2 Provided that a bid is substantially responsive, the Bid Evaluation Committee may request that the Bidder submit the necessary information or documentation, requested by the Procuring Entity, within a period of time specified in their request, to rectify minor or non-material non-conformities or omissions in the bid related to its bid documentation requirements. The request should only be for purpose of seeking clarification and not result in disqualification of a bid. Requesting information or documentation on such non-conformities shall not

be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.

30.3 Provided that the bid is substantially responsive, the Bid Evaluation Committee shall correct arithmetical errors on the following basis:

(a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Bid Evaluation Committee there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;

(b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

(c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

30.4 The amount stated in the bid shall be adjusted by the Bid Evaluation Committee in accordance with the above procedure for the correction of errors and shall be considered as binding upon the Bidder. If the Bidder does not accept the correction of errors, its bid may be rejected.

31. Preliminary Examination of Bids

31.1 The Bid Evaluation Committee shall examine the bids to confirm that all documents and technical documentation requested in **ITB 11** have been provided and to determine the completeness of each bid submitted.

31.2 The Bid Evaluation Committee shall confirm that the following documents and information have been provided in the bid. If any of these documents or information is missing, the bid shall be rejected:

(a) Bid Submission Form in accordance with **ITB 12.1**;

(b) Price Schedules in accordance with **ITB 12.2**;

(c) Bid Security or Bid Securing Declaration in accordance with **ITB 20** if applicable;

(d) Duly signed Power of Attorney in accordance with **ITB 21.3**; and
(e) Any other requirements as **indicated in the BDS**.

32. Examination of Terms and Conditions; Technical Evaluation

32.1 The Bid Evaluation Committee shall examine the bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.

32.2 The Bid Evaluation Committee shall evaluate the technical aspects of the bid submitted in accordance with **ITB 17**, to confirm that all requirements specified in **Section VI-Schedule of Requirements** of the bidding documents have been met without any material deviation or reservation.

32.3 If, after the examination of the terms and conditions and the technical evaluation, the Bid Evaluation Committee determines that the bid is not substantially responsive in accordance with **ITB 29**, it shall reject the bid.

33. Conversion to Single Currency

33.1 For evaluation and comparison purposes, the Bid Evaluation Committee shall convert all bid prices expressed in the submitted bids into the amount **specified in the BDS**, using the selling exchange rates established by the source and on the date **specified in the BDS**.

34. Domestic Preference

34.1 Domestic preference shall not be a factor in bid evaluation, unless otherwise **specified in the BDS and with prior approval by the Tenders Board**.

34.2 If applicable, the percentage of domestic preference which will be applied is specified in the **BDS and Bidders must**.
(a) be registered within Samoa;
(b) have majority ownership by Samoan nationals.

35. Evaluation of Bids

35.1 The Bid Evaluation Committee shall examine each eligible bid to determine, its responsiveness.

35.2 To evaluate a bid, the Bid Evaluation Committee shall use all the factors, methodologies and criteria defined in **ITB 36**. The non-price factors selected shall to the extent possible be expressed in monetary terms to facilitate comparison of bids or given weights/scores or be set out in descending order of importance or in a manner otherwise specified in **Section III-**

Evaluation and Qualification Criteria. The factors, methodologies and criteria to be used shall be as specified in **ITB 35.3 (d)**.

35.3 To evaluate a bid, the Bid Evaluation Committee shall consider the following:

(a) evaluation will be done for Items or Lots, as **specified in the BDS**; and the bid price as quoted in accordance with **ITB 14**. If this bidding document allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the Letter of Bid, is specified in **Section III - Evaluation and Qualification Criteria**;

(b) price adjustment for correction of arithmetic errors in accordance with **ITB 30.3**;

(c) price adjustment due to discounts offered in accordance with **ITB 14.5**;

(d) adjustments due to the application of the evaluation criteria **specified in the BDS** from those set out in **Section III - Evaluation and Qualification Criteria**; and

(e) adjustments due to the application of a margin of preference, in accordance with **ITB 34** if applicable.

35.4 The Bid Evaluation Committee's evaluation of a bid **will exclude and not take into account the following:**

(a) in the case of goods manufactured in Samoa, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;

(b) in the case of goods manufactured outside Samoa, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the goods if the contract is awarded to the Bidder; and/or

(c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.

35.5 The Bid Evaluation Committee's evaluation of a bid may require the consideration of other factors, in addition to the bid price quoted in accordance with **ITB 14**. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the goods and related services. The effect of the factors selected, if any, **shall be expressed in**

monetary terms to facilitate comparison of bids, unless otherwise specified in **Section III - Evaluation and Qualification Criteria**. The criteria used shall be as specified in **ITB 35.3 (d**).

35.6 If so specified at **BDS**, the Bidding Document shall allow Bidders to quote separate prices for one or more lots, and the Procuring Entity may award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated Bidder, is specified in **Section III-Evaluation and Qualification Criteria**.

36. Comparison of Bids

36.1 The Bid Evaluation Committee shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with **ITB 35**.

37. Abnormally Low Bids

37.1 An Abnormally Low Bid is one where the bid price, in combination with other constituent elements of the bid, appears unreasonably low to the extent that the bid price raises material concerns with the Bid Evaluation Committee as to the capability of the Bidder to perform the Contract for the offered bid price.

37.2 In the event of identification of a potentially Abnormally Low Bid, the Procuring Entity shall seek written clarification from the Bidder, including a detailed price analyses of its bid price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the bidding document.

37.3 After evaluation of the price analyses, in the event that the Bid Evaluation Committee determines that the Bidder has failed to demonstrate its capability to perform the contract for the offered bid price, the Bid Evaluation Committee shall reject the bid.

38. Post-qualification of the Bidder

38.1 The Bid Evaluation Committee shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is qualified to perform the Contract satisfactorily.

38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder pursuant to **ITB 18**.

38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Bid Evaluation Committee shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform the contract satisfactorily.

39. Procuring Entity's Right to Accept Any Bid, and to Reject Any or All Bids

39.1 The Procuring Entity reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to awarding the contract, without thereby incurring any liability to the Bidders:

(a) at any time prior to the acceptance of the successful bid; or

(b) after the successful bid is accepted if:

(i) the Bidder presenting the successful bid is suspended or debarred;

(ii) the procurement is cancelled;

(iii) the Bidder presenting the successful bid is excluded on the grounds of corruption, unfair competition or conflict of interest;

(iv) the procurement, the bid or the Bidder contravenes or is otherwise not compliant with the provisions of the laws of the Independent State of Samoa.

39.2 In case of annulment of any bids submitted and specifically, bid securities, the respective Bidders are immediately notified and given ample time to uplift the bids and bid securities from the Procuring Entity.

F. Award of Contract

40. Award Criteria

40.1 The Procuring Entity shall award the Contract to the Bidder whose offer has been determined to be substantially responsive to the Bidding Documents, provided further that the Bidder is determined by the evaluation panel to be qualified to perform the Contract to the satisfaction of the Procuring Entity. The Bidder awarded the Contract may also be considered by the Procuring Entity as the Bidder with the lowest evaluated bid.

41. Procuring Entity's Right to Vary Quantities at Time of Award

41.1 At the time the Contract is awarded, the Procuring Entity reserves the right to increase or decrease the quantity of goods and related services originally specified in **Section VI-Schedule of Requirements**, provided this does not exceed the percentages **specified in the BDS**, and without any change in the unit prices or other terms and conditions of the bid and the Bidding documents.

42. Notification of Award and standstill period

42.1 Prior to the expiration of the bid validity period, the Procuring Entity shall notify the successful Bidder in writing, that its bid has been accepted. At the same time, the Procuring Entity must also notify all other Bidders of the results of the bidding, and shall publish in website of the Ministry of Finance, the results identifying the bid and lot numbers and the following information:

(a) name of each Bidder who submitted a bid; and

(b) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded.

42.2 The date of the notification under **ITB 42.1** establishes the commencement of the **standstill period specified in the BDS**. During this time Bidders may request, in writing, a debriefing seeking explanations on the ground on which their bids were not selected or invoke the 'right to complain' in accordance with **ITB 45**. The request for debriefing may only seek explanations for the grounds on which their bid was not selected.

42.3 The Procuring Entity shall promptly respond in writing to any unsuccessful Bidder who requests a debriefing. If the request is made within the standstill period the contract award will be suspended until the debriefing has taken place.

42.4 For the elimination of doubt, a contract is not considered 'awarded' until the written contract is executed between the Procuring Entity and the successful Bidder.

42.5 Within **twenty-eight (28) days** of receipt of notification of award, the successful Bidder, if international, shall take to successful completion the necessary actions, in liaison with the relevant authorities, to obtain proper registration, licences and membership as required in order to carry out economic or business activities in Samoa.

43. Signing of Contract

43.1 After notification, the Procuring Entity shall send the successful Bidder the Contract Agreement with the Conditions of Contract for any comments before the same is reviewed and cleared by the **Office of the Attorney General**.

43.2 The successful Bidder shall return the signed contract **within twenty-eight (28) days** from the date of the Letter of Acceptance and shall sign, date, and return to the Procuring Entity the signed Contract Agreement and performance security pursuant to **ITB 44**.

43.3 On receipt of the signed Contract Agreement and performance security, if required, the Procuring Entity will immediately notify in writing all unsuccessful Bidders, of the final results of the bidding process. This notice will discharge their bid securities pursuant to **ITB 19.4**.

43.4 Following signature of the Contract Agreement, the Procuring Entity shall publish, in the manner prescribed by the Government's current procurement policies, the results, identifying the name of the supplier, the contract price and the contract number.

44. Performance Security

44.1 Within **twenty-eight (28) days** of the receipt of notification of award from the Procuring Entity the successful Bidder, shall furnish the Performance Security in accordance with GCC Clause 18, using for that purpose the Performance Security Form included in **Section IX - Contract Forms** from an institution acceptable to the Procuring Entity. The Procuring Entity shall promptly notify the winning Bidder to each

unsuccessful Bidder and discharge the Bid Securities of the unsuccessful Bidders pursuant to **ITB 20.4**.

44.2 If the Performance Security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Procuring Entity. A foreign institution providing a bond must have a correspondent financial institution located in the Samoa.

44.3 Failure of the successful Bidder to submit the above-mentioned Performance Security, comply with local requirements or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Performance Security. In that event the Procuring Entity may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Procuring Entity to be qualified to perform the Contract satisfactorily.

45 Right to complain

45.1 The Bidder has a right to complain in accordance with the Procurement Independent Complaints and Review Procedure (Part K.9 of the Treasury Instructions).

45.2 An actual Bidder in procurement proceedings who claims to have suffered, or to be likely to suffer harm due to a breach of a duty imposed on a Procuring Entity by or under the Instructions, may complain to a Procuring Entity.

45.3 Such complaint must be made in writing working days after the date of notification of award of contract. Any complaint received after the **10-day period** shall not be considered.

45.4 The Bidder should submit its complaint in accordance with the procedures to the **address specified in the BDS**.

45.5 If a complainant is dissatisfied with the decision of a Procuring Entity, the complainant has the right to have the complaint and decision of the Procuring Entity reviewed by an independent adjudicator. To do so, the complainant must submit an Application for Review in writing, to the Secretariat of the Tenders Board.

45.6 A complaint or an application for review must be made in accordance with (Part K.9 of the Treasury Instructions).

45.7 A complaint referred to the independent adjudicator shall not be entertained and is dismissed unless the independent adjudicator is satisfied:

(a) that the complainant is an actual Bidder who was part of the relevant procurement proceedings in question;

(b) that the complainant shows that he/she/it/they had suffered or is likely to suffer harm;

(c) that the harm was due to a breach of a duty imposed on the Procuring Entity; and

(d) that the duty imposed on the relevant Procuring Entity is provided for under *Part K of the Treasury Instructions*.

Section II - Bid Data Sheet (BDS)

The following **BDS** shall be used for the goods to be procured and shall complement, supplement, or amend the provisions in the ITB. Whenever there is a conflict, the provisions herein shall prevail over those in the ITB.

ITB Clause Reference	A. General
ITB 1.1	The Procuring Entity is:
ITB 1.2	The identification number and name of the bid is: Tender No. **<Insert>** Provision of Internet Services The number, identification and names of the **lots** comprising this procurement are: ***Not Applicable***
ITB 2.1	The name of the Project is: **Provision of Internet Services**
ITB 4.1	Maximum number of members in the JV shall be: ***Not Applicable***
ITB 4.7	The list of debarred firms is the same as those that are excluded by, or are not members of, the World Bank or ADB.
ITB 4.12	A pre-qualification **shall not** apply.
ITB 5.1	Ineligible countries are: Andorra, Democratic People's Republic of Korea, Liechtenstein, Monaco (World Bank and ADB non-members) and Iraq (UN Security Council) and any other country excluded from the process by the World Bank or ADB. The country of registration must be a member of the World Bank or Asian Development Bank and not under sanction of the UN Security Council.
	B. Contents of Bidding Documents
ITB 7.1	For **clarification purposes** only, the Procuring Entity's address is: Attention: Tapasu Asotasi (Acting ACEO ICT) Procuring Entity: Ministry of Police Prisons and Corrections Servies Address: Police Headquarter, Apia Samoa City: **Apia** Country: **SAMOA** Telephone Number: Electronic mail address:

ITB 7.1	Requests for clarification should be received by the Procuring Entity no later than: seven (7) working days before the deadline for submission of bids stated at **ITB 23.1**. Responses to Clarifications shall be provided **no later than five (5) working days** prior to the Bid Submission Date. Pre-Bid Meeting: Scheduled for **25 November 2026** at the MPPC Commant Post Conference Room.

C. Preparation of Bids

ITB 11.1 (g)	The Bidder shall submit with its bid the following additional documents as may reasonably be requested by the Procuring Entity in the Bidding documents: (i) a business license in the appropriate category in accordance with the industry the goods and related services relate to and is valid for at least four (4) months; (ii) certificate of Incorporation (if a bidder is a company), deed of partnership or joint venture (*if applicable)*; (iii) evidence of payment of immediate past year business income tax; (iv) **two (2) business references** issued **within the past six (6) months** providing assurances of quality outcomes, business integrity, reliability and financial soundness of the bidder.
ITB 13.1	Alternative bids **shall not** be permitted.
ITB 14.2	**Not Applicable**
ITB 14.6	The Incoterms edition is: Incoterms 2020
ITB 14.7 (b)(i)	Place of Destination: Ministry of Police Prison Correction Police Headquarter, Apia Samoa
ITB 14.8	The prices quoted by the Bidder shall not be adjustable during the Bidder's performance of the Contract.
ITB 15.1	The Bidder shall quote in **Samoan Tala (SAT$)**
ITB 18.1(a)	The bidder shall submit with its bid, the following documentary evidence to prove that it has the financial and technical capability to perform the contract:

	(i) Financial statement from the **past six (6) months** showing positive net worth and financial position for the current project; and (ii) List of Contracts of similar value and complexity from the past three (3) years. The Subcontractor(s) experience and/or resources **will not** contribute to the Bidder's qualifications.
ITB 19.1	The bid validity period shall be **hundred and twenty (120) days** after the bid submission date.
ITB 20.1	Bid shall include a Bid Security using the form included in **Section IV - Bidding Forms** in the form of a **Bid Securing Declaration**. A Bid Security submitted in any other form shall not be accepted.
ITB 20.2	The amount of the Bid Security shall be: **Not Applicable**
ITB 21.1	In addition to the **Original** of the bid, the number of Copies is**: two (2) Copies** and one (1) electronic copy.
D. Submission and Opening of Bids	
ITB 22.1	Bids may be submitted electronically via the Government of Samoa's e-tendering portal (https://portal.tenderlink.com/mof_samoa/) The Opening of Bids submitted electronically shall follow the procedures as outlined in **Annex 1** to the **Bid Data Sheet.** Bidders who submit electronically **do not need** to submit hard copies. If a Bidder submits both electronic submission and the hard copy submission, for the avoidance of doubt, Bids submitted electronically shall take precedence over the hard copies and shall be considered the **ORIGINAL**.
ITB 22.2 (c)	The inner and outer envelopes shall bear the following additional identification marks: **Provision of Internet Services for Ministry of Police Prisons and Corrections Services**
ITB 23.1 **23.1**	For **bid submission purposes only**, bids must be submitted at the following address: **Attention**: The Secretary, Tenders Board **Address**: Level 4 Central Bank Building of Samoa ("CBS") Beach Road APIA SAMOA

	The deadline for the submission of bids is: Date: **7 December 2026** Time: **11.00am** (local time)
ITB 26.1	The **bid opening** shall take place at: Ministry of Finance Level 4 Central Bank of Samoa ("CBS") Building Beach Road APIA SAMOA Date and Time : **7 December 2026** at **11:00am** (local time)
E. Evaluation and Comparison of Bids	
ITB 31.2 (e)	The Bidder must provide the following documents or information: Refer to **ITB Clause 11.1 (g) of this BDS**
ITB 33.1	Bid prices expressed in different currencies shall be converted in: **Samoan Tala (SAT$)** The source of exchange rate shall be: **Central Bank of Samoa** The date for the exchange rate shall be **Bid Closing Date**.
ITB 34.1	Domestic preference **shall not** be a bid evaluation factor.
ITB 34.2	The domestic preference percentage which shall be applied is: **Not Applicable**
F. Award of Contract	
ITB 42.2	The number of days for standstill shall be **fifteen (15) days**.
ITB 45.4	Any complaint should be sent to the following address: For the **attention** of: Tapasu Asotasi (Acting ACEO ICT) Address – tapasu.asotasi@police.gov.ws City: Apia Country: **SAMOA**

Annex I to Section II – Bid Data Sheet
Procedure for Electronic Submission of Bids

1. The Bid shall be electronically submitted via the Government of Samoa's e-Tendering Portal only. The Bidder shall use this, and only this, link to submit its electronic Bid.

2. The Portal shall automatically expire on the submission deadline, specified in the relevant Instruction to Bidder. No extension shall be provided after the expiry date of the tender.

3. At the submission deadline, and not before, Tender Link will forward to the Portal's Administrator access to the tender box electronic keys to open the bids.

4. To ensure the integrity and compliance with **Section II -Bid Data Sheet**, the opening of the Tender Box(es) can only be actioned by the Ministry of Finance's designated Administrator. For security purposes, all openings are dated and time stamped, ensuring compliance of their opening with **ITB 23.1** and **ITB 26.1** of the **BDS**.

Section III - Evaluation and Qualification Criteria

This Section complements the Instructions to Bidders (ITB) and the Bid Data Sheet (**BDS**). It contains all the criteria that the procuring entity will use to evaluate and and determine whether a Bidder has the required qualifications. No other criteria shall be used other than those stated here and otherwise the conformity with commercial requirements and Technical Specifications.

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1. Evaluation Criteria (ITB 35.3 (d))

The following table outlines the criteria that will be used to score each bidder's Technical Proposal. Bidders should provide comprehensive responses for each criterion, as this will form the basis of their technical score.

In addition to the criteria listed in **ITB 35.2**, the bidders' Technical Proposals will be assessed in accordance with the following:

Evaluation Criterion	Objective and Required Information from Bidder	A. Rating	B. Weight (%)	C. Score
Fixed Internet Architecture & Failover Capability	Technical architecture for Primary 60 Mbps & Backup 30 Mbps unlimited links over fiber/microwave to Principal's Main HQ. Committed bandwidth specifications (1:1 CIR), upload/download speeds, contention ratios, and traffic management. Integration and failover testing plan with SPPCS ICT Division. Public IP allocation strategy (static vs. dynamic for primary and backup links).	0% – 100%	25%	25
Service Level Agreement (SLA) & Reliability	Network Availability compliance with minimum 99.9% uptime requirement. Written commitment to target response times: 1-hour fault response, 6-hour fix time, and hourly status updates. Acceptance of standard credit schedule for downtime penalties (<=99%: 10% MRC; <=90%: 20% MRC; <=75%: 50% MRC credit).	0% – 100%	25%	25
Mobile CUG SIMs, & Routers	Setup of 6x 4G/5G Routers with 75 GB monthly data bundles, coverage, and excess data rates. Provisioning of up to 40 CUG SIMs (60 GB monthly data, voice minutes, SMS, coverage limits, active-user billing compliance). Non-forfeiting monthly data rollover mechanics and expiry rules. Smart Prime 99 Postpaid plans (40 lines)	0% – 100%	20%	20

Vendor Experience, Qualifications & Support	Demonstrated experience (minimum 5 years) supplying enterprise ISP and mobile CUG services to government or corporate entities. Qualifications and CVs of key local technical personnel and Project Manager. 24/7/365 NOC operational structure and escalation matrix.	0% – 100%	15%	15
Implementation, Active Billing & Transition Plan	2-year contract deployment plan with zero-downtime transition strategy during HQ setup. Invoicing system capability for itemized billing per active user (showing usage, opening/closing rollover balance, and active SIM count). Administrative workflow for active user activation/deactivation and Ministry pre-approval on excess charges.	0% – 100%	15%	15
TOTAL TECHNICAL WEIGHT			100%	**Max 100 Points**

The Technical Proposal shall concisely and completely address the above Evaluation Criteria, demonstrating how all resources under an appropriate management approach will deliver a consistently high quality of performance delivery.

The bidder must achieve a minimum technical score of 70% to proceed to financial evaluation.

RATING DEFINITIONS

EXCELLENT	100% = 1.0	Substantially exceeds procuring entity requirements
VERY GOOD	90% = 0.9	Exceeds procuring entity requirements
GOOD	80% = 0.8	Fully meets procuring entity requirements
ACCEPTABLE	70% = 0.7	Barely meets procuring entity requirements
DEFICIENT	50% = 0.5	Lacking essential elements, with possible negative impacts on performance
NOT RESPONSIVE	0% = 0.0	Misinterprets requirements or does not provide enough information for a higher rating

AGGREGATE SCORING

In addition to the PASS/FAIL criteria the final evaluation score shall be calculated from the overall sum of graded Technical Proposal (T_n) criteria according to the bidder's perceived responsiveness and the financial score.

Financial Scores Sf shall be calculated from 100 x P_{lowest}/ $P_{evaluated}$, where P_{lowest} is the lowest price submitted and $P_{evaluated}$ are prices of other tenders submitted

Composite scores to determine the winning offer for contract award shall be calculated as: Final Score = (0.70 × Tn) + (0.30 × Sf), where Tn is the Technical Score and Sf is the Financial Score.

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Bid Submission Form

The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and address.

Note*: *the Bidder shall fill in this Form in accordance with the Instructions indicated. No alterations to its format shall be permitted and no substitutions shall be accepted. All italicised text is for use in accomplishing these forms and shall be deleted from the final fully edited version

Date: _____

IFB No.: _____

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

To: _____

We, the undersigned, declare that:

(a) We have examined and have no reservations to the bidding documents, including Addenda No.: *insert the number and issuing date of each Addenda* in accordance with ITB 8;

(b) We offer to execute in conformity with the bidding documents and in accordance with the following general services ***Provision of Internet services****;*

(c) The total price of our bid, including VAGST and other applicable local taxes but excluding any discounts offered in item (g) below, is*;* _____*insert words and figures;*

(d) The discounts offered and the methodology for their application are:_____ *if none state N/A*

Discounts. If our bid is accepted, the following discounts shall apply [*Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies or state none*];

Methodology of Application of the Discounts. The discounts shall be applied using the following method: [*Specify in detail the method that shall be used to apply the discounts or state not applicable*]; Our bid shall be valid for the period of time specified in ITB 19.1, from the date fixed for the bid submission deadline in accordance with ITB 23.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(e) Our bid shall be valid for the period of time specified in ITB 18.1, which is one hundred and twenty (120) days from the date fixed for the bid submission deadline

in accordance with ITB 22.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(f) If price adjustment provisions apply according to the **BDS**, the prices bid shall be adjusted accordingly;

(g) If our bid is accepted, we commit to obtain a **performance security** in accordance with ITB 44 and GCC 18 for the due performance of the Contract;

(h) Our firm, including any subcontractors or suppliers for any part of the Contract do not have any conflict of interest according to ITB 4.5;

(i) Our firm and any associated firm or joint venture party have not been subject to insolvency or bankruptcy or receivership or liquidation proceedings during the immediate past twelve (12) months;

(j) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the Government of Samoa or the Procuring Entity under the laws of the Independent State of Samoa ;

(k) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.6 other than for alternative offers permitted under ITB 13 of the bidding documents;

(l) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: [*insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity*]

Name of Recipient	Address	Reason	Amount

[***Note:*** *If none has been paid or is to be paid, indicate "none."*]

(m) Our firm, and its principals including any director, officer, manager or supervisor, currently and in the past three years, have not committed criminal offenses involving fraud, corruption or other misconduct signifying unsuitability for participation in any way in the procurement and contracting process;

(n) Our firm, and its principals including any director, officer, manager or supervisor, currently and in the past three years, have not been suspended or disbarred by administrative or judicial proceedings from participating in procurements, whether in Samoa or elsewhere;

(o) We certify that we are in good standing with the Government and have paid all taxes, duties, fees and other impositions as may be levied in Samoa prior to the award of contract. We also understand evidence of such certification may be required from the successful Bidder prior to award of contract;

(p) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall not constitute a binding contract between us, until a formal contract is prepared and executed;

(q) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive;

(r) We understand that you are not bound to accept the lowest responsive bid or any other bid that you may receive. We understand that the Procuring Entity may cancel a procurement at any time prior to the acceptance of the successful bid or after the successful bid is accepted if

(i) the Bidder presenting the bid is suspended or debarred;

(ii) the procurement is cancelled;

(iii) the Bidder presenting the successful bid is excluded on the grounds of corruption, unfair competition or conflict of interest; or

(iv) the procurement, the bid or the Bidder contravenes or is otherwise not compliant with the provisions of the laws of the Independent State of Samoa.

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

In the capacity of [*insert legal capacity of person signing the Bid Submission Form*]

Name: [*insert complete name of person signing the Bid Submission Form*]

Duly authorised to sign the bid for and on behalf of: [*insert complete name of Bidder*]

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

Bidder Information Form

Note: *The Bidder shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.*

Date: *Insert date (as day, month and year) of Bid Submission*
IFB No.: *Insert number of bidding process*
Page: of pages

1. Bidder's name: *insert Bidder's legal name*
2. In case of Joint Venture (JV), name of each member: *insert legal name of each party in JV*
3. Bidder's actual or intended country of registration: *insert actual or intended country of registration*
4. Bidder's Year of Registration: *insert Bidder's year of registration*
5. Bidder's Legal address (in country of registration): *insert Bidder's legal address in country of registration*
6. Bidder's Authorized Representative Information: Name: Address: Telephone/Fax numbers: Email address:
7. Attached are copies of original documents of: *check (X) the box according to the attached original documents* ☐ Articles of Incorporation or Registration of firm named in 1 above, in accordance with ITB 4.1 and 4.2. ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1. ☐ In case of a public body from Samoa, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB 4.9 of bidding documents

Price Schedule Forms

NOTE:
The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the ***Price Schedules*** *shall coincide with the list of goods and related services specified by the Procuring Entity in the Schedule of Requirements.*

For evaluation purposes only, prices should include import customs duties and VAGST and other applicable taxes. Despite that applicable taxes or duties are not included in the prices, such are to be paid as determined by the relevant authority prior finalisation and signing

a. are advised to be prepared to justify the bases of their bid pricing in terms of input quantities and input pricing and the verifiable quality of contract outcomes

Bid-Securing Declaration

The Bidder shall fill in this Form in accordance with the instructions indicated.

Date: date (as day, month and year)

Bid No.: number of bidding processAlternative No.: *identification No if this is a bid for an alternative*

To: *complete name of Procuring Entity*

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Procuring Entity for the period of time of *number of months or years* starting on *date*, if we are in breach of our obligation(s) under the bid conditions, because we:

(a) have materially modified or withdrawn our bid during the period of bid validity specified in the Bid Submission Form; or

(b) do not accept a correction of errors;

(c) having been notified of the acceptance of our bid by the Procuring Entity during the period of bid validity, (i) fail or refuse to execute the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, in accordance with the ITB.

We understand if the Bid Securing Declaration becomes forfeit we will be disqualified from participating in any Government procurement for one year regardless of the source of funding. We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us advising the execution of the contract with the successful Bidder; or (ii) twenty-eight (28) days after the expiration of our bid.

Signed: *signature of person whose name and capacity are shown* In the capacity of *legal capacity of person signing the Bid Securing Declaration*

Name: *complete name of person signing the Bid Securing Declaration*

Duly authorised to sign the bid for and on behalf of: *complete name of Bidder*

Dated on _____ day of _____, _____ *date of signing* Corporate Seal (where appropriate)

Note: In case of a Joint Venture, the Bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid

Method Statement

The bidder's Method Statement should describe the activities and methods that will be used to estimate production rates for carrying out the general services within the time for completion proposed. The Method Statement should be consistent with other sections of the Technical Proposal including:

(i) team composition and proposed organisational structure;
(ii) equipment to be provided (*if applicable*); (i) the proposed mobilisation schedule; and (iv) the proposed work-plan.

The Method Statement shall provide a **clear description of the bidder's understanding of the Procuring Entity's Requirements - Section V**, a proposed strategic approach to achieve the procuring entity's objective of implementing the general services to the required standards in both a cost-effective and time-efficient manner. The statement should further demonstrate a sound technical methodology for carrying out the general services.

The Method Statement must be realistic, establish realistic milestones, seek to maximise results with proposed resources and ensure a prompt and effective launch of contract activities.

Among other things the Method Statement shall include in sufficient detail, the following elements:

- Service delivery
- A Quality Management Plan and Quality Assurance/Quality Control Procedures
- Document Management Systems
- Reporting Procedures
- Community Liaison
- Approach to any materials sourcing, testing and storage
- Any other elements or issues the bidder considers relevant to carrying out the services.

Section V– Eligible Countries

Eligibility for the Provision of Goods, Works and Services under a Government of Samoa - Financed Procurement

All countries other than those currently designated as **INELIGIBLE** are eligible to tender to provide the goods, works and services which are the subject of this tender.

Presently **INELIGIBLE** countries are:

- Andora, Democratic People's Republic of Korea, Liechtenstein, Monaco (not members of the World Bank or Asian Development Bank), and
- Iraq (UN Security Council).

For projects funded solely by a specific donor, please refer to donor concerned for their list of ineligible countries.

The country of registration must be a member of the World Bank or Asian Development Bank and not under sanction of the UN Security Council.

PART 2 – PROCURING ENTITY'S REQUIREMENTS

Section VI - Schedule of Requirements

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1. SCOPE OF SERVICES

1 Description of Services

Procurement of primary and backup Internet services, mobile routers and data bundles and Closed User Group (CUG) mobile services for the Samoa Police Prisons and Corrections Services.

These services support email, cloud systems, investigations, remote ICT support and continuity of connectivity at remote sites.

The Samoa Police Prisons and Corrections Services invites experienced and qualified providers to quote for the service items specified below. The 60 Mbps primary link and 30 Mbps backup link shall be supplied by a single ISP under one contract. Separate service item awards may be made to meet this requirement.

Tenderers must submit a detailed work plan covering installation design, equipment, activation, testing and delivery timelines for each offered service.

Tenderers are also invited to conduct site inspection (if required)

SERVICES SPECIFICATIONS	
Service Plan	Primary 60 Mbps and backup 30 Mbps Internet links, both supplied by the same ISP, each with unlimited data. Fiber or microwave/wireless delivery as applicable.
Bandwidth and Speed	Primary: 60Mbps. Backup: 30Mbps. Bidders shall state download and upload speeds, committed bandwidth and any contention or traffic management conditions.
Contract Term	Two (2) years, as specified in the Special Conditions of Contract.
Public IP allocation	Public IP addresses may be static or dynamic for both primary and backup links. Bidders shall specify the available allocation options
Installation	Itemize installation, equipment, configuration and support costs for each offered service. Include integration and testing of primary-to-backup failover with the SPPCS ICT Division.
Mobile Routers and Data	Supply six (6) 4G/5G routers with monthly data bundles of 75 GB each. Include SIMs, activation and configuration; state coverage, equipment specifications and excess-data charges.
Network Availability	99.9% access to high availability fiber optic Credits can be claimed for ISP failure to meet Network Availability as follows: = > 99.5% - no credit < = 99% - 10% MRC credit < = 90% - 20% MRC credit < = 75% - 50% MRC credit
Service Level Agreement and Technical Support	Target Fault Response – 1 hour Target Fix Time – 6 hours Customer Updates – Every Hour
CUG SIM Quantity and Allowances	Provide forty (40) CUG SIMs, each with 60 GB per month, free voice minutes and free SMS. Bidders shall state the included minutes and SMS quantities or confirm unlimited use, and clearly identify CUG, on-net, off-net and other coverage limitations.
CUG Data Rollover	Unused monthly data for each CUG SIM shall roll over into subsequent months without forfeiture at the monthly reset. Bidders shall state how balances are carried forward and consumed, any expiry or cap, and any treatment of unused metered voice or SMS allowances. Any limitation or departure must be expressly identified.

SERVICES SPECIFICATIONS	
CUG Active User Billing	Charge monthly CUG subscriptions only for users authorised by the Ministry as active. No recurring plan charge shall apply to unactivated, suspended, deactivated or otherwise inactive users. The Ministry may activate, suspend or deactivate users up to the maximum of 60. Bidders shall state activation and suspension procedures, billing cut-off dates and proration terms.
Billing and Usage Reporting	Provide itemised monthly invoices by service and active SIM, showing active user count, billable period, data usage, opening rollover balance, current allocation, closing balance and charges. Identify all one-off costs, monthly rates, taxes and excess-use charges. Additional paid usage requires prior Ministry approval.
Handset Pricing and Warranty	Bidders shall state the unit price, total handset cost, monthly instalment, warranty and any financing charges separately for each phone model. State storage capacity, delivery timing and ownership arrangements during and after the 24-month payment period.

SCHEDULED WORK OUTAGES		
For the Client	Acting ACEO ICT	Tapasu.asotasi@police.gov.ws
For the ISP	[insert name of contact]	[insert email and phone]

The ISP shall notify the SPPC ICT Division at least 48 hours before any scheduled service outage.

2 Background Terms of Reference

All information which will help to improve the service provider's understanding of the job ahead should be provided in a concise form and may include:

2. TECHNICAL SPECIFICATIONS

GOVERNMENT OF THE INDEPENDENT STATE OF SAMOA

Principal Name	*Samoa Police, Prisons and Corrections Services*
Principal Address	*Apia*
Contact Details	*22222, ext 1011 tapasu.asotasi@police.gov.ws*

RFQ NAME.	*INTERNET AND RELATED CONNECTIVITY SERVICES FOR SAMOA POLICE*		**RFQ No.**	**MPPC/RFQ26/27-004 *PPC26/27***
TO	**SERVICE PROVIDER NAME**			
	CONTACT PERSON			
	OFFICE ADDRESS			

Please provide your quotation for the following Internet and related connectivity services to the Samoa Police Prisons and Corrections Services by >insert closing date and time<. Quote each offered service item separately and identify any items not offered.

Bid Security	**Not Required**		
Quotation Validity	**30 days**	**RFQ APPROVAL**	**TY11B APPROVAL**
Required Contract Period	**730 days (24 months)**	*(initial)*	*(initial/ date)*
Required Completion Date	**>30 November 2028<**		
		Leiataua Samuelu Afamasaga	
Performance Security	**Not Required**	*Acting Commissioner of Police Prisons and Corrections Services*	
Performance Security type	**Not Required**		**Date**
THE PRINCIPAL'S REPRESENTATIVES :		*Tapasu Asotasi Acting ACEO ICT*	

No.	Work Item Description	Quantity	Unit	Unit Price	Extended Price
1	Primary Internet link 60 Mbps over fibre; unlimited data	1	1		
2	Backup 30 Mbps unlimited symmetrical internet speed	1	1		
3	4G/5G router and a monthly 75 GB data bundle	6	1		
4	CUG SIMs, 60 GB monthly data with rollover, free minutes and free SMS; billed only for active users	40	1		
5	Postpaid plans (Data/Minutes) Smart Prime 99	40			
6	Fiber connectivity at the Principal's Main HQ	1			
	Monthly charges and one-off charges must be shown separately. CUG recurring charges apply only to users authorised as active by the SPPCS; 40 is the maximum quantity, not a minimum monthly billing commitment.				
	ATTACH SHEET FOR ADDITIONAL ITEMS				
	ATTACH SHEET FOR ADDITIONAL ITEMS	**CASH FLOW**			
		EQUIPMENT SCHEDULE		**TOTAL**	

PLEASE SUBMIT THE FOLLOWING TECHNICAL SCHEDULES (put "X" for required attachments)

(sign & stamp) **Bidder's Autho**

| | | |

4. INSPECTIONS AND TESTS

PART 3 - CONTRACT

Section VII - General Conditions of Contract

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General Conditions of Contract

1. Definitions

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

(a) **"Contract"** means the Contract Agreement entered into between the Procuring Entity and the supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.

(b) **"Contract Documents"** means the documents listed in the Contract Agreement, including any amendments thereto.

(c) **"Contract Price"** means the price payable to the supplier as specified in the Contract Agreement, subject to such additions and adjustments to or deductions from, the Contract Price, as may be made under the Contract.

(d) **"Day"** means calendar day.

(e) **"Completion"** means the complete supply of goods and the fulfilment of the related services by the supplier in accordance with the terms and conditions set forth in the Contract.

(f) **"GCC"** means the General Conditions of Contract.

(g) **"goods"** means things of every kind and description, whether tangible or intangible, including agricultural crops, raw materials, products and equipment; matter in solid, liquid or gaseous form; and services incidental to the supply of such things that the supplier is required to supply to the Procuring Entity under the Contract.

(h) **"Government"** means the Government of Samoa.

(i) **"Procuring Entity"** means the Government or a Government department or public body purchasing the goods and related services, as specified in the **SCC**.

(j) **"related services"** means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the supplier under the Contract.

(k) **"SCC"** means the Special Conditions of Contract.

(l) **"Subcontractor"** means any natural person, private or government entity, or a combination of the above, to whom any part of the goods to be supplied or execution of any part of the related services is subcontracted by the supplier.

(m) **"supplier**" means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.

(n) **"The Project Site"** where applicable, means the place named in the **SCC**.

(o) **"in writing"** means a communication in hand or machine written type and includes messages by facsimile, e-mail and other electronic forms of communications with proof of receipt. "Electronic communications" means the transfer of information using electronic or similar media and the recording of information using electronic media.

2. Contract Documents

2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

3. Fraud and Corruption

3.1 If the Procuring Entity determines that the supplier and/or any of its personnel, or its agents, or its Subcontractors, consultants, service providers, suppliers and/or their employees has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) days' notice to the supplier, terminate the supplier's employment under the Contract and cancel the contract, and the provisions of Clause 35 shall apply as if such expulsion had been made under Sub-Clause 35.1.

(a) For the purposes of this Sub-Clause:

(i) **"corrupt practice"** is the offering, giving, receiving or soliciting, directly or indirectly, of

anything of value to influence improperly the actions of another party[1];

(ii) **"fraudulent practice"** is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation[2];

(iii) **"collusive practice"** is an arrangement between two or more parties[3] designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) **"coercive practice"** is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party[4]; and

(v) **"obstructive practice"** is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(bb) acts intended to materially impede the exercise of the Government's inspection and audit rights provided for under GCC 11 [Inspections and Audits by the Government].

[1] "Another party" refers to a public official acting in relation to the procurement process or contract execution. In this context, "public official" includes Government of Samoa staff and employees of other organizations taking or reviewing procurement decisions.

[2] ''Party" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution.

[3] "Parties" refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non-competitive levels.

[4] "Party" refers to a participant in the procurement process or contract execution.

3.2 Should any employee of the supplier be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the purchase of the goods, then that employee shall be removed.

4. Interpretation

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

4.2 Incoterms

(a) Unless inconsistent with any provision of the Contract**,** the meaning of any trade term and the rights and obligations of parties under the Contract shall be as prescribed by Incoterms.

(b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Procuring Entity and the supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the Parties with respect thereto made prior to the date of Contract.

4.4 Amendment

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

4.5 Non-waiver

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

(b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and

signed by an authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

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

5. Language

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

5.2 The supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the supplier.

6. Joint Venture, Consortium or Association

6.1 If the supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring Entity for the fulfilment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Procuring Entity.

7. Eligibility

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

7.2 For the purposes of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognised article results that differs substantially in its basic characteristics from its components.

8. Notices

8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**.

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

9. Governing Law

9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Independent State of Samoa.

10. Settlement of Disputes

10.1 The Procuring Entity and the supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

10.2 If, after twenty-eight (28) days, the Parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **SCC**.

10.3 Notwithstanding any reference to arbitration herein,

(a) the Parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and

(b) the Procuring Entity shall pay the supplier any monies due the supplier.

11. Inspections and Audit by the Government

11.1 The supplier shall permit, and shall cause its Subcontractors and consultants to permit, the Government and/or persons appointed by the Government to inspect the supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Government if requested by the Government. The supplier's and its Subcontractors and consultants' attention is drawn to

Clause 3 [Fraud and Corruption], which provides, *inter alia*, that acts intended to materially impede the exercise of the Government's inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Government's prevailing sanctions procedures).

12. Scope of Supply

12.1 The goods and related services to be supplied shall be as specified in the Schedule of Requirements.

13. Delivery and Documents

13.1 Subject to GCC Sub-Clause 33.1, the Delivery of the goods and Completion of the related services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the supplier are specified in the **SCC**.

14. Supplier's Responsibilities

14.1 The supplier shall supply all the goods and related services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.

15. Contract Price

15.1 Prices charged by the supplier for the goods supplied and the related services performed under the Contract shall not vary from the prices quoted by the supplier in its bid, with the exception of any price adjustments authorised in the **SCC**.

16. Terms of Payment

16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.

16.2 The supplier's request for payment shall be made to the Procuring Entity in writing, accompanied by invoices describing, as appropriate, the goods delivered and related services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfilment of all other obligations stipulated in the Contract.

16.3 Payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or request for payment by the supplier, and after the Procuring Entity has accepted it.

16.4 The currencies in which payments shall be made to the supplier under this Contract shall be those in which the bid price is expressed.

16.5 In the event that the Procuring Entity fails to pay the supplier any payment by its due date or within the period set forth in the **SCC**, the Procuring Entity shall pay to the supplier interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

17. Taxes and Duties

17.1 For goods manufactured outside Samoa, the supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Samoa.

17.2 For goods manufactured within Samoa, the supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the Procuring Entity.

17.3 If any tax exemptions, reductions, allowances or privileges may be available to the supplier in accordance with the laws of the Independent State of Samoa, the Procuring Entity shall use its best efforts to enable the supplier to benefit from any such tax savings to the maximum allowable extent.

18. Performance Security

18.1 If required as specified in the SCC, the supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the **SCC**.

18.2 The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the supplier's failure to complete its obligations under the Contract.

18.3 As specified in the **SCC**, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Procuring Entity; and shall be in one of the formats stipulated by the Procuring Entity in the **SCC**.

18.4 The Performance Security shall be discharged by the Procuring Entity and returned to the supplier not later than twenty-eight (28) days following the date of Completion of the supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

19. Copyright

19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the

Procuring Entity by the supplier herein shall remain vested in the supplier, or, if they are furnished to the Procuring Entity directly or through the supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. Future use of any drawings, documents or other materials, is subject to prior approval of the party having copyright ownership of the same.

20. Confidential Information

20.1 The Procuring Entity and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Procuring Entity to the extent required for the Subcontractor to perform its work under the Contract, in which event the supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the supplier under GCC Clause 20.

20.2 The Procuring Entity shall not use such documents, data, and other information received from the supplier for any purposes unrelated to the contract. Similarly, the supplier shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the performance of the Contract.

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

(a) the Procuring Entity or supplier need to share with the Government or other institutions participating in the financing of the Contract;

(b) now or hereafter enters the public domain through no fault of that party;

(c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

(d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

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

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

21. Subcontracting

21.1 The supplier shall notify the Procuring Entity in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

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

22. Specifications and Standards

22.1 Technical Specifications and Drawings

(a) The goods and related services supplied under this Contract shall conform to the technical specifications and standards mentioned in **Technical Requirements, as appended to the Contract Agreement** and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the goods' country of origin.

(b) The supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Procuring Entity.

(c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the

Procuring Entity and shall be treated in accordance with GCC Clause 33.

23. Packing and Documents

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

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

24. Insurance

24.1 Unless otherwise specified in the **SCC**, the goods supplied under the Contract shall be fully insured—in a freely convertible currency—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

25. Transportation

25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the goods shall be in accordance with the specified Incoterms.

26. Inspections and Tests

26.1 The supplier shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the goods and related services as are specified in the **SCC**.

26.2 The inspections and tests may be conducted on the premises of the supplier or its Subcontractor, at point of delivery, and/or at the goods' final destination, or in another place in Samoa as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

26.3 The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Procuring Entity bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

26.4 Whenever the supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test and/or inspection.

26.5 The Procuring Entity may require the supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the goods comply with the technical specification's codes and standards under the Contract, provided that the supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

26.6 The supplier shall provide the Procuring Entity with a report of the results of any such test and/or inspection.

26.7 The Procuring Entity may reject any goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The supplier shall either rectify or replace such rejected goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Sub-Clause 26.4.

26.8 The supplier agrees that neither the execution of a test and/or inspection of the goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6,

shall release the supplier from any warranties or other obligations under the Contract.

27. Liquidated Damages

27.1 Except as provided under GCC Clause 32, if the supplier fails to deliver any or all of the goods by the Date(s) of delivery or perform the related services within the period specified in the Contract, the Procuring Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC.** Once the maximum is reached, the Procuring Entity may terminate the Contract pursuant to GCC Clause 35.

28. Warranty

28.1 The supplier warrants that all the goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GCC Sub-Clause 22.1(b), the supplier further warrants that the goods shall be free from defects arising from any act or omission of the supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

28.4 The Procuring Entity shall give notice to the supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Procuring Entity shall afford all reasonable opportunity for the supplier to inspect such defects.

28.5 Upon receipt of such notice, the supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective goods or parts thereof, at no cost to the Procuring Entity.

28.6 If having been notified, the supplier fails to remedy the defect within the period specified in the **SCC**, the Procuring Entity may proceed to take within a reasonable period such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the supplier under the Contract.

29. Patent Indemnity

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

(a) the installation of the goods by the supplier or the use of the goods in Samoa; and

(b) the sale in any country of the products produced by the goods.

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

29.2 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause 29.1, the Procuring Entity shall promptly give the supplier a notice thereof, and the supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. The supplier shall not bind the Procuring Entity to any agreement without its written approval.

29.3 If the supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it

intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.

29.4 The Procuring Entity shall, at the supplier's request, afford all available assistance to the supplier in conducting such proceedings or claim, and shall be reimbursed by the supplier for all reasonable expenses incurred in so doing.

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

30. Limitation of Liability

30.1 Except in cases of negligence or wilful misconduct:

(a) the supplier shall not be liable to the Procuring Entity, 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 Procuring Entity; and

(b) the aggregate liability of the supplier to the Procuring Entity, 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, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement.

31. Change in Laws and Regulations

31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Samoa (which shall be deemed to include any change in interpretation or application by the competent authorities)

that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

32. Force Majeure

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

32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the supplier. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, freight embargoes, and any change in Government policy or new development involving the Government.

32.3 If a Force Majeure situation arises, the supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

33. Change Orders and Contract Amendments

33.1 The Procuring Entity may at any time order the supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

(a) drawings, designs, or specifications, where goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity;

(b) the method of shipment or packing;

(c) the place of delivery; and

(d) the related services to be provided by the supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended by written variation agreed to between the Parties. 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 Procuring Entity's change order.

33.3 Prices to be charged by the supplier for any related services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the Parties.

34. Extensions of Time

34.1 If at any time during performance of the Contract, the supplier or its subcontractors should encounter conditions impeding timely delivery of the goods or completion of related services pursuant to GCC Clause 13, the supplier shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the supplier's time for performance, in which case the extension shall be ratified by the parties by written amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the supplier in the performance of its Delivery and Completion obligations shall render the supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

35. Termination

35.1 Termination for Default

(a) The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of

default sent to the supplier, may terminate the Contract in whole or in part:

(i) if the supplier fails to deliver any or all of the goods within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCC Clause 34;

(ii) if the supplier fails to perform any other obligation under the Contract; or

(iii) if the supplier, under the laws of the Independent State of Samoa has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.

(b) In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, goods or related services similar to those undelivered or not performed, and the supplier shall be liable to the Procuring Entity for any additional costs for such similar goods or related services. However, the supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency

(a) The Procuring Entity may at any time terminate the Contract by giving notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Procuring Entity.

35.3 Termination for Convenience

(a) The Procuring Entity, by notice sent to the supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the supplier under the Contract is

terminated, and the date upon which such termination becomes effective.

(b) The goods that are complete and ready for shipment within twenty-eight (28) days after the supplier's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining goods, the Procuring Entity may elect:

(i) to have any portion completed and delivered at the Contract terms and prices; and/or

(ii) to cancel the remainder and pay to the supplier an agreed amount for partially completed goods and related services and for materials and parts previously procured by the supplier.

36. Assignment

36.1 Neither the Procuring Entity nor the supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

37. Export Restriction

37.1 Despite any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Procuring Entity, to Samoa, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the supplier from meeting its obligations under the Contract, shall release the supplier from the obligation to provide deliveries or services, always provided, however, that the supplier can demonstrate to the satisfaction of the Procuring Entity that it has completed all formalities in a timely manner, including applying for permits, authorisations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

37.2 Termination of the Contract on this basis shall be for the Procuring Entity's convenience pursuant to Sub-Clause 35.3.

38. Indemnity

38.1 Subject to the provisions of the Contract, the Supplier must at all times indemnify the Purchaser, its officers, employees and agents (in this clause referred to as "those indemnified" from and against any loss (including legal costs and expenses on a Solicitor/ own client basis), or

liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Supplier, its Officers, employees, agents or sub-contractors in connections with this Contract.

39. Supplier's Acknowledgement

39.1 The Supplier acknowledges that before entering into this Contract, the Supplier was given a copy of the Contract and is aware of right to seek independent legal advice on its terms if the supplier so desires, and given reasonable opportunity to take such advice.

39.2 The Supplier also warrants that the representative who will be executing this Contract on behalf of the Supplier has all the power authority to execute this Contract.

39.3 The Supplier now signs this Contract in agreement to all terms and conditions set out therein.

40. Counterpart

40.1The Parties may execute this Contract in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all the Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile is acceptable as executing and delivering this Agreement in the presence of the other Parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. This clause shall not apply if the counterpart is not required.

Section VIII - Special Conditions of Contract

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

Note: *The Procuring Entity shall insert the appropriate wording using the samples below or other acceptable wording, and delete the instructional text*

Clause No	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 1.1(i)	The Procuring Entity is:
GCC 1.1 (n)	The Project Site(s)/Final Destination(s) is/are:
GCC 4.2 (b)	The version edition of Incoterms shall be **Incoterms 2020**
GCC 5.1	The language shall be: *English*
GCC 8.1	For **notices**, the Procuring Entity's address shall be: Attention: Address: Country: **Sāmoa** Telephone: Electronic mail address: For **notices**, the supplier's address shall be: Attention: *insert full name of person, if applicable* Street Address: *insert street address and number* Floor/Room number: *insert floor and room number, if applicable* City: *insert name of city or town* Country: *insert country* Telephone: *include telephone number, including country and city codes* Facsimile number: *insert facsimile number, including country and city codes* Electronic mail address: *insert e-mail address, if applicable*
GCC 10.2	The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows: *"Sub-Clause 10.2 (a) shall be retained in the case of a Contract with a foreign supplier and Sub-Clause 10.2 (b) shall be retained in the case of a Contract with a national of Samoa."* ***(a) Contract with international supplier:***

	GCC 10.2 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. ***(b) Contracts with supplier national of Samoa:*** In the case of a dispute between the Procuring Entity and a supplier who is a national of the Independent State of Samoa, the dispute shall be referred to adjudication or arbitration in accordance with the Arbitration Act 1976, Independent State of Samoa. This modality may also apply to foreign Suppliers who are prepared to submit to this option
GCC 13.1	Details of Shipping and other Documents to be furnished by the supplier are: • *a negotiable bill of lading,* • *a non-negotiable sea way bill, an airway bill,* • *insurance certificate,* • *Manufacturer's or supplier's warranty certificate,* • *inspection certificate issued by nominated inspection agency, supplier's factory shipping details etc.* The above documents shall be received by the Procuring Entity before arrival of the goods and, if not received, the supplier will be responsible for any consequent expenses.
GCC 15.1	The prices charged for the goods supplied and the related Services performed *shall not* be adjustable.
GCC 16.5	The payment-delay period after which the Procuring Entity shall pay interest to the supplier shall be *21* days from the date of payment approval. The interest rate that shall be applied is *0%.*
GCC 18.1	A Performance Security *"shall" be required* *The amount of the Performance Security shall be: (10%)".*
GCC 18.3	The Performance Security shall be in the form of: *"a Bank Guarantee" in the format provided in Section IX Contract Forms* The Performance security shall be denominated in *Samoan Tala*
GCC 18.4	Discharge of the Performance Security shall take place: *not later than twenty-eight (28) days following the expiration of the warranty period or extension thereof*
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: *insert in detail the type of packing required, the markings in the packing and all documentation required*

GCC 24.1	The insurance coverage shall be as specified in the Incoterms.
GCC 25.1	Responsibility for transportation of the goods shall be specified in the Incoterms *"The supplier is required under the Contract to transport the goods to a specified place of final destination within Samoa , defined as the Project Site, transport to such place of destination in Samoa, including insurance and storage, as shall be specified in the Contract, shall be arranged by the supplier, and related costs shall be included in the Contract Price"; or any other agreed upon trade terms (specify the respective responsibilities of the Procuring Entity and the supplier)*
GCC 26.1	The inspections and tests shall be performed: *insert nature, frequency, procedures for carrying out the inspections and tests*
GCC 26.2	The Inspections and tests shall be conducted at:
GCC 27.1	The liquidated damage shall be: **Zero-point five percent 0.5%** of the Contract Price per week.
GCC 27.1	The maximum amount of liquidated damages shall be: **ten percent 10%** of the Contract Price.
GCC 28.3	The period of validity of the Warranty shall be: _____ For purposes of the Warranty, the place(s) of final destination(s) shall be:
GCC 28.5 & GCC 28.6	The period for repair or replacement shall be: *insert number(s)* days.

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Letter of Acceptance

To be printed on the letterhead paper of the Procuring Entity

Date

To: *name and address of the supplier*

SUBJECT: Notification of Award Contract No.:

This is to notify you that your bid dated *insert date* for execution of the *name of the Contract and identification number, as given in the* ***BDS*** for the Accepted Contract Price of the equivalent of *insert amount in numbers and words, insert name of currency*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by insert name of Procuring Entity.

We request you to furnish the Performance Security within 28 days from the date of this letter in accordance with the Conditions of Contract, using for that purpose the Performance Security form which is provided in Section VIII Contract Forms of the bidding documents.

In accordance with Instructions to Bidders Clause 42 Notification of Award, a contract is not considered 'awarded' until the written contract is executed between the Procuring Entity and successful Bidder.

Authorised Signature:

Name and Title of Signatory:

Name of Agency:

Contract Agreement

The successful Bidder shall fill in this form in accordance with the instructions indicated

THIS CONTRACT AGREEMENT is made on this *insert:* ***number*** day of *insert:* ***month***, *insert:* ***year***

BETWEEN

(1) *insert complete name of Procuring Entity*, a *insert description of type of legal entity, for example, an agency of the Ministry of …. of the Government of the Independent State of Samoa, or corporation incorporated under the laws of the government of the Independent State of Samoa* ("**Procuring Entity**"), of the one part; and

(2) *insert name of supplier*, a corporation incorporated under the laws of *insert: country of supplier* and having its principal place of business at *insert: address of supplier* (**"supplier"**) of the other part.

WHEREAS the Procuring Entity invited bids for the supply of certain goods and related services, as specified in *insert brief description of goods and Services* ("goods").

AND the Procuring Entity has accepted the bid by the supplier for the supply of the goods and [insert description of the] related services ("Services") in the sum of *[and figures, expressed in the Contract currency(ies)]* ("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 General and Special Conditions of Contract referred to and they shall be deemed to form and be read and construed as part of this Contract.

2. In consideration of the payments to be made by the Procuring Entity to the supplier as hereinafter mentioned, the supplier hereby covenants with the Procuring Entity to provide the goods and Services and to remedy the defects therein in conformity with the provisions of this Contract.

3. The Procuring Entity covenants to pay the supplier in the amount not exceeding **[INSERT CONTRACT PRICE IN WORDS] (INSERT CONTRACT PRICE IN FIGURES)** inclusive of *please insert any taxes* ("Contract Price") in consideration of the provision of the goods and Services in full compliance and in accordance with the terms and conditions of the Contract including but not limited to remedying the defects.

4. The documents forming this Contract shall comprise the following and each shall be read and construed as an integral part of the Contract:

   (a) Contract Agreement

   (b) Special Conditions of Contract ("SCC")

(c) General Conditions of Contract ("GCC")

(d) Technical Requirements (including Schedule of Requirements and Technical Specifications)

(e) The supplier's bid and Bid Price Schedule

(f) Notification of Award

(g) *Add here any other document(s) where applicable*

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

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed in accordance with the laws of the Independent State of Samoa on the day, month and year indicated above.

EXECUTED by the **ACTING COMMISSIONER OF POLICE, PRISONS AND CORRECTIONS SERVICES LEIATAUA SAMUELU AFAMASGA** for and on behalf of the **SAMOA POLICE SERVICE**) …….

In the presence of:

……

(Witness Name)

……

(Designation)

EXECUTED by insert details **FOR THE** insert, for and on behalf of the **INSERT SUPPLIER**) …….

In the presence of:)

……..

(Director)

……

(Director/Secretary)

Performance Security

*[**The bank**, as requested by the successful Bidder, shall fill in this form in accordance with the instructions indicated]*

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

IFB No. and title*: [insert no. and title of bidding process]*

Bank's Branch or Office: *[insert complete name of Guarantor]*

Beneficiary: *[insert complete name of Procuring Entity]*

PERFORMANCE GUARANTEE No.: *[insert Performance Guarantee number]*

We have been informed that *[insert complete name of supplier]* ("supplier") has entered into Contract No. *[insert number]* dated *[insert day and month]*, *[insert year]* with you, for the supply of *[description of goods and related Services]* ("Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the supplier, we as guarantor, hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s)[5] in figures and words]* upon receipt by us of your first demand in writing declaring the supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month, insert year]*,[6] and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except that subparagraph (ii) of Sub-article 20(a) is excluded.

.....

Authorised Signatures for Bank and supplier

[5] *The Bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Procuring Entity.*

[6] *Dates established in accordance with Clause 18.4 of the General Conditions of Contract ("GCC"), taking into account any warranty obligations of the Supplier under Clause 16.2 of the GCC intended to be secured by a partial Performance Guarantee. The Procuring Entity should note that in the event of an extension of the time to perform the Contract, the Procuring Entity would need to request an extension of this Guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Procuring Entity might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six (6) months] [one (1) year], in response to the Procuring Entity's written request for such extension, such request to be presented to us before the expiry of the Guarantee."*

Bank Guarantee for Advance Payment

*[**The bank**, as requested by the successful Bidder, shall fill in this form in accordance with the instructions indicated on its own Letter Head]*

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

IFB No. and title: *[insert number and title of bidding process]*

Bank's Branch or Office: *[insert complete name of Guarantor]*

Beneficiary: *[insert legal name and address of Procuring Entity]*

ADVANCE PAYMENT GUARANTEE No.: *[insert Advance Payment Guarantee no.]*

We, *[insert legal name and address of bank]*, have been informed that *[insert complete name and address of supplier]* ("supplier") has entered into Contract No. *[insert number]* dated *[insert date of Agreement]* with you, for the supply of *[insert types of goods to be delivered]* ("Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance is to be made against an advance payment guarantee.

At the request of the supplier, we as guarantor hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)[7] in figures and words]* upon receipt by us of your first demand in writing declaring 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 the 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 *[insert number and domicile of the account]*.

[The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the supplier as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, has been certified for payment, or on the [insert date], whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date].

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the supplier under the Contract until *[insert date[8]]*.

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[7] *The bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Procuring Entity.*

[8] *Insert the Delivery date stipulated in the Contract Delivery Schedule. The Procuring Entity should note that in the event of an extension of the time to perform the Contract, the Procuring Entity would need to request an extension of this Guarantee from the bank. Such request must be in writing and must be made prior to*

This Guarantee is subject to the Uniform Rules for Demand Guarantees, International Chamber of Commerce Publication No. 758.

……

Authorised Signatures for Bank and supplier

the expiration date established in the Guarantee. In preparing this Guarantee, the Procuring Entity might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six (6) months] [one (1) year], in response to the Procuring Entity's written request for such extension, such request to be presented to us before the expiry of the Guarantee."