



**REPÚBLICA DEMOCRÁTICA DE TIMOR LESTE
COMISSÃO NACIONAL DE APROVISIONAMENTO**

BIDDING DOCUMENTS

Contract No.:	ICB/024/MPW-2012
Description:	Supply of High-Speed Diesel Fuel for Electricidade de Timor-Leste (EDTL)

Issued on: September 2012

Bidding Document

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Section I. Instructions to Bidders

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A. General

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| 1. Scope of Bid | <p>1.1 In support of the Invitation for Bids indicated in the Bid Data Sheet (BDS), the Purchaser, as indicated in the BDS, issues this Bidding Document for the supply of Goods and Related Services incidental thereto as specified in Section V, Schedule of Supply (SS). The name, identification, and number of lots of the International Competitive Bidding (ICB) are provided in the BDS.</p> <p>1.2 Throughout this Bidding Document :</p> <ul style="list-style-type: none"> (a) the term “in writing” means communicated in written form with proof of receipt; (b) if the context so requires, singular means plural and vice versa; and (c) “day” means calendar day. |
| 2. Source of Funds | <p>2.1 This contract will be funded from current year budget appropriations of Secretary of State for Electricity, Water and Urban Planning, Ministry of Public Works.</p> |
| 3. Corrupt Practices | <p>3.1 The Purchaser requires Suppliers to observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Purchaser:</p> <ul style="list-style-type: none"> (a) defines, for the purposes of this provision, the terms set forth below as follows: <ul style="list-style-type: none"> (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party; (ii) “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; (iii) “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; (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party. (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract; and (a) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in government contracts if it at any |

time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices.

- 3.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 3.2 and Sub-Clause 35.1 (c) of the General Conditions of Contract.
- 4. Eligible Bidders**
- 4.1 A Bidder may be a natural person or a private entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). In the case of a JV:
- (a) all parties to the JV shall be jointly and severally liable; and
- (b) a JV shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.
- 4.2 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 5. Eligible Goods**
- 5.1 If so required in the BDS, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods.

B. Contents of Bidding Document

- 6. Sections of the Bidding Document**
- 6.1 The Bidding Document consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB Clause 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
- PART 2 Supply Requirements**
- Section V. Schedule of Supply
- PART 3 Contract**
- Section VI. General Conditions of Contract (GCC)
 - Section VII. Special Conditions of Contract (SCC)
 - Section VIII. Contract Forms
- 6.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Document.

- 6.3 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the Bid.
- 7. Clarification of Bidding Document**
- 7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Purchaser in writing at the Purchaser's address indicated in the BDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than the date specified in the BDS. The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 8 and Sub-Clause 23.2.
- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of the Bids, the Purchaser may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Purchaser.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of the Bids, pursuant to ITB Sub-Clause 24.2

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 Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid**
- 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid**
- 11.1 The Bid shall comprise two envelopes submitted simultaneously, one containing the Technical Proposal and the other the Price Proposal, enclosed together in an outer single envelope.
- 11.2 Initially, only the Technical Proposals are opened at the address, date and time specified in ITB Sub-Clause 27.1. The Price Proposals remain sealed and are held in custody by the Purchaser. The Technical Proposals are evaluated by the Purchaser. No amendments or changes to the Technical

Proposals are permitted. Bids with Technical Proposals which do not conform to the specified requirements will be rejected as deficient Bids.

- 11.3 Price Proposals of technically compliant Bids are opened in public at a date and time advised by the Purchaser. The Price Proposals are evaluated and the Contract is awarded to the Bidder whose Bid has been determined to be the lowest evaluated substantially responsive Bid.
- 11.4 The Technical Proposal shall contain the following :
- (a) Technical Proposal Submission Sheet;
 - (b) Documentation/certification from the wholesaler that Bidder has been duly authorized to supply, in the RDTL, the Goods (fuel) indicated in its Bid, in accordance with ITB Clause 5.1;
 - (c) Bid Security, in accordance with ITB Clause 20;
 - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 21;
 - (e) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;
 - (f) documentary evidence in accordance with ITB Clauses 17, that the Goods and Related Services conform to the Bidding Document;
 - (g) documentary evidence in accordance with ITB Clause 18 establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
 - (h) any other document required in the BDS.
- 11.5 The Price Proposal shall contain the following :
- (a) Price Proposal Submission Sheet and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15; and
 - (b) any other document required in the BDS.
- 12. Bid Submission Sheets and Price Schedules**
- 12.1 The Bidder shall submit the Technical Proposal and the Price Proposal using the appropriate Submission Sheets furnished in III, Bidding Forms. These forms must be completed without any alterations to their format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 12.2 The Bidder shall submit, as part of the Price Proposal, the Price Schedules for Goods and Related Services, using the forms furnished in Section IV, Bidding Forms.
- 13. Alternative Bids**
- 13.1 Alternative bids shall not be considered.
- 14. Bid Prices**
- 14.1 The prices quoted by the Bidder in the Price Proposal Submission Sheet and in the Price Schedules shall conform to the requirements specified in the Bid Data Sheet.
- 15. Currencies of Bid**
- 15.1 Bid prices shall be quoted in **United States Dollar**.

- 16. Documents Establishing the Eligibility of the Bidder**
- 16.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall:
- (a) complete the eligibility declarations in the Bid Submission Sheet, included in Section IV, Bidding Forms; and
 - (b) if the Bidder is an existing or intended JV in accordance with ITB Sub-Clause 4.1, submit a copy of the JV Agreement, or a letter of intent to enter into such an Agreement. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended JV, as appropriate.
- 17. Documents Establishing the Conformity of the Goods and Related Services to the Bidding Document**
- 17.1 The Bidder is required to fill-in the information required in the Technical Specifications tabulation provided under Section IV – Bidding forms, to establish the conformity of the fuel proposed by the Bidder.
- 17.2 The Bidder shall also submit documentary evidence in the form of literature, drawings or data, and shall consist of a detailed description of the essential technical and performance characteristics of the Goods (fuel) and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the requirements, and if applicable, a statement of deviations and exceptions to the provisions of Section V, Schedule of Supply.
- 18. Documents Establishing the Qualifications of the Bidder**
- 18.1 To establish its qualifications to perform the Contract, the Bidder shall submit as part of its Technical Proposal the evidence indicated for each qualification criteria specified in Section III, Evaluation and Qualification Criteria.
- 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 Purchaser. A Bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 19.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 21, 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**
- 20.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Technical Proposal, a Bid Security in original form and in the amount and currency specified in the BDS.
- 20.2 In case of a bank guarantee, the Bid Security shall be submitted using the Bid Security Form included in Section IV, Bidding Forms, or another form acceptable to the Purchaser. The form must include the complete name of the Bidder. The Bid Security shall be valid for twenty-eight days (28) beyond the end of the validity period of the bid. This shall also apply if

the period for bid validity is extended.

- 20.3 If a bid Security is required in accordance with ITB Sub-Clause 21.1, any Bid not accompanied by a substantially responsive Bid Security in accordance with ITB Sub-Clause 21.2, shall be rejected by the Purchaser as nonresponsive.
- 20.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder furnishing the Performance Security pursuant to ITB Clause 36.
- 20.5 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security.
- 20.6 The Bid Security may be forfeited :
- (a) if a Bidder withdraws its Bid during the period of bid validity as specified in ITB Clause 20.1, except as provided in ITB Sub-Clause 20.2; or
 - (b) if the successful Bidder fails to :
 - (i) sign the Contract in accordance with ITB Clause 35;
 - (ii) furnish a Performance Security in accordance with ITB Clause 36; or
 - (iii) accept the correction of its Bid Price pursuant to ITB Sub-Clause 30.2.
- 20.7 The Bid Security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in ITB Sub-Clause 16.1.

21. Format and Signing of Bid

- 21.1 The Bidder shall prepare one original of the Technical Proposal and one original of the Price Proposal as described in ITB Clause 11 and clearly mark each "ORIGINAL - TECHNICAL PROPOSAL" and "ORIGINAL - PRICE PROPOSAL". In addition, the Bidder shall submit copies of the Technical Proposal and the Price Proposal, in the number specified in the BDS and clearly mark them "COPY NO... - TECHNICAL PROPOSAL" and "COPY NO.... - PRICE PROPOSAL". In the event of any discrepancy between the original and the copies, the original shall prevail.
- 21.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Bid, except for unamended printed literature, shall be signed or initialled by the person signing the Bid.
- 21.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the Bid.

D. Submission and Opening of Bids

22. Sealing and Marking of Bids

- 22.1 The Bidder shall enclose the original of the Technical Proposal, the original of the Price Proposal, and each copy of the Technical Proposal and each copy of the Price Proposal, including alternative bids, if permitted in accordance with ITB Clause 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL - TECHNICAL PROPOSAL", "ORIGINAL - PRICE PROPOSAL" and "COPY NO... - TECHNICAL PROPOSAL" and "COPY NO.... - PRICE PROPOSAL", as appropriate. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 22.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Purchaser in accordance with ITB Sub-Clause 23.1; and
 - (c) bear the specific identification of this bidding process indicated in the BDS.
- 22.3 The outer envelopes and the inner envelopes containing the Technical Proposals shall bear a warning not to open before the time and date for the opening of Technical Proposals, in accordance with ITB Sub-Clause 26.1.
- 22.4 The inner envelopes containing the Price Proposals shall bear a warning not to open until advised by the Purchaser in accordance with ITB Sub-Clause 26.2.
- 22.5 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the bid.

23. Deadline for Submission of Bids

- 23.1 Bids must be received by the Purchaser at the address and no later than the date and time indicated in the BDS.
- 23.2 The Purchaser may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB Clause 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

24. Late Bids

- 24.1 The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB Clause 23. Any Bid received by the Purchaser 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, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB Sub-Clause 21.2 (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must

accompany the respective written notice. All Notices must be:

- (a) submitted in accordance with ITB Clauses 21 and 22 (except that Withdrawal Notices do not require copies), and in addition, the respective inner and outer envelopes shall be clearly marked "Withdrawal," "Substitution," "Modification"; and
- (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 23.

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

25.3 No Bid shall be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified in ITB Clause 19.1 or any extension thereof.

26. Bid Opening

26.1 The Purchaser shall conduct the opening of Technical Proposals in the presence of Bidders' representatives who choose to attend, at the address, date and time specified in the BDS.

26.2 The Price Proposals will remain unopened and will be held in custody of the Purchaser until the time of opening of the Price Proposals. The date, time, and location of the opening of Price Proposals will be advised in writing by the Purchaser.

26.3 First, envelopes marked "WITHDRAWAL" shall be opened, read out, and recorded, and the envelope containing the corresponding Bid shall not be opened, but returned to the Bidder. No Bid shall be withdrawn unless the corresponding Withdrawal Notice contains a valid authorization to request the withdrawal and is read out and recorded at bid opening.

26.4 Next, outer envelopes marked "SUBSTITUTION" shall be opened. The inner envelopes containing the Substitution Technical Proposal and/or Substitution Price Proposal shall be exchanged for the corresponding envelopes being substituted, which are to be returned to the Bidder unopened. Only the Substitution Technical Proposal, if any, shall be opened, read out, and recorded. Substitution Price Proposals will remain unopened in accordance with ITB Sub-Clause 26.2. No envelope shall be substituted unless the corresponding Substitution Notice contains a valid authorization to request the substitution and is read out and recorded at bid opening.

26.5 Next, outer envelopes marked "MODIFICATION" shall be opened. No Technical Proposal and/or Price Proposal shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at the opening of Technical Proposals. Only the Technical Proposals, both Original as well as Modification, are to be opened, read out, and recorded at the opening. Price Proposals, both Original as well as Modification, will remain unopened in accordance with ITB Sub-Clause 26.2.

- 26.6 All other envelopes holding the Technical Proposals shall be opened one at a time, and the following read out and recorded :
- (a) the name of the Bidder;
 - (b) whether there is a modification or substitution;
 - (c) the presence of a Bid Security, if required; and
 - (d) any other details as the Purchaser may consider appropriate.

Only Technical Proposals and alternative Technical Proposals read out and recorded at bid opening shall be considered for evaluation. No Bid shall be rejected at the opening of Technical Proposals except for late bids, in accordance with ITB Sub-Clause 24.1.

- 26.7 The Purchaser shall prepare a record of the opening of Technical Proposals that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, modification, or alternative offer; and the presence or absence of a Bid Security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.
- 26.8 At the end of the evaluation of the Technical Proposals, the Purchaser will invite bidders who have submitted substantially responsive Technical Proposals and who have been determined as being qualified for award to attend the opening of the Price Proposals. The date, time, and location of the opening of Price Proposals will be advised in writing by the Purchaser. Bidders shall be given reasonable notice of the opening of Price Proposals.
- 26.9 The Purchaser will notify Bidders in writing who have been rejected on the grounds of being substantially non-responsive to the requirements of the Bidding Document and return their Price Proposals unopened.
- 26.10 The Purchaser shall conduct the opening of Price Proposals of all Bidders who submitted substantially responsive Technical Proposals, in the presence of Bidders' representatives who choose to attend at the address, date and time specified by the Purchaser. The Bidder's representatives who are present shall be requested to sign a register evidencing their attendance.
- 26.11 All envelopes containing Price Proposals shall be opened one at a time and the following read out and recorded :
- (a) the name of the Bidder
 - (b) whether there is a modification or substitution;
 - (c) the Bid Prices, and
 - (d) any other details as the Purchaser may consider

appropriate.

Only Price Proposals read out and recorded during the opening of Price Proposals shall be considered for evaluation. No Bid shall be rejected at the opening of Price Proposals.

E. Evaluation and Comparison of Bids

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| 27. Confidentiality | 27.1 | Information relating to the examination, evaluation, comparison, and postqualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders. |
| | 27.2 | Any attempt by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and postqualification of the Bids or Contract award decisions may result in the rejection of its Bid. |
| | 27.3 | Notwithstanding ITB Clause 27.2, from the time of opening the Technical Proposals to the time of Contract award, if any Bidder wishes to contact the Purchaser 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 Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Purchaser shall not be considered. The Purchaser'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 Purchaser in the evaluation of the Price Proposals in accordance with ITB Clause 30. |
| 29. Evaluation of Technical Proposals | 29.1 | The Purchaser's determination of the responsiveness of a Technical Proposal is to be based on the contents of the Technical Proposal itself. |
| | 29.2 | The technical evaluation shall be conducted in accordance with the criteria specified in Bidding Documents Section III – Evaluation and Qualification Criteria. |
| 30. Evaluation of Price Proposals | 30.1 | The Purchaser shall evaluate Price Proposals of the Bidders with the top two scores in the Technical Evaluation. |
| | 30.2 | The Purchaser will correct arithmetical errors during evaluation of Price Proposals on the following basis:

(a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price 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.
- 30.3 If the Bidder that submitted the best value for money Bid does not accept the correction of errors, its Bid shall be disqualified and its Bid Security may be forfeited.
- 31. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids** 31.1 The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders.

F. Award of Contract

- 32. Award Criteria** 32.1 The Purchaser shall award the Contract to the Bidder with the highest combined Technical and Price Score determined in accordance with the Bidding Documents Section III – Evaluation and Qualification Criteria, provided further that the Bidder has remained qualified to perform the Contract satisfactorily.
- 32.2 A Bid shall be rejected if the Bidder who has been evaluated as the top-ranked Bidder has been determined as no longer meeting the qualification requirements to satisfactorily perform the Contract. In this event the Purchaser shall proceed to the next ranked Bidder to make a similar reassessment of that Bidder's capabilities to perform satisfactorily.
- 33. Purchaser's Right to Vary Quantities at Time of Award** 33.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V, Schedule of Supply, provided this does not exceed the percentages indicated in the BDS, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.
- 34. Notification of Award** 34.1 Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its Bid has been accepted. At the same time, the Purchaser shall also notify all other Bidders of the results of the bidding.
- 34.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 35. Signing of Contract** 35.1 Promptly after notification, the Purchaser shall send to the successful Bidder the Agreement and the Special Conditions of Contract.
- 35.2 Within fourteen (14) days of receipt of the Agreement, the

- successful Bidder shall sign, date, and return it to the Purchaser.
- 36. Performance Security**
- 36.1 Within seven (7) days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section VIII, Contract Forms, or another form acceptable to the Purchaser.
- 36.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.

Section II. Bid Data

A. General	
ITB 1.1	The number of the Invitation for Bids is: ICB/024/MPW-2012
ITB 1.1	The Purchaser is: Ministry of Public Works on behalf of the Government of the Democratic Republic of Timor Leste
ITB 1.1	The name of the ICB is: Supply of High Speed Diesel Fuel for EDTL
ITB 5.1	The Bidder is required to include with its Bid, documentation/certification from the wholesaler that it has been duly authorized to supply, in the RDTL, the Goods (fuel) indicated in its Bid.
C. Preparation of Bids	
ITB 7.1	The deadline for submitting requests for clarification shall be 3 October 2012 . For clarification purposes only, the Purchaser's address is: Attention: ANICETO DO ROSARIO Acting Coordinator, National Procurement Commission Address: Palacio do Governo, Edificio 2 -1° Andar, Avenida Presidente Nicalau Lobato, Dili, Timor-Leste Electronic mail address: adorosario@npc.gov.tl ; copy to: rrillo@npc.gov.tl
ITB 7.1	A Pre-Bid meeting shall take place at the following date, time and place: Time: 25 September 2012; 1000 hours local time Place: Palacio do Governo, Edificio 2-1° Andar, Avenida Presidente Nicalau Lobato, Dili, Timor-Leste
ITB 10.1	The language of the Bid is: English
ITB 14.1	The Bidder shall compute its unit bid price in accordance with the following pricing model: <u>Unit Bid Price = Base Price + Supplier's Tendered Fixed Rate.</u> <ol style="list-style-type: none">1. The Base Price shall be the Mean of Platts Singapore (MOPS) price applicable to the diesel fuel to be supplied in accordance with the technical specifications, on the date seven (7) calendar days before the deadline for bid submission, as published by Platts Singapore. <i>(Note: This Base Price shall only be for the purpose of comparing bids. During the actual contract implementation, the actual payment to be made shall be based on the MOPS at the time of purchase. Please refer to the Bid Documents Section VII – Special Conditions of Contract.)</i>2. The Supplier's Tendered Fixed Rate shall include shall include all profit, transportation costs, insurance costs, testing fees, customs all duties and taxes inside and outside of Timor-Leste, and all other operational costs required to deliver the fuel to the final destination in accordance with the contract requirements. This rate shall be fixed for the whole duration of the

	Contract and shall not be subject to adjustment on any account.
ITB 19.1	The bid validity period shall be: Sixty (60) days
ITB 20.1	The Bidder must submit together with its Technical Proposal a Bid Security in the amount of Four Hundred Thousand US Dollars (US\$400,000.00) .

D. Submission and Opening of Bids	
ITB 22.1	In addition to the original of the Bid, the required number of copies is: three (3) Copies
ITB 22.2	The written confirmation of Authorization to sign on behalf of the Bidder shall consist of: A notarised Power of Attorney
ITB 24.1	For bid submission purposes only, the Employer's address is: Attention: Aniceto do Rosario Acting Coordinator, National Procurement Commission Address: Palacio do Governo, Edificio 2 -1° Andar, Avenida Presidente Nicalau Lobato, Dili, Timor-Leste.
ITB 24.1	The deadline for bid submission is: Date: 11 October 2012 Time: 16:00 (local Time)
ITB 27.1	The Technical bid opening shall take place at: Address: Office of the National Procurement Commission Palacio do Governo, Edificio 2 -1° Andar, Avenida Presidente Nicalau Lobato, Dili, Timor-Leste Date: 11 October 2012 Time: 16:00 hours local time
F. Award of Contract	
ITB 41.1	The maximum percentage by which quantities may be increased is: 10% The maximum percentage by which quantities may be decreased is: 10%

Section III. Evaluation and Qualification Criteria

Evaluation Criteria

The evaluation shall be based on the documents that the Bidder has submitted with its Bid. Therefore, the Bidder is reminded to submit all the necessary information and documentation to enable the Purchaser to make an evaluation. Failure of the Bidder to provide the necessary information may result in the rejection of the Bid.

Bid evaluation shall be undertaken in two stages. The first stage will be the Evaluation of Technical Proposals applying the technical evaluation criteria, subcriteria, and scoring system specified below.

The passing score for bidder qualification is 75%.

The second stage will be the evaluation of the price proposals of **only the Bidders with the top two technical scores** based on the result of the first stage evaluation above. To determine the “price score”, the lowest evaluated bid price X will automatically score 100% for the price component evaluation. Other bidders with bid price Y will be assigned a price proposal score = $100\% * (X / Y)$.

The final ranking shall be determined by combining the Technical and Price scores, applying a **Technical:Price Ratio of 30:70**.

Technical Evaluation:

The technical evaluation will be undertaken in two stages. The first stage will be the determination of the Bidder’s compliance to the basic bid and eligibility requirements to be undertaken on a “Pass or Fail” basis.

1. The following documentation shall be checked:
 - Signatory to the bid is authorized to commit the Bidder as evidenced by a Power of Attorney submitted with the Bid;
 - Valid Business Registration Certificate from country of domicile;
 - Proof of tax payments for immediate past quarter duly authenticated (for local Bidders);
 - Documentation/certification from the wholesaler that Bidder has been duly authorized to supply, in the RDTL, the Goods (fuel) indicated in its Bid, in accordance with ITB Clause 5.1;
 - Bid Security, in accordance with ITB Clause 20
2. The Purchaser shall also examine the Technical Proposals to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any reservation;
3. The Purchaser shall evaluate the Bidder’s compliance to the fuel specification requirements and shall also confirm that all other requirements specified in Section V, Schedule of Supply of the Bidding Document have been met without any material deviation.
4. The Purchaser shall also confirm that:
 - The Bidder is not subject of current sanctions or declaration of ineligibility for fraud and corruption by the Purchaser;
 - Bidder does not have a conflict of interest with one or more parties participating in or executing this bidding process; and
 - In the case of a joint venture, confirm that the Bidder submitted a certification that all parties shall be jointly and severally liable and that the Bidder has nominated a Representative who shall have the authority to conduct all business for and on behalf of any and all parties of the joint venture during the bidding process, and in the event the joint venture is awarded a contract, also during contract execution.

Only those Bidders which passed the Stage 1 evaluation shall be considered further in the 2nd stage – Technical evaluation. The criteria and scoring system to be applied are provided below:

Technical Evaluation Criteria	Minimum Requirements				Evaluation Weight
	Single Entity	Joint Venture			
		All partners combined	One Partner	Each Partner	
1. Supplier's Capability					
a) Extent of the Bidder's experience in supply contracts of a similar nature and magnitude (as a minimum, the Bidder must have experience as a fuel supplier for at least 3 years and has satisfactorily completed one (1) similar contract within the last 5 years)	Must meet requirement	Must meet requirement	Not Applicable	Not Applicable	15
b) Financial Capacity (as a minimum, the Bidder must have cash or lines of credit, and other liquid finances of Eight Million Five Hundred Thousand US Dollars (\$8,500,000) , net of the Bidder's commitments for its other contracts.	Must meet requirement	Must meet requirement	Must meet at least 40% of the requirement	Must meet at least 20% of the requirement	35
c) Size of Operations (as a minimum, the Bidder's average annual turn-over for the last three years shall be at least Ten Million US Dollars (\$10,000,000))	Must meet requirement	Must meet requirement	Must meet at least 40% of the requirement	Must meet at least 20% of the requirement	5
d) Soundness of the Bidder's financial position demonstrated through audited annual financial statements for the last three years (as a minimum, a Bidder's net worth calculated as the difference between total assets and total liabilities must be positive)	Must meet requirement	Not Applicable	Must meet requirement	Must meet requirement	5
2. Supply Methodology					
a) Appreciation of the issues and risks involved and the corresponding mitigation measures proposed					7.5
b) Source of the fuel including details of the specific type of contract that the Bidder has with the fuel manufacturer or wholesaler;					10
c) Quality assurance – how will the Bidder ensure the quality of the fuel to be supplied;					7.5
d) Proposed supply methodology including detailed description of the resources to be used					15
Total					100

The scoring shall be in accordance with the following scoring table:

Quality	Score	Score Definition
EXCELLENT	100	Proposal <u>substantially exceeds</u> the sub – criteria requirements
VERY GOOD	90 - 99	Proposal <u>exceeds</u> the sub – criteria requirements
ABOVE AVERAGE	80 -89	Proposal <u>fully meets</u> the sub – criteria requirements
AVERAGE	70 - 79	Proposal <u>adequately meets</u> the sub – criteria requirements
BELOW AVERAGE	1 - 69	Proposal has <u>significant deficiencies</u> against sub – criteria requirements
NON COMPLYING	0	Proposal either <u>does not comply with</u> the sub – criteria requirements or does not provide enough information

Section IV - Bidding Forms

This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid.

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TECHNICAL ENVELOPE

Letter of Technical Bid

[Bidder's Letterhead]

Date:
ITB No.:

To:

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.:
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section VI, Schedule of Supply, the following Goods and Related Services:
Supply of High Speed Diesel Fuel for EDTL.
- (c) Our Bid shall be valid for a period of 60 days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (d) If our Bid is accepted, we commit to obtain a Performance Security in the amount of 5% of the contract amount for the due performance of the Contract;
- (e) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Document;
- (f) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the Contract, has not been declared ineligible;
- (g) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed.
- (h) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

Name _____
 In the capacity of _____
 Signed _____
 Duly authorized to sign the Bid for and on behalf of _____
 Date _____

STAMP OF THE COMPANY

Power of Attorney

Bid reference: Supply of High Speed Diesel Fuel for EDTL

Please attach here the original power of attorney empowering the signatory of the tender and all related documentation.

This document must be notarised¹.

Signature

(a person or persons authorised to sign on behalf of the bidder)

Date.....

STAMP OF THE COMPANY

STAMP OF THE NOTARY

¹ **The signatures of the person authorised to sign must be certified by a private lawyer, notary or public entity**

Bid Security

Date: _____
ICB No.: _____
Invitation for Bid No.: _____

To: _____

Whereas _____

(hereinafter "the Bidder") has submitted its Bid dated _____ for ICB No. _____ for the supply of _____ hereinafter called "the Bid."

KNOW ALL PEOPLE by these presents that WE _____ of _____ having our registered office at _____ (hereinafter "the Guarantor"), are bound unto _____ (hereinafter "the Purchaser") in the sum of _____ for which payment well and truly to be made to the aforementioned Purchaser, the Guarantor binds itself, its successors, or assignees by these presents. Sealed with the Common Seal of this Guarantor this _____ day of _____, _____.

THE CONDITIONS of this obligation are the following:

1. If the Bidder withdraws its Bid during the period of bid validity specified by the Bidder in the Bid Submission Sheet, except as provided in ITB Clause 15; or
2. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser, during the period of bid validity, fails or refuses to:
 - (a) execute the Contract; or
 - (b) Provide the Performance Security, in accordance with the ITB Clause 36; or
 - (c) accept the correction of its Bid by the Purchaser, pursuant to ITB Clause 30.

We undertake to pay the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser states that the amount claimed by it is due to it, owing to the occurrence of one or more of the above conditions, specifying the occurred conditions.

This security shall remain in force up to and including twenty-eight (28) days after the period of bid validity, and any demand in respect thereof should be received by the Guarantor no later than the above date.

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the Bid Security for and on behalf of _____

Date _____

Compliance to Technical Specifications

Bidder is required to fill-in the table below to indicate whether it is able to supply the required diesel fuel in accordance with the technical specifications. If the Bidder is unable to comply with the technical specifications, the bidder must specify the deviations.

The Bidder shall also submit brochures or other documentary evidence to demonstrate the compliance of the proposed goods to the technical specification requirements.

No	Properties	Limits		Test Methods		Bidder's Response	
		Min	Max	IP	ASTM	Yes/No	Deviations, if any
1	Specific Gravity @ 15 °C	0.82	0.87		D-1298		
2	Color ASTM		1.5		D-1500		
3	Cetane Number or Alternatively Calculated Cetane Index	45 48			D-613 D-976		
4	Viscosity Kinematic at 40°C cSt	1.7	5.5		D-445		
5	Pour Point @ 0 °C		9		D-97		
6	Sulphur Content % wt		0.5	336			
7	Copper Strip (3 hrs / 100°C)		No.1		D-130		
8	Conradson Carbon Residue % mass (on 10% vol bottom)		0.1		D-4530		
9	Water content %vol		0.05		D-95		
10	Sediment % mass		0.01		D-473		
11	Ash content % weight		0.01		D-482		
12	Strong Acid Number mg KOH/gram Total Acid Number, mg KOH/gram		Nil 0.25		D-974 D-974		
13	Flash point °C	66			D-93		
14	Distillation: 50% recovered, °C 90% recovered, °C Final Boiling Point		Report 370 400		D-86		

Proposed Supply Methodology

Bidders Qualification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

Eligibility

Bidder’s Information Form

Bid reference: Supply of High Speed Diesel Fuel for EDTL.

- 1. Name of company
.....
.....
- 2. Registered address
.....
.....
Telephone Fax..... TelexE-mail.....
- 3. Names and nationalities of principals/directors and associates
.....
.....
- 4. Type of company (natural person, partnership, corporation, etc.)
.....
- 5. Description of company
- 6. Company's nationality
- 7. Number of years experience
- in own country.....
- internationally
- 8. Registration details
.....
.....
- 9. Equity in the company Shares
(%).....
- 10. Name(s) and address(es) of companies involved in the project and whether
parent/subsidiary/subcontractor/other:.....
.....
- 11. If the company is a subsidiary, what involvement, if any, will the parent company have in the
project?
.....
- 12. Foreign companies must state whether they are established in Timor-Leste in accordance with
applicable regulations (for information only)

Attached are copies of the following original documents.

Please attach copy of the registration certificate

- 1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2.
- 2. Authorization to represent the firm or JV named in above
- 3. In case of JV, letter of intent to form JV or JV agreement

Signature:

(a person or persons authorised to sign on behalf of the bidder)

Date:.....

STAMP OF THE COMPANY

JV Information Sheet

Bid reference: Supply of High Speed Diesel Fuel for EDTL.

Each member of a JV must fill in this form

JV Information	
Bidder's legal name	
JV Partner's legal name	
JV Partner's country of constitution	
JV Partner's year of constitution	
JV Partner's legal address in country of constitution	
JV Partner's authorized representative information (name, address, telephone numbers, fax numbers, e-mail address)	
<p>Attached are copies of the following original documents.</p> <p><input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above</p> <p><input type="checkbox"/> 2. Authorization to represent the firm named above</p> <p><input type="checkbox"/> 3. In the case of government-owned entity, documents establishing legal and financial autonomy and compliance with commercial law</p>	

Signature:

(a person or persons authorised to sign on behalf of the bidder)

Date:.....

STAMP OF THE COMPANY

Pending Litigation

Each Bidder or member of a JV must fill in this form.

Pending Litigation			
<input type="checkbox"/> No pending litigation in accordance with Criteria 2.2 of Section III (Evaluation and Qualification Criteria)			
<input type="checkbox"/> Pending litigation in accordance with Criteria 2.2 of Section III (Evaluation and Qualification Criteria)			
Year	Matter in Dispute	Value of Pending Claim in US\$ Equivalent	Value of Pending Claim as a Percentage of Net Worth

Signature:

(a person or persons authorised to sign on behalf of the bidder)

Date:.....

STAMP OF THE COMPANY

Financial Capacity

Financial Situation

Bid reference: Supply of High Speed Diesel Fuel for EDTL.

Each Bidder or member of a JV must fill in this form.

Information from Balance Sheet²

	Projection	Information of the 3 Last Years		
	Year + 1Year (2012)	Year 0 (2011)	Year -1 (2010)	Year -2 (2009)
Total Assets				
Total Liabilities				
Net Worth				
Current Assets				
Current Liabilities				

Information from Income Statement

Total Revenues				
Profits Before Taxes				
Profits After Taxes				

- Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last three years, as indicated above, complying with the following conditions.
- All such documents reflect the financial situation of the Bidder or partner to a JV, and not sister or parent companies.
 - Historic financial statements must be audited by a certified accountant.
 - Historic financial statements must be complete, including all notes to the financial statements.
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

Signature:
(a person or persons authorised to sign on behalf of the bidder)

Date:

STAMP of THE COMPANY

² It shall be supported by the corresponding balance sheets for International Bidders only as the Balance sheets and accounting system has not yet been in place in RDTL.

Size of Operation / Average Annual Turnover

Bid reference: Supply of High Speed Diesel Fuel to EDTL.

Each Bidder or member of a JV must fill in this form

Annual Turnover Data for the Last 3 Years			
Year	Amount Currency	Exchange Rate	US\$ Equivalent
2007			
2008			
2009			
2010			
Average Annual Turnover			

The information supplied should be the Annual Turnover of the Bidder or each member of a JV in terms of the amounts billed to clients for each year for contracts in progress or completed, converted to US Dollars at the rate of exchange at the end of the period reported.

Signature:
(a person or persons authorised to sign on behalf of the bidder)

Date:

STAMP of THE COMPANY

Financial Resources

Bid reference: Supply of High Speed Diesel Fuel to EDTL

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section 3 (Evaluation and Qualification Criteria)

Financial Resources		
No.	Source of financing	Amount (US\$ equivalent)
1		
2		
3		

Signature:
 (a person or persons authorised to sign on behalf of the bidder)

Date:

STAMP of THE COMPANY

Current Contract Commitments

Bidders and each partner to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts which are ongoing.

Current Contract Commitments					
No.	Name of Contract	Employer's Contact Address, Tel, Fax	Value of Outstanding Contract [Current US\$ Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [US\$/month]
1					
2					
3					
4					
5					

General Experience

Bid reference: Supply of High Speed Diesel Fuel for EDTL.

Each Bidder or member of a JV must fill in this form

**List of contracts of similar nature and extent performed during the past 5 years.
The bidder shall submit appropriate certification from the client mentioning that the Bidder successfully performed the contract.**

General Experience				
Starting Month Year	Ending Month Year	Years	Contract Identification and Name Name and Address of Employer Brief Description of the Contract Executed by the Bidder	Role of Bidder

Signature:
(a person or persons authorised to sign on behalf of the bidder)

Date:

STAMP of THE COMPANY

Manufacturer's or wholesalers Authorization

[The Bidder shall require the Manufacturer or Wholesaler to fill in this Form in accordance with the instructions indicated. This letter of authorization should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer or Wholesaler. The Bidder shall include it in its bid, if so indicated in the BDS.]

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

ICB No.: *[insert number of bidding process]*

To: *[insert complete name of Employer]*

WHEREAS

We *[insert complete name of Manufacturer or Manufacturer's authorized agent]*, who are official manufacturers or agent authorized by the manufacturer of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby authorize *[insert complete name of Bidder]* to submit a bid the purpose of which is to provide the following goods, manufactured by us *[insert name and or brief description of the goods]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the goods offered by the above firm.

Signed: *[insert signature(s) of authorized representative(s) of the Manufacturer]*

Name: *[insert complete name(s) of authorized representative(s) of the Manufacturer]*

Title: *[insert title]*

Duly authorized to sign this Authorization on behalf of: *[insert complete name of Bidder]*

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

FINANCIAL ENVELOPPE

Letter of Price Bid

[Bidder's Letterhead]

Date: _____
ICB No.: _____

To: _____

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.:
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section VI, Schedule of Supply, the following Goods and Related Services
Supply of High Speed Diesel Fuel for EDTL.

(c) The total price of our Bid is: _____

(d) 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:

Name of Recipient	Address	Reason	Amount
-------------------	---------	--------	--------

(If none has been paid or is to be paid, indicate "none.")

Name _____
In the capacity of _____
Signed _____

Duly authorized to sign the Bid for and on behalf of _____
Date _____
Stamp of the company _____

Price Schedule

Name of Bidder: _____	ICB No.
	Contract No :

Item Description	Quantity (liters) (a)	MOPS Price (b)	Fixed Fee (c)	Total Unit Price (d) = (b)+ (c)	Total Price (e) = (a) x (d)
High-Speed Diesel Fuel	47,000,000				

Important Notes:

1. All prices shall be quoted in US Dollars;
2. **For column (b), the Bidder must specify the MOPS on the date seven (7) days before the bid closing date** *(Note: This MOPS Price shall only be for the purpose of comparing bids. In case the Bidder specified an incorrect MOPS Price, the Purchaser shall make the appropriate correction during the evaluation of bids.);*
3. The “Fixed Fee” shall include all profit, transportation costs, insurance costs, testing fees, customs all duties and taxes inside and outside of Timor-Leste, and all other operational costs required to deliver to the final destination in accordance with the contract requirements.

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the Bid for and on behalf of _____

Date _____

Schedule of Supply

This contract is for the supply of fuel to the EDTL for the period of **01st November 2012 until 30th April 2013, Six months (6) contract.**

EDTL fuel requirement are as follows:

- **The total of High Speed Fuel Diesel required for the period of six (6) months is 47,000,000 liters;**
- **Required monthly deliveries as follows:**

Month	Required Fuel Delivery (liters)
November 2012	8,500,000
December 2012	8,500,000
January 2013	7,500,000
February 2013	7,500,000
March 2013	7,500,000
April 2013	7,500,000
Total for 6 Months	47,000,000

- **The fuel shall be delivered to the Existing Storage Tanks at the Hera Power Plant;**
- **The Hera Power Plant has an existing storage capacity of 15,000 cubic meters;**
- **There is currently an on-going installation of a pipeline system from the Hera Port to the existing storage tanks, which is expected to be already completed by the time this supply contract commences. The Supplier may make use of this piping system however, the Supplier must have his own floating pipes of about 400 meters long which could connect to the 150 mm pipeline currently being installed.**
- **Each delivery to be inspected and sampled prior to acceptance and EDTL retains the right to reject any visibly contaminated fuel.**
- **High speed Diesel fuel characteristics required as attached. (see Annex I)**

ANNEX I - High-Speed Diesel Fuel Characteristics

No	Properties	Limits		Test Methods	
		Min	Max	IP	ASTM
1	Specific Gravity @ 15 °C	0.82	0.87		D-1298
2	Color ASTM		1.5		D-1500
3	Cetane Number or Alternatively Calculated Cetane Index	45 48			D-613 D-976
4	Viscosity Kinematic at 40°C cSt	1.7	5.5		D-445
5	Pour Point @ 0 °C		9		D-97
6	Sulphur Content % wt		0.5	336	
7	Copper Strip (3 hrs / 100°C)		No.1		D-130
8	Conradson Carbon Residue % mass (on 10% vol bottom)		0.1		D-4530
9	Water content %vol		0.05		D-95
10	Sediment % mass		0.01		D-473
11	Ash content % weight		0.01		D-482
12	Strong Acid Number mg KOH/gram Total Acid Number, mg KOH/gram		Nil 0.25		D-974 D-974
13	Flash point °C	66			D-93
14	Distillation: 50% recovered, °C 90% recovered, °C Final Boiling Point		Report 370 400		 D-86

Section VI - General Conditions of Contract

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- 1. Definitions**
- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) "Contract" means the Agreement entered into between the Purchaser 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 Agreement, including any amendments thereto.
 - (c) "Contract Price" means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
 - (d) "Day" means calendar day.
 - (e) "Delivery" means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the Contract.
 - (f) "Completion" means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
 - (g) "GCC" means the General Conditions of Contract.
 - (h) "Goods" means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
 - (i) "Purchaser's Country" is the Democratic Republic of Timor-Leste (RDTL).
 - (j) "Purchaser" means the entity purchasing the Goods and Related Services, as specified in the SCC.
 - (k) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
 - (l) "SCC" means the Special Conditions of Contract.
 - (m) "Subcontractor" means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.
 - (n) "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 Purchaser and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Supplier.
 - (o) "The Site," where applicable, means the place named in the SCC.

- 2. Contract Documents**
- 2.1 Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.
- 3. Corrupt Practices**
- 3.1 The Purchaser requires Suppliers to observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Purchaser:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) "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;
- (iii) "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;
- (iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract; and
- (c) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in government contracts if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices.
- 3.2 The Supplier shall permit the Purchaser to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Purchaser, if so required by the Purchaser
- 4. Interpretation**
- 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Incoterms
- (a) The meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
- (b) EXW, CIF, 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 at the date of the Invitation for

Bids or as specified in the SCC.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of 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 authorized representative of each party thereto.

4.5 Nonwaiver

(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 Contract.

(b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized 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 Purchaser, 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 the SCC, 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.

6. Joint Venture, Consortium or Association

6.1 Unless otherwise specified in the SCC, if the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment 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 Purchaser.

7. (Not Applicable)

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. The term "in writing" means communicated in written form with proof of receipt.
- 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 Purchaser's country, unless otherwise specified in the SCC.

10. Settlement of Disputes

- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight (28) days from the commencement of such consultation, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

11. Scope of Supply

- 11.1 Subject to the SCC, the Goods and Related Services to be supplied shall be as specified in Section VI, Schedule of Supply.
- 11.2 Unless otherwise stipulated in the Contract, the Scope of Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in the Contract.

12. Delivery

- 12.1 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 Section VI, Schedule of Supply. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.

13. Supplier's Responsibilities

- 13.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.

14. Purchaser's Responsibilities

- 14.1 Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 14.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with GCC Sub-Clause 14.1.

15. Contract Price

- 15.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.

- 15.2 Prices charged by the Supplier for the Goods delivered 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 authorized in the SCC.
- 16. Terms of Payment**
- 16.1 The Contract Price shall be paid as specified in the SCC.
- 16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all the obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, no later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it.
- 16.4 The currency or currencies in which payments shall be made to the Supplier under this Contract shall be specified in the SCC.
- 17. Taxes and Duties**
- 17.1 For goods supplied from outside the Purchaser's country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's country.
- 17.2 For goods supplied from within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 18. Performance Security**
- 18.1 The Supplier shall, within fourteen (14) days of the notification of Contract award, provide a Performance Security for the due performance of the Contract in the amounts and currencies specified in the SCC.
- 18.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 The Performance Security shall be in one of the forms stipulated by the Purchaser in the SCC, or in another form acceptable to the Purchaser.
- 18.4 The Performance Security shall be discharged by the Purchaser 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 Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser 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.
- 20. Confidential Information**
- 20.1 The Purchaser 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 Purchaser 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 Purchaser 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 Purchaser for any purpose other than the design, procurement, or other work and services required for 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) now or hereafter enters the public domain through no fault of that party;
 - (b) 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
 - (c) 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 Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the Bid. Subcontracting shall in no event 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 Supplier shall ensure that the Goods and Related Services comply with the technical specifications and other provisions of the Contract.
 - (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 Purchaser, by giving a notice of such disclaimer to the Purchaser.
 - (c) The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section VI, Schedule of Supply and, when no applicable standard is mentioned, the standard

shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Goods.

- 22.2 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 Section VI, Schedule of Supply. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser 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 final destination of the Goods 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 Purchaser.
- 24. Insurance**
- 24.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured 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, the Supplier shall be responsible for all necessary transportation to deliver the Goods to the specified delivery points.
- 26. Inspections and Tests**
- 26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in Sections VI, Schedule of Supply.
- 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 final destination of the Goods, or in another place in the Purchaser's country 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 Purchaser.
- 26.3 The Purchaser 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 Purchaser 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 Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test

and/or inspection.

- 26.5 The Purchaser 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 specifications, 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 Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser 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 Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, 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 Purchaser 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 or perform the Related Services within the period specified in the Contract, the Purchaser 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 Contract Price for each day of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Purchaser 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, 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 The Purchaser 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 Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 28.4 Upon receipt of such Notice, the Supplier shall expeditiously repair or replace the defective Goods or parts thereof, at no cost to the

Purchaser.

29. Patent Indemnity

29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser 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 Purchaser 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 the country where the Site is located; 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 Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.

29.4 The Purchaser 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 Purchaser 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 Purchaser.

30. Limitation of Liability

30.1 Except in cases of gross negligence or willful misconduct :

- (a) neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss

of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and

- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort, or otherwise, shall not exceed the amount specified in the SCC, 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 the Invitation for Bids, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or 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 Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

33. Change Orders and Contract Amendments

- 33.1 The Purchaser 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 Purchaser;
 - (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 and Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.
- 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.
- 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 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause.
- 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 27, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.
- 35. Termination**
- 35.1 Termination for Default
- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by 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 Purchaser pursuant to GCC Clause 34; or
 - (ii) if the Supplier fails to perform any other obligation under the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser 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 Purchaser 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.
- (c) if the Supplier, in the judgment of the Purchaser has engaged in corrupt, fraudulent, collusive, or coercive practices, as defined in GCC Clause 3, in competing for or in executing the Contract.
- 35.2 Termination for Insolvency
- The Purchaser 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

Purchaser.

35.3 Termination for Convenience

- (a) The Purchaser, 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 Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The fuel where a Purchase Order has already been issued to the Supplier before the Supplier's receipt of the Notice of termination shall be accepted by the Purchaser at the Contract terms and prices.

36. Assignment

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

Section VII. Special Conditions of Contract

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

GCC 1.1(k)	The Purchaser is: Ministry of Public Works on behalf of the Governo da Republica Democrática de Timor Leste
GCC 5.1	The language shall be: English
GCC 6.1	The individuals or firms in a joint venture, consortium or association shall be jointly and severally liable.
GCC 8.1	For notices , the Purchaser's address shall be: <p style="text-align: right;">Ministry of Public Works – Office of the Director General for Corporate Services Attention: Mr Jose L.C.C. Pereira Mestre, S.Sos</p> <p>Address: Av Bispo de Medeiros, Ex Telkom Building, Dili Timor-Leste</p> <p>Telephone: +670 3310910</p> <p>Electronic mail address: jose.mstr@gmail.com</p>
GCC 9.1	The governing law shall be: Law of Timor-Leste
GCC 10.2	The formal mechanism for the resolution of disputes shall be: <p>In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled by arbitration under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators selected in accordance with said Rules. The language of the proceedings shall be English</p>
GCC 12.1	Details of shipping and documents to be furnished by the Supplier shall be: <p>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by telex, fax or email (Pdf attachment) the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc.</p> <p>The Supplier shall send the following documents to the Purchaser, with a copy to the Insurance Company:</p> <ol style="list-style-type: none"> a) 2 copies of the Supplier's invoice showing the description of the Goods, quantity, unit price, and total amount; b) original and 2 copies of the negotiable, clean, on-board bill of lading marked "freight prepaid" and copies of non-negotiable bill of lading; c) 2 copies of the packing list identifying contents of each package; d) insurance certificate (110% of the value of the goods up to final destination); e) Manufacturer's or Main Supplier certificate of origin; f) inspection certificate, issued by the nominated inspection agency, and the Supplier's inspection report;
GCC 15.2	The price adjustment shall be: Not Applicable

GCC 16.1	<p>PAYMENT</p> <p>The determination of the price to be paid and the terms of payment shall be as specified in this clause.</p> <p>A. <u>UNIT PRICE TO BE PAID</u></p> <p>The price to be paid shall be based on the following pricing model:</p> <p>Price to be paid = Base Price (MOPS) + Supplier's Tendered Fixed Rate to cover all operational costs and profit.</p> <ol style="list-style-type: none"> 1. The Base Price shall be the Mean of Platts Singapore (MOPS) price applicable to the diesel fuel to be supplied in accordance with the contract, on the date of purchase, as published by Platts Singapore. 2. The Supplier is required to supply documentary proof of date of purchase; 3. In the event of dispute with regards to the date of purchase, the applicable Base Price at source shall be the MOPS price applicable on the loading date; 4. The Fixed Rate shall be the price tendered by the Supplier and accepted by the Purchaser. This fixed rate shall be fixed for the whole duration of the Contract and shall not be subject to adjustment on any account. <p>B. <u>PAYMENT TERMS</u></p> <ol style="list-style-type: none"> 1. The Purchaser shall make an advance payment to the Supplier in an amount equivalent to 20% of the contract price, subject to the submission by the Supplier of an Advance Payment Guarantee of equivalent amount issued by a bank located in Timor-Leste, in accordance with the format provided in the Bidding Documents – Section VIII; 2. The Purchaser shall recoup the advance payment by deducting 20% of the gross value of each payment certificate until the advance payment is fully paid; 3. Payment for the monthly fuel deliveries shall be made within 60 days upon acceptance by EDTL of the fuel delivered and upon receipt of the invoice from the Supplier.
	The currencies for payments shall be: US Dollars
GCC 18.1	The Performance Security shall be in the amount equivalent to FIVE PERCENT (5%) of the Contract Price.
GCC 18.3	The types of acceptable Performance Security is: A BANK GUARANTEE issued by a reputable bank located in the RDTL, in the format included in Section VII
GCC 18.4	Release of Performance Security shall take place: The Performance Security will be release on satisfactory completion of the Contract.
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: Project Name: Supply of High Speed Diesel Fuel for EDTL Client: Ministry of Public Works – Electricidade De Timor – Leste EDTL Destination: Dili – Timor-Leste
GCC 24.1	The insurance coverage shall be in accordance with: Pursuant to GCC, Sub-Clause 24.1, the Supplier must insure the Goods in an amount equal to one hundred ten (110%) percent of the DDP or EXW price of the Goods from “Warehouse” to “Warehouse” on “All Risks” basis, including War Risks and Strikes.

GCC 26.2	<p>Inspections and tests required prior to shipment and at final acceptance shall be as follows:</p> <p>Prior to shipment: Supplier must obtain from the wholesaler/s certificate of quality and fuel Specifications in a format that is compliant with fuel industry international standards. A copy of these certificates must be submitted with every invoice to purchaser.</p> <p>At final acceptance – The Purchaser may undertake whatever tests it deems necessary to verify the compliance of fuel quality with set specifications. Quantity and Quality Determination.</p> <ol style="list-style-type: none">1. The parties mutually agree a recognized independent surveyor shall be appointed either by seller or buyer at designated loading port nominated by the supplier and agreed to by the Purchaser, to assess the quality and quantity of the cargo according to the provisions herein stated.2. Quality assessments conducted by a mutually agreed independent inspection surveyor shall be in accordance with method and procedure usually used in the oil industry practice, and however, at all times, shall strictly comply with the revised international standards and procedures at the date of compliance. An inspection certificate for each shipment shall be submitted to the purchaser showing measurements against the technical Specifications.3. The quantity of each shipment of oil shall be assessed by the surveyor at the loading port on the completion of each loading operation. This assessed quantity shall be used for computing D (a) of the present contract based on the quantity ordered for that shipment.4. In the event of an inaccuracy with the device used to measure the quantity received at the discharge port (failure of flow meters, meter bank and/or devices) then manual shore tank measurement shall be applied.5. The purchaser shall be entitled to reject, by delivery of written notice to the supplier, any shipment of fuel which fails to conform to any of the minimum quality specification for such fuel.6. The supplier shall render his service at all times under the contract to implement adequate fire prevention and control plans and procedures at all locations where the supplier operates pursuant to the contract.7. At all times the supplier shall effect and maintain continuous fire hazard and extended covered insurance upon any goods subject to the contract in an amount equal to sound insurable value of such goods and labor incorporated therein with loss payable to the supplier and RDTL as their interest may appear.8. The supplier agrees to provide fire fighting equipment, maintain all facilities and equipment, and follow all required national and international safety requirements to insure a safe environment for RDTL personnel and equipment in or near the supplier's facilities or equipment.9. The supplier is responsible for any damage or injury caused as a result of the supplier's faulty equipment or by the supplier's non-compliance with reasonable safety procedures in the day – to-day performance of service under the contract.
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GCC 27.1	Liquidated damage shall be applied if the Supplier fails to deliver the required monthly fuel delivery. The Liquidated Damage shall be equivalent to FIFTEEN THOUSAND DOLLARS(US\$15,000) per day of delay or part thereof
GCC 27.1	The maximum amount of liquidated damages shall be: TEN PERCENT (10%) of the contract value for the specific month where delay was incurred.

Section VIII. Contract Forms

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Agreement

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter "the Purchaser"), of the one part, and _____ of _____ (hereinafter "the Supplier"), of the other part:

WHEREAS the Purchaser invited bids for certain Goods and Related Services, viz., _____ and has accepted a Bid by the Supplier for the supply of those Goods and Related Services in the sum of _____ (hereinafter "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) the Purchaser's Notification to the Supplier of Award of Contract;
 - (b) the Bid Submission Sheet and the Price Schedules submitted by the Supplier;
 - (c) the Special Conditions of Contract;
 - (d) the General Conditions of Contract;
 - (e) the Schedule of Supply; and
 - (f) _____.

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.

3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

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

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of _____ on the day, month and year indicated above.

Signed by _____ (for the Purchaser)

Signed by _____ (for the Supplier)

Performance Security

Date: _____

Contract Name and No. : _____

To: _____

WHEREAS _____ (hereinafter "the Supplier") has undertaken, pursuant to Contract No. _____ dated _____, _____ to supply _____ (hereinafter "the Contract").

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Supplier shall furnish you with a security _____ issued by a reputable guarantor for the sum specified therein as security for compliance with the Supplier's performance obligations in accordance with the Contract.

AND WHEREAS the undersigned _____, legally domiciled in _____, (hereinafter "the Guarantor"), have agreed to give the Supplier a security:

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

This security is valid until the _____ day of _____, _____.

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the security for and on behalf of _____

Date _____

Advance Payment Security

Date: _____

Contract Name and No. : _____

To: _____

In accordance with the payment provision included in the Contract, in relation to advance payments, _____ (hereinafter called "the Supplier") shall deposit with the Purchaser a security consisting of a Bank Guarantee, to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of _____.

We, the undersigned _____, legally domiciled in _____ (hereinafter "the Guarantor"), as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the Purchaser on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding _____.

This security shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until _____, _____.

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the security for and on behalf of _____

Date _____