

Telephone Shilpa Sangstha Limited
Tongi, Gazipur
(A State Own Public Limited Company)

BIDDING DOCUMENT

FOR

**"Supply of STM-1 MUX & ONU in modular form & assist
TSS for Installation, Testing and Commissioning of
STM-1 MUX& ONU at various sites on Turn-key Basis"**

Book - 1 (One)

GENERAL CONDITIONS OF TENDER AND CONTRACT

TENDER NO. TSS/FP/OLT&ONU/2010/01

DATED : 24/03/2010



টেলিফোন শিল্প সংস্থা লিমিটেড

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BOOK ONE

General Conditions of Tender & Contract

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TENDER DOCUMENT : MUX & ONU EQUIPMENT

BOOK ONE

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Book 1
CHAPTER 1
INVITATION FOR BID PROPOSAL

- 1.1. **The Government of the People's Republic of Bangladesh, represented by Bangladesh Telecommunication Company Ltd.,(BTCL)** intends to deliver huge bandwidth getting through SEA-ME-WE4 Submarine Cable to the subscribers' like-households, corporate offices, international organizations, Internet service providers, government/semi-government/autonomous offices/ research organizations and educational institutes. As such it intends to procure all the required products and services for the work as mentioned subsequently in this Bidding Document in the name of "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM- 1 MUX & ONU at various sites on Turn- key Basis**".
- 1.2. Telephone Shilpa Sangstha Limited, Tongi, Gazipur in favour of BTCL, now invites sealed Bid proposals from eligible Bidders for "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn- key Basis.** as per mentioned scope of work in the subsequent clauses in this Bidding Document .
- 1.3. Interested eligible Bidders may obtain further information from the office of the Manager (Customer Service), TSS Ltd., Tongi, Gazipur.
- 1.4. A complete set of Bidding Documents may be purchased from the Cash Section of TSS or from GPO, Room No.7(1st floor), Dhaka-1000,. by any interested eligible bidder or his representative on submission of a written application in their official pad and on payment, in cash, of non-refundable Taka 5,000/- (Taka five thousand) only on all working days from the date of publication of this invitation in the national dailies. No tender schedule/ document will be sold on the date of opening of tender. No tender document will be sold by post. Tender Information is also available at TSS web **site: [http:// www.TSS.com.bd](http://www.TSS.com.bd)**
- 1.5. Bids must be submitted in one-envelope system, as per procedure laid down in the Bid Documents. The offer must be submitted with forwarding as per format shown in "**Annex A**".
- 1.6. Bids will be received and opened at a time and date specified in the tender invitation or its subsequent amendment (if any), in presence of bidders/ their representatives (even if none like to be present), in the Conference Room of TSS, Tongi, Gazipur.
- 1.7. Earnest money/ Bid bond amounting to Tk. 52,00,000/= (Taka Fifty Two Lakh) or US\$ 75,000 (US Dollar Seventy Five Thousand) must be enclosed with the Bid. This money can be submitted in the form of either Bank draft or Pay Order or Bank Guarantee in favour of TSS Ltd.
- 1.8. This Bid Bond must be issued by any scheduled Bank in Bangladesh acceptable to Bangladesh Bank and must be valid for 148 (one hundred forty eight) days from the date of opening of the bids. The Bid Bond will not accrue any interest. If this bond is in terms of a Bank Guarantee, then such guarantee shall be submitted in the format shown in "Annex B" of this document.
- 1.9. The authority reserves the right to accept or reject any or all Bids without assigning any reason thereof.

BOOK 1

CHAPTER 2

DEFINITIONS

In this Tender Document the words herein below set forth shall have the following meanings, unless otherwise stated.

- 2.1. "**Tenderer/ Bidder**" means a national of eligible source country or juridical person and Incorporated registered in the eligible source country and has submitted his Tender/Bid or Tender proposal to TSS before the closing date of Tender.
- 2.2. "**Purchaser**" means managing director, Telephone Shilpa Sangstha Limited constituted under company act 1994.
- 2.3. "**Bangladesh Bank**" means the Central Reserve Bank of the Government of Bangladesh.
- 2.4. "**BTCL**" means **Bangladesh Telecommunication Company Ltd.,(BTCL)**
- 2.5. "**TSS**" means "**Telephone Shilpa Sangstha Limited**".
- 2.6. "**Tender**", "**Bid**" or "**Tender proposal**" means the written offer in response to this INVITATION OF TENDER.
- 2.7. "**Successful Tenderer / Bidder**" means a Tenderer / Bidder who has received written notice from TSS saying that his tender is acceptable and with whom TSS wishes to negotiate to conclude the Contract (as hereinafter defined).
- 2.8. "**the Contract**" means the written agreement concluded between TSS and Contractor for the execution of the Project.
- 2.9. "**Contractor/ Supplier**" means a successful tenderer who would sign the Contract with TSS
- 2.10. "**Contract price**" means the amount payable to Contractor under the Contract for the full and proper performance by Contractor of his part of the Contract as determined under the provision of the Contract.
- 2.11. "**Work**" means all the work under the Contract up to the issuance of the Provisional Acceptance Certificate of the System including supply, installation and testing services of the Equipment, handing over of the spare parts, test equipment, remaining materials to TSS, clearing up of the Sites, training and submission of all the documents.
- 2.12. "**Equipment**" means any and all kinds of equipment, apparatus materials and things that are to be provided by the Contractor to TSS under the Contract.
- 2.13. "**Service/ Services**" means installation and testing services of the Equipment including

training and operation & maintenance assistance during the Guarantee period and 7(Seven) years after FAC .

- 2.14. "**Bill of Quantity(BOQ)**" means the list of items (including the quantities and unit & total
- 2.15. "**Site**" means the land, building or other places on, under, in or through which the Work is to be executed.
- 2.16. "**Contractor's Goods**" means any and all kinds of equipment, machinery, tool, material and temporary facilities that are necessary for the execution of the work and owned by the Contractor, including special construction vehicles and passenger vehicles used for personnel transportation.
- 2.17. "**Force Majeure**" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events include wars or revolutions, political unrest, earthquakes, fires, floods, epidemic, quarantine restrictions and freight embargoes.
- 2.18. "**Consignee**" means the managing director, Telephone Shilpa Sangstha Limited constituted under company act 1994.
- 2.19. "**Coming into Force**" Coming into force of the contract means (a) Submission of Performance Guarantee by the selected contractor (b) Signing of the contract by both parties And (c) Opening of the L/C (Letter of Credit) by the Purchaser.

BOOK 1

CHAPTER 3

TERMS AND CONDITIONS OF THE BID

- 3.1. TSS has intended to procure all the required product and services for the work as mentioned in this bidding document in the way of "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn- key Basis**".
- 3.2 The scope of the works under this tender is to Survey, Install, Test, Establish and Commission a network to deploy MUX and Optical Network Unit –ONU equipment at different places (thickly populated area, Big Market/Shopping place, Commercial Area etc) of Dhaka city to distribute HSI as well as to provide basic telephony service, Digital Data Network Services etc.
- 3.3 The institution responsible for the implementation of the Project is Telephone Shilpa Sangstha Ltd (hereinafter called TSS).
- 3.4 Tenders are invited for the project implementation on a turn-key basis in accordance with this INVITATION FOR BIDS.
- 3.5 This invitation document for the bid proposals consists of:
- (1) GENERAL CONDITIONS OF TENDER AND CONTRACT titled as BOOK 1
 - (2) TECHNICAL SPECIFICATIONS titled as Book-2
 - (3) Annex A to Annex I attached with BOOK 1
 - (4) Annex 1.1 to Annex 1.4 attached with BOOK 2
 - (5) Form A to Form F attached with BOOK 2

If any controversy arises between any Clause of General Conditions of Tender and Contract (i.e., BOOK 1) & Technical Specification (i.e., Book-2), then the meaning of Technical Specifications (i.e., Book-2) will prevail for all purposes relating to this Tender.

3.6. **Source of Funds**

Own fund of TSS.

3.7. **Eligibility of Bidders**

As defined in relevant clauses of BOOK 1 and BOOK 2. Any bidder who is already **Black Listed** in TSS or BTCL or any other Government organization of Bangladesh will not be eligible for this tender.

3.8. **Country of origin**

Any country except Israel.

3.9. **Eligible Goods and Services**

3.9.1. All of contractor's personnel, goods and services including Marine/ Air/ Land transports used for supplies under the contract shall have their origin in eligible source country.

3.9.2. For purposes of this clause "**origin**" means the place where the goods are produced or from where the ancillary services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

3.10. **Cost of Bidding**

The Bidder shall bear all costs associated with the preparation and submission of its Bid. TSS will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

3.11. **Use of local materials**

Use of local materials (if any) shall be in accordance with the technical specifications. The bidder shall note that, any goods, materials and services used from local market shall be quoted in Bangladeshi Taka only.

3.12. The Bidder is expected to examine all instructions, forms, terms and specifications in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or submission of a bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in the rejection of its Bid altogether.

3.13. **Clarification of Bidding Documents**

A prospective Bidder requiring any clarification of the Bidding Documents may notify such queries to the Manger(Customer Service), Telephone Shilpa Sangstha Ltd, Tongi, Gazipur, in writing, by letter or facsimile, at his mailing address indicated in the invitation for Bids. Written copies of this response (including an explanation of the query) will be sent to all prospective Bidders who have purchased the Bidding Documents.

3.14. **Amendment of Bidding Documents**

3.14.1. At any time prior to the deadline for submission of Bids, TSS may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend / modify the Bidding Documents by amendment.

3.14.2. The amendment will be notified in writing or by fax to all prospective Bidders who have purchased the Bidding Documents. Such amendment, if made, shall become part of the bidding document and will be binding on perspective bidders. TSS reserves the rights to add/ delete/ modify any condition of tender documents.

3.14.3. In order to provide reasonable time to the prospective Bidders to take the amendment into account in preparing their Bids, TSS may at its discretion, extend the deadline for the submission of Bids, by any period of time it deems fit.

3.15. **Pre-Bid Meeting**

All prospective bidders, who has purchased tender document, are requested to attend a pre-bid conference with the purchaser's representative to be held in the conference room of TSS, Tongi, Gazipur on a date and time to be specified by TSS. The date and time shall be notified by a notice in daily newspapers, either separately or together with the invitation of bid. The purpose of the meeting would be to clarify the requirement of the bidding documents including the Technical Specification. Clarifications provided or amendments made following the queries raised in the pre-bid meeting would be communicated in writing to all prospective bidders. Such clarifications and/or amendment will become an integral part of the Bidding Documents.

3.16. **Language of the Bid proposal**

The Bid proposals prepared by the Bidder and all correspondence & documents relating to the bid, exchanged between the Bidder and purchaser, shall be written in English. If any printed literature furnished by Bidder is written in another language it shall have to be accompanied by an authentic English translation of the full document. In that case, for purposes of interpretation of the Bid, the English translation shall prevail.

3.17. **Documents Comprising the Bid**

The offer prepared by the Bidder shall include all documents as may be required by the Tender Document as per Special Information & Instruction to Bidders of Book 2.

3.18. **Bid Forms**

The Bidder shall complete the Bid Forms including preparation of its own detail listings of BoQ, for all goods, materials and services covered by this purchase.

3.19. **Bid Prices**

3.19.1. Bid price may consist of two portions, i.e. foreign currency portion which shall be estimated in US Dollar or any other freely convertible currency and local currency portion which shall be estimated in Bangladeshi Taka.

(A) Foreign Currency portion shall cover the costs for:

- (a) FOB price of the equipment
- (b) Ocean freight & Air freight of the equipment
- (c) Foreign Service

(B) Local currency portion shall cover costs for:

- (a) For the items mentioned in Book-2 and all other equipment, goods and materials procured from local market
- (b) Inland transportation up to site and storage in Bangladesh
- (c) Local Sub-Contractor(s) and salary for local personnel in Bangladesh
- (d) Local Service
- (e) Other expenses to be incurred in Bangladesh for execution of the Project.

3.19.2 TSS may ask Successful Bidder to modify the proposed scopes of Local Currency portion and Foreign Currency portions and vice versa.

3.19.3 The actual cost of insurance and freight shall be considered for payment but the total for payment shall not exceed the amount quoted by the bidder.

3.20. **Basis for Future Order**

The Unit prices offered for the whole system shall be used as basis of calculation of costing for subsequent orders over a 7 (Seven) years period from the date of issuance of Final Acceptance Certificate.

3.21. **Insurance for Foreign Consignments**

3.21.1 The marine/air insurance shall be arranged by TSS.

3.21.2 Foreign Procurement's office of TSS shall obtain a open cover marine insurance policy for an amount equal to 110% of the C&F value of the goods from "*Sadharan Bima Corporation*" / any other insurance company of Bangladesh.

3.21.3 The policy shall cover, from the port of shipment to delivery at installation sites against all kind of risks for the total cost of the consignment(s) to be imported under the purchase order.

3.21.4 The policy shall be such that, in case of damage, short receipt or any other type of loss of equipment the claim shall be recoverable in the **United States Dollar**.

3.21.5 Supplier shall furnish a declaration of shipment containing full particulars of each consignment such as number of packages, description of cargo, name of vessel, sailing date, seaport of shipment, seaport of destination (for air freight : Flight No. Date, Port of Shipment, Port of Destination) and the value of the consignment (C&F) to the insurance company so as to reach them within 14 (fourteen) days from the date of each shipment.

3.21.6 In case of delay the declaration of shipment shall be communicated to the insurance company who shall issue a specific insurance policy or certificate and forward it to the purchaser.

3.21.7 The bidder has to obtain relevant insurance coverage (if required) for all types of transportation before shipment of the goods and for the period of storage in Bangladesh.

3.22. Documents Establishing Bidder's Eligibility and Qualifications

The Bidder shall furnish, as part of its bid, documents establishing the Bidder's eligibility to bid and its qualifications to perform the Contract if its bid is accepted.

- 3.22.1. The documentary evidence of the Bidder's eligibility to bid; i.e., establishing to the purchaser's satisfaction that the Bidder, at the time of submission of its bid, is from an eligible source country.
- 3.22.2. The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted; i.e. establishing to the Purchaser's satisfaction :
 - (a) that, in the case of a Bidder offering to supply goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods manufacturer or producer to supply the goods
 - (b) that the Bidder has the financial, technical and production capability necessary to perform the contract; and
 - (c) that, in the case of a Bidder not doing business within the Purchaser's country, the Bidder will be (if successful) represented by an agent/own office in the country.

3.23. Documents Establishing Goods Eligibility and Conformity to Bidding Documents

The Bidder shall furnish, as part of its bid, documents establishing the eligibility and conformity to the Bidding Documents of all goods and service that the Bidder proposes to supply under the contract.

- 3.23.1 The documentary evidence of the goods and services eligibility shall consist of a statement in the “**Form F**” in Book 2 on the country of origin of the goods and services offered. Those statements of country of origin of the goods and services offered shall also be confirmed at the time of shipment by a certificate of origin.
- 3.23.2. The documentary evidence of conformity to the Bidding Documents for the goods and services, may be in the form of literature, drawings and data, and shall furnish:
 - (a) a detailed description of the goods essential technical and performance characteristics;
 - (b) a list giving full particulars, including available sources and current prices, of all spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of five years, following commencement of the goods used by the Purchaser, and
 - (c) a clause-by-clause commentary on the Purchaser's Technical Specifications demonstrating the goods, and services, substantial responsiveness to those specifications or a statement of deviations and exceptions to the provisions of the Technical Specifications.

3.23.3. For purposes of the commentary to be furnished, the Bidder shall note that standards for workmanship, material and equipment, and references to brand names or catalogue numbers designated by the purchaser in its Technical Specifications are intended to be descriptive only and not restrictive.

3.24. **Bid Bond (Earnest Money)**

3.24.1. To guarantee the fulfilment of the terms of tender, Tenderer shall furnish TSS, in addition to his tender Proposal, with a bank guarantee or bank draft amounting to Tk. 52,00,000/= (Taka Fifty Two Lakh) or US\$ 75,000 (US Dollar Seventy Five Thousand) as the Bid bond.

3.24.2. The bid bond shall be issued in the name of “*Telephone Shilpa Sangstha Limited*” . The bid bond will not accrue any interest. The specimen of Bank Guarantee for Bid Bond is shown in “**Annex B**” of this document.

3.24.3. The bid bond must be issued by any scheduled bank in Bangladesh and acceptable to Bangladesh Bank and shall have to be valid for 148 (one hundred forty eight) days from the date of opening of the bid.

3.24.4. Any bid not secured in accordance with proper amount or period of validity or not as per “**Annex B**” shall be considered to be containing “**Change of Substance**” and shall be rejected.

3.24.5. Bid Bonds of bidders whose bids have been declared “**Non-responsive**” shall be returned after such declaration.

3.24.6. Bid Bonds of responsive but unsuccessful bidders will be returned after receiving performance security bond from the successful bidder.

3.24.7. If a Bidder withdraws its bid during the period of bid validity his Bid bond shall be forfeited.

3.24.8. Bid Bond of the Successful Tenderer will be returned after the performance Bond is received by TSS.

3.24.9. If the Successful Tenderer to whom the Letter of Intent for the Contract is presented refuses or neglects or fails to furnish the required performance security bond, his Bid Bond shall be forfeited.

3.25. **Period of Validity of Bids**

3.25.1 Bids shall remain valid for 120 (one hundred & twenty) days from the date of opening of the bids, as prescribed by the Purchaser or its subsequent amendment. A Bid valid for a shorter period shall be considered having “**change of substance**” and shall be rejected.

3.25.2 If the purchaser has given no decision about the fate of the bids within the period of bid and bid security, the bidder shall have the right to withdraw his bid, by giving a written notice, without forfeiting his security.

3.25.3 Until the purchaser has received no such written notice, it shall be deemed that the validity of the bid and the bid security has been automatically extended up to the date of issuance of the said withdrawal notice by the bidder.

3.25.4 In exceptional circumstances, the Purchaser may solicit the Bidder's consent to an extension of the period of validity. The request and the responses there to, shall be made in writing or by fax. In such cases, the bidder shall suitably extend the Bid security. A Bidder may refuse the extension request without forfeiting its Bid security. A Bidder granting the request will not be required nor permitted to modify its Bid.

3.26. **Patent, Right, Royalties and Indemnity**

Prices stated in the Quotation shall be deemed to include all amounts payable for patent, right and royalties on or in respect of the Equipment (both hardware and software) or any part thereof and contractor shall automatically indemnify and keep TSS indemnified against all action and claims arising out of the excise of any invention by reason of purchase or possession or the use of the system.

3.27. **Schedule of compliance**

3.27.1 Bidder shall provide (as per Annex C of BOOK 1 of tender Schedule), with the bid, a schedule of compliance, listing every clause of the Tender Documents (both for Book 1 & Book 2) with the word "**agreed**" or "**not agreed**" as appropriate against each clause. The use of any other word shall be considered inadequate and not acceptable and the relevant item(s) shall be considered as containing "**non compliance**".

3.27.2 If the bidder agrees to contents of any item or clause of this document, he shall give such agreement (in the compliance schedule) totally unconditionally. If the bidder puts any condition to his agreement/ compliance to any item or clause, such agreement/ compliance shall not be acceptable and the bid shall be considered as having "**non compliance**" to that item or clause.

3.28. **Management plan**

Bidder shall submit an organization chart for his project management he proposes to establish for the execution of the project covering both internal and field works.

3.29. **Implementation plan**

Bidder shall submit detail implementation plan including design plan, engineering plan, manufacturing plan, transportation plan, hardware and software installation and testing plan, training plan, together with the detailed implementation schedule.

3.30. **Guarantee for the System**

Bidder shall state in his Tender an undertaking to accept the following guarantee requirements:

3.30.1. A guarantee that the system to be supplied complies with the requirements of the clauses of this Bidding Document.

- 3.30.2. A guarantee from the Bidder that all the equipment covered by this purchase shall be covered by maintenance support. The guarantee period shall deem to have started from the cut-over of the first equipment into commercial service and last for 2(two) calendar years from “**the date of effect**” of the last Provisional Acceptance Certificate (PAC) of the contract. The Guarantee shall cover smooth operation and maintenance of the entire system covered by this purchase.
- 3.30.3. If any equipment or part of equipment fails during this guarantee period, the Bidder shall change this equipment or its concerned part at his own cost. In such cases, the period of counting of the period for the concerned equipment will restart from the date of putting into service of the replace or repaired part(s) of that equipment.
- 3.30.4. Guarantee that whenever any spares are required within the period of 7(Seven) years from the date of issuance of Final Acceptance Certificate(FAC) of the system, such spares shall be supplied.
- 3.30.5. Guarantee that if any additional hardware and software is required to expand any or all systems and facilities within the period of 7(Seven) years from the date of issuance of Final Acceptance Certificate of the system, such requirement will be supplied.

3.31. **Deviations from Technical Specifications**

- 3.31.1. If the Equipment proposed by the bidder has any negative deviation from the characteristics specified in Technical Specifications (Book 2), the bidder, shall provide a list of such deviations in a separate statement.
- 3.31.2. If the bid does not contain such a list, it shall be deemed that the bid does not contain any negative deviation from any item or clause of this document.
- 3.31.3. If the bid does not contain such list of deviation, but during evaluation process TEC finds any item(s) or clause(s) with negative deviation, the bid shall be treated as containing “**Material deviation**”.
- 3.31.4. If the proposed equipment of the bidder contains any deviations, such deviations shall be treated as either “**Material deviation**”, or “**Major deviation**”, or “**Minor Deviation**” or “**Change of Substance**”. Which deviations will be treated as what types of deviation are stated in relevant chapters of Book 2.
- 3.31.5. If the bidder proposed any deviation in his bid, such deviations shall not be binding on TSS unless they are specifically incorporated in the contract.

3.32. **Submission of the Bid Proposal**

- 3.32.1. A bidder shall submit the bid proposal for only one set of systems. The bidder is not allowed to submit any alternate offer for any system. If any bid contains any alternate offer, such bid shall be treated as containing “**Change of Substance**” and shall be rejected.
- 3.32.2. If any bidder wishes to submit an alternate proposal, he may do so by buying another set of original document and submit that as his alternate set of proposal. If such alternate offers are submitted, both the original and alternate proposals must be individually

complete, including separate bid money. In such cases, the two proposals shall be treated in such a way that, as if those proposals have been submitted by two different entities.

- 3.32.3. The Bidder shall prepare four copies of the Bid and of these at least one copy shall be clearly marked as "**Original**" and others as "**Copy**". In which at the event of any discrepancy between them the original shall govern.
- 3.32.4. The "**Original**" bid shall be typed or written in indelible ink and shall be signed in original by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder. The authorization shall be indicated by written power-of-attorney accompanying the bid. All pages of the bid, including un-amended printed literature, shall be initialled by the person or persons signing the bid.
- 3.32.5. The "**Copy**" bids may be photocopies. But each page of such copies shall have to be signed in original by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder.
- 3.32.6. The bid shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialled by the person or persons signing the bid.

3.33. **Sealing and Marking of Bids**

- 3.33.1. Bids shall be submitted in one-envelope system. A soft copy (in CD) of the offer must also be submitted with the bid.
- 3.33.2. The Bidders shall seal all original and copy of the bid in envelopes duly marked as "**Original**" and "**Copy**".
- 3.33.3. The envelope shall:
- (a) be addressed to the Purchaser at the following address :

Managing Director, Telephone Shilpa Sangstha Limited, Tongi, Gazipur
Fax: 880-2-9812700
 - (b) bear the markings "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn- key Basis.** and the invitation tender number & the words "DO NOT OPEN BEFORE HOURS BST on-.....- 201 -.
- 3.33.4. The inner envelopes will indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared "**Late**".
- 3.33.5. If the outer envelope is not sealed and marked as required, the Purchaser will assume no responsibility for the Bid's misplacement or premature opening.

3.34. **Deadline for Submission of Bids**

- 3.34.1. Bids must be received by the Purchaser at the address specified not later than the date and time specified in the tender invitation notification and its subsequent amendments (*if any*).

3.34.2. The Purchaser may, at its discretion, even without assigning any reason thereof, extend the deadline for the submission of Bids by a written notice. Such notice shall be circulated either by notification in daily newspapers or by direct contact with the bidders who have purchased the tender document. In case of such extension (if any), all rights and obligations of the Purchaser and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

3.35. **Late Bids**

Any bid received by the Purchaser after the deadline for submission of bids prescribed by the Purchaser, shall be declared as “**late**” and shall be returned unopened to the Bidder.

3.36. **Modification and Withdrawal of Bids**

3.36.1. The Bidder may modify or withdraw its bid after the bid's submission, provided that written notice of the modification or withdrawal is received by the Purchaser prior to the deadline prescribed for submission of Bids.

3.36.2 The Bidder's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions above. A withdrawal notice may also be sent by Telex or Fax but must be followed by a signed confirmation copy, post marked not later than the deadline for submission of Bids.

3.36.3. No Bid can be modified after the deadline for submission of Bids.

3.36.4. No Bid can be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified in this invitation document. Withdrawal of a Bid during this interval shall result in forfeiture of the Bidder's Bid security.

3.37. **Opening of Bids by Purchaser**

3.37.1. On the date and time mentioned in the invitation notification, and its subsequent amendment (if any), the bids will be opened by the Purchaser's representative, in the presence of Bidders or their representatives who choose to attend (even if not any).

3.38. **Clarification of Bid Proposals asked during evaluation**

To assist in the examination, evaluation and comparison of Bids the Purchaser may, at its discretion, ask the Bidder for a clarification of its Bid. The request for such clarifications (if any) and their responses by the bidder shall be in writing. During those clarification procedures no change in the price or substance of the Bid, by either party, shall be sought, offered or permitted.

3.39. **Evaluation and Comparison of Financial Portion of the Bids**

3.39.1. Evaluation of Financial Portion of all the bids will exclude and not take into account, for imported goods and materials, the duties and taxes payable in entry ports of Bangladesh.

3.39.2. Financial proposal shall be evaluated and compared on the basis of :

- a) the C&F cost of the imported equipment (as per attached BoQ);
- b) the cost of local transportation, storage etc.;
- c) the cost for delivery of local equipment; and
- d) the cost of local & foreign services

3.40. **Delivery Period**

The delivery period of equipment and services shall be governed by deadlines set in the contract and in accordance with deadlines set for completion of different phases of the contract.

3.41. **Target Date for Completion**

The target date of completion for the work shall be 06 (Six) calendar months from the “**Effective Date of Contract (EDC)**”.

3.42. **Effective Date of the Contract (EDC)**

The “**Contract**” signed between TSS and the successful bidder shall deem to have come into effect from the date of receipt of the Letter of Credit (L/C) issued by TSS. Such date shall be termed as “**Effective Date of Contract (EDC)**”.

3.43. **Award Criteria**

The award of purchase contract to the successful bidder shall be governed by clauses specified this document.

3.44. **Notification of Awards**

3.44.1. After declaration of the “**successful bidder**”, the purchaser will notify that bidder, in writing, that his bid has become successful, that his bid has been accepted, that TSS intends to award the contract to him and that TSS intends to enter into a contract with him.

3.45. **Performance Security**

3.45.1. Upon receipt of notification of award, the successful bidder shall furnish a “**Performance Security**” to the purchaser within 20(twenty) calendar days.

3.45.2. The amount of such “**Performance Security**” shall be not less than 10% (ten percent) of the total “**Evaluated Price**” of bidder’s offer.

3.45.3. The “**Performance Security**” shall be denominated in the currencies of the contract and shall be in terms of an irrevocable Bank Guarantee, to be given by any branch of a scheduled bank of Bangladesh, in accordance with the format attached as “**Annex E**” with this document.

3.45.4. The “**Performance Security**” shall have to remain valid for a period up to issuance of the Final Acceptance Certificate (FAC) of the contract.

3.45.5. The proceeds of this “**Performance Security**” shall be payable to the purchaser as compensation for any or many failure(s) of the bidder to complete his obligations stipulated in the contract.

3.45.6. The “**Performance Security**” shall be discharged with or without deductions (as applicable) to the bidder upon his completion of performance obligations as described in the contract.

3.46. **Purchase's Right to vary Quantities at Time of Award**

The Purchaser reserves the right at the time of award of contract to increase or decrease the quantity of goods and services specified in the Technical Specifications without any change in unit prices or other terms and conditions. The Bidder shall consider that the requirement of the specified equipment may change, depending upon the survey and actual situation during BOQ negotiation.

3.47. **Purchaser's right to accept any bid and to reject any or all bids**

The Purchaser reserves the right to accept or reject any bid, and to cancel the bidding process and reject all bids at any time prior to award of contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the Purchaser's action.

3.48. **Taxes and Duties**

3.48.1. TSS shall pay all taxes and duties, payable under government laws, for all goods and materials imported under the contract into any port of entry into Bangladesh. But such goods and materials must have to be included in the signed contract BoQ and or its subsequent amendment(s) (if any).

3.48.2. TSS will not pay any tax or duty for any goods and materials imported into Bangladesh, if such goods and materials are not included in the contract BoQ and its subsequent amendment(s) (if any).

3.48.3. Taxes and duties for goods and materials imported into Bangladesh for bidder’s own use shall be paid by the bidder.

3.48.4. Bidder shall be liable to pay all taxes and duties (if any), payable outside the territorial jurisdiction of Bangladesh.

3.48.5. The bidder shall be liable to pay all corporate taxes, with holding taxes, income taxes, personal taxes etc. imposed on him or any of his personnel, under existing government laws in relation to his activities for implementation of the project. No exemptions from such taxes and duties will be entertained until and unless such exemptions are already allowed under existing laws of Bangladesh. The bidder shall make his own survey to find out the extent and contents of such liabilities.

3.48.6. Before winding up his activities in relation to his obligation under the contract, the bidder shall guarantee in writing that he has no outstanding liabilities of taxes and duties to any organization of Bangladesh.

3.48.7. If, during issuance of FAC of the contract, TSS finds that the bidder has any outstanding liabilities of taxes and duties to any organization of Bangladesh, such sum shall be deducted from the amount of payment due after FAC issue.

3.49. **Opening of Letter of Credit**

3.49.1. After signing of the contract between TSS and the successful bidder, TSS shall open an irrevocable Letter of Credit (L/C) for the full amount of the contract.

3.49.2. The L/C shall be opened in any branch of a scheduled bank of Bangladesh as per choice of TSS. The L/C shall be payable to any branch of any bank in any country (except Israel) as per choice of the bidder.

3.50. **Terms of Payment**

3.50.1. For all payments due, the bidder shall submit necessary invoices, supported by relevant documents as per the following manner.

3.50.2. Payment of the Foreign Currency part

a) **Payment of Equipment Price**

- i) an amount of 40% (Forty percent) of the invoice amount shall be paid by the bank upon submission by the bidder of relevant shipping invoices, copies of the “**CPOC certificate**” and other documentations to support the claim.
- ii) an amount of 20% (Twenty percent) of the invoice amount shall be paid by the bank upon submission of an “**Arrival of Goods and Materials Certificate**” by the bidder to support his claim. Such certificate(s) shall be issued by the concerned/ authorized official of TSS upon arrival of relevant goods and materials on site or in store (as applicable).
- iii) an amount of 30% (thirty percent) shall be paid by the bank upon submission of a “**Provisional Acceptance Certificate (PAC)**” by the bidder to support his claim. Such a PAC shall be issued by the concerned/ authorized official of TSS upon completion of relevant contractual liabilities by the bidder.
- iv) the remaining 10% (ten percent) shall be paid by the bank upon submission of a “**Final Acceptance Certificate (FAC)**” by the bidder to support his claim. Such a FAC shall be issued by the concerned/ authorized official upon completion of relevant contractual liabilities by the bidder.

b) **Payment for Service Price**

- i) an amount of 30% (thirty percent) of the whole contract amount for Installation, Testing & Commissioning and inter-working/connection services shall be paid by the bank upon submission of an “Engineers’

Arrival Certificate (EAC)” by the bidder to support his claim. Such an arrival certificate shall be issued by the concerned/ authorized official of upon commencement of implementation works by the bidder.

- ii) an amount of 60% (sixty percent) of the whole contract amount for Installation, Testing & Commissioning and inter-working/connection services shall be paid by the bank upon submission of a “**Provisional Acceptance Certificate (PAC)**” by the bidder to support his claim. Such a PAC shall be issued by the concerned/ authorized official of BTCL or TSS upon completion of relevant contractual liabilities by the bidder.
- iii) the remaining 10% (ten percent) of the whole contract amount for Installation, Testing & Commissioning and inter-working/connection services shall be paid by the bank upon submission of a “**Final Acceptance Certificate (FAC)**” by the bidder to support his claim. Such a FAC shall be issued by the concerned/ authorized official of BTCL or TSS upon completion of relevant contractual liabilities by the bidder.

c) Payment for CPOC Price

100% (one hundred percent) of the whole contract price for CPOC shall be paid by the bank upon submission by the bidder an “Arrival of Engineers Certificate” to support his claim. Such an arrival certificate shall be signed by authorized person of TSS upon their arrival for CPOC at site of manufacturer’s premises.

d) Payment for Training

100% (one hundred percent) of the whole contract price for training and incidental services shall be paid by the bank upon submission by the bidder the “Successful Completion of Service Certificate” to support his claim. Such a completion certificate shall be issued by concerned/ authorized official of BTCL or TSS upon completion of relevant training program(s).

e) Payment for Maintenance Support Services

100% (one hundred percent) of the whole contract price for Maintenance Support services shall be paid by the bank upon submission by the bidder a “Successful Completion of Service Certificate” to support his claim. Such a completion certificate shall be issued by concerned/ authorized official of BTCL or TSS upon completion of the relevant maintenance service.

3.50.3. Payment of the Bangladesh Taka part

All payment, payable in Bangladesh Taka shall be done by issuance of crossed cheques (of Bangladesh Bank) by the relevant authorized official of TSS in the following manner:

a) Payment for Equipment Price

- i) 50% (fifty percent) of the invoice amount shall be paid upon submission of an “Arrival of Goods and Materials Certificate” by the bidder. Such a

certificate shall be issued by the concerned/ authorized official of TSS upon receipt of relevant goods and materials in TSS premises or store (whichever is applicable).

- ii) 40% (forty percent) of the invoice amount shall be paid upon submission by the bidder of a “**Provisional Acceptance Certificate (PAC)**”. Such a PAC shall be issued by the concerned/ authorized official of TSS upon completion of relevant contractual liabilities by the bidder.
- iii) remaining 10% (ten percent) of the invoice amount shall be paid upon submission by the bidder of a “**Final Acceptance Certificate (FAC)**”. Such a FAC shall be issued by the concerned/ authorized official of TSS upon completion of relevant contractual liabilities by the bidder.

b) Payment for Services

- i) an amount of 30% (thirty percent) of the whole contract amount for Installation, Testing & Commissioning and inter-working/connection services shall be paid upon submission of an “Engineers’ Arrival Certificate” by the bidder to support his claim. Such an arrival certificate shall be issued by the concerned/ authorized official of TSS upon commencement of implementation works by the bidder.
- ii) an amount of 60% (sixty percent) of the whole contract amount for Installation, Testing & Commissioning and inter-working/connection services shall be paid upon submission of a “**Provisional Acceptance Certificate (PAC)**” by the bidder to support his claim. Such a PAC shall be issued by the concerned/ authorized official of TSS upon completion of relevant contractual liabilities by the bidder.
- iii) the remaining 10% (ten percent) of the whole contract amount for Installation, Testing & Commissioning and inter-working/connection services shall be paid upon submission of a “**Final Acceptance Certificate (FAC)**” by the bidder to support his claim. Such a FAC shall be issued by the concerned/ authorized official of TSS upon completion of relevant contractual liabilities by the bidder.

c) Payment for Training

100% (one hundred percent) of the whole contract price for training and incidental services shall be paid upon submission by the bidder a “Successful Completion of Services Certificate” to support his claim. Such a completion certificate shall be issued by concerned/ authorized official of TSS upon completion of relevant training program(s).

d) Payment for Maintenance Support Services

100% (one hundred percent) of the whole contract price for Maintenance Support services shall be paid upon submission by the bidder a “Successful Completion of Services Certificate” to support his claim. Such a completion certificate shall be

issued concerned/ authorized official of TSS upon completion of the relevant maintenance service.

e) Payment for Local Transportation

- i) 50% (fifty percent) of the invoice amount shall be paid upon submission of a “Arrival of Goods and Materials Certificate” by the bidder. Such a certificate shall be issued by the concerned/ authorized official of TSS upon receipt of relevant goods and materials in TSS premises or store (whichever is applicable).
- ii) Remaining 50% (fifty percent) of the invoice amount shall be paid upon submission by the bidder of a “**Provisional Acceptance Certificate (PAC)**”. Such a PAC shall be issued by the concerned/ authorized official of TSS upon completion of relevant contractual liabilities by the bidder.

ANNEX A

(LETTER HEAD OF THE BIDDER)

BID FORWARDING

Our Ref:

Date :

To

Managing Director
Telephone Shilpa Sangstha Limited
Tongi, Gazipur
FAX: 880-2-9812700

Subject: Submission of the Bid Proposal.

Having examined the Bidding Documents including all its annexure, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn- key Basis**" in conformity with the said bidding documents of this bid.

1. We, attach herewith a sum of Bangladesh Taka/ US Dollar which is equal to Tk./= (Taka) or US\$ (.....) as bid bond (earnest money) in the form of Bank Guarantee/ Bank Draft/ Pay Order (*cross out irrelevant part*) from, of, Bangladesh. This bid bond shall be valid for a period of(.....) calendar days after the date fixed for bid opening.
2. We declare that, we abide by all clauses of this bid and whether our bid is accepted or not, this bid shall be valid for a period of (.....) calendar days from the date fixed for bid opening and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
3. We declare that, our bid price is US dollar..... (.....) and Bangladesh Taka (.....) only and in accordance with the Schedule of Prices attached herewith and made part of this bid.
4. We undertake, if our bid is accepted, to complete the commercial launching of the proposed Network and related system within(.....) months calculated from the date of Effective Date of the contract (EDC).
5. We declare that, we have no previous experience/ (.....) numbers (*cross out irrelevant words*) of previous experience for turn-key completion of similar network (*list attached*).

6. We declare that, our offered network and other related equipment is in commercial operation in(.....) Nos. of countries for at least (.) years in each of these countries (*list attached*).
7. We declare that, we have completed all the Forms of BOOK 1 and BOOK 2 as per requirement of the tender.
8. We declare that, if our bid is accepted we will obtain the Guarantee of a bank in a sum not less than 10% (ten percent) of the total evaluated price of our financial offer from any recognized bank of Bangladesh in the format as per “**Annex B**” of the tender document.
9. We declare that, for all purposes related this tender bid, we shall be represented in Bangladesh by our own office/ by M/S of, Dhaka, Bangladesh as our country representative/ local agent (*cross out irrelevant words and fill-up if necessary*).
10. We hereby pledge that we shall not be engaged in :
 - (a) a corrupt practice, which shall mean giving or promising to give, directly or indirectly, to any officer or employee of a procuring entity or other governmental/private authority or individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a procuring entity in connection with the procurement proceedings or contract execution;
 - (b) a fraudulent practice which shall mean a misrepresentation or omission of facts in order to influence the procurement proceedings or the execution of the contract;
 - (c) a collusive practice, which shall mean a scheme or arrangement between two or more tenderers, with or without the knowledge of the procuring entity, designed to rig tender prices thereby denying a procuring entity from the benefits of genuine competition; and
 - (d) a coercive practice, which shall mean harming or threatening to harm, directly or indirectly, persons or their property to influence the procurement proceedings, or affect the execution of a contract.

Until a formal contract is prepared and executed, this bid, together with your written acceptance thereof and your notification of award, shall constitute a binding contract between us and TSS.

We understand that you are not bound to accept the lowest or any bid you may receive.

Dated day of 201.....

Signature & Seal

ANNEX B

BID BOND (EARNEST MONEY)

Where as _____ (name of the bidder and address) _____ (hereinafter called "**the bidder**") has submitted his bid for "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn-key Basis**" (Hereinafter called "**the Bid**"). KNOW ALL MEN by these present that _____ (name of the Bank) having our registered office at _____ (hereinafter called "**the Bank**") are bound to Managing Director , TSS (hereinafter called "**the Purchaser**") in the sum of at least _____ (_____) that payment well and truly to be made to the said purchaser, the Bank binds itself, its successors and assigns by these presents, sealed with the common seal of the said Bank this _____ day of _____ 201__.

The Conditions of these obligations are:

1. If the Bidder withdraws its Bid during the period of bid validity specified by the Bidder on the Bid Forwarding Form or
2. If the Bidder, having been issued the letter of intent by the purchaser during the period of bid validity:
 - a) Fails or refuses to execute the contract; or
 - b) Fails or refuses to furnish the Performance Security, in accordance with clauses of the tender document;

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

This guarantee will remain in force up to and including twenty eight (28) days after the expiry of the period of bid validity, and any demand in respect thereof should reach the Bank not later than the above date.

(Signature and seal of the Bank)

ANNEX C

FORMAT FOR SCHEDULE OF COMPLIANCE

Clause No	Item	Bidder's Compliance		Reference to the submitted documents (Volume/Book #, Chapter #, page#)
		Agreed	Not Agreed	

ANNEX D.1

BOND FOR SPARE PARTS

Whereas, we,(name and address of the bidder)....., are submitting our bid "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn-key Basis**".and whereas we understand that as per conditions set in the said tender document, TSS is in need of a buffer stock of spares to be quoted in main offer and we have enclosed a list of such spares with our bid offer.

We, therefore, guarantee that, the attached list of spares is complete .We further guarantee that, during the life-time of the systems, if it is found that any item of replaceable items is missing from the attached list, we, or our successor will be bound to supply on demand the additional spares, free of charge to TSS.

We give further unconditional guarantee that, all necessary spare parts and consumables used during installation, testing & commissioning and operation of the systems, up to the end of "**Performance Guarantee Period**", shall be supplied by us at our own cost.

We also guarantee the flow and availability of all spare parts and units without major design changes for at least 7 (Seven) years from the issuance of Final Acceptance Certificate (FAC) and that, if there is any major design change or stoppage of production, we will bear all the costs related to provision of alternate solutions.

Dated _____ Day of _____ 201 _____.

Signature and seal

Duly authorized to sign for and on behalf of _____

ANNEX D.2

BOND FOR EXPANSION

Whereas, we,(*name and address of the bidder*)....., are submitting our bid "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn- key Basis**". and whereas we understand that as per conditions set in the said tender document, TSS is in need of a guarantee for future expansion capability and possibility of the switching system offered by us in our bid.

We, therefore, give an unconditional guarantee that, we will guarantee the flow and availability of all equipment, materials and services required for any subsequent expansion of the offered equipment for at least 7 (Seven) years from the issuance of Final Acceptance Certificate (FAC) and that, if there is any major design change or stoppage of production, we will bear all additional costs related to provision of alternate solutions.

Dated _____ Day of _____ 201 _____.

Signature and seal

Duly authorized to sign for and on behalf of _____

ANNEX E

PERFORMANCE SECURITY BOND

WHEREAS ____(*name of the bidder and address*)____(hereinafter called "**the Contractor**") having received a letter of intent from TSS to sign a contract to undertake all the works related to "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1MUX & ONU at various sites on Turn- key Basis**". and whereas it has been stipulated by you that the contractor shall furnish you with a Bank Guarantee by a recognized Bank for the sum specified therein as security for compliance with the Contractor's performance obligations in accordance with the bid document;

AND WHEREAS we have agreed to give the Supplier a Guarantee;

THEREFORE WE hereby confirm that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of at least **US Dollar** (*.....*) **and Bangladesh Taka** (*.....*) and declaring that contractor to be in default under the subsequent Contract and without argument, any sum or sums within the limits of (amount of guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand for the sum specified therein. The above mentioned amount shall be encashed automatically by the Bank, in favour of Purchaser if the contractor fails to get the validity of the bond extended up to the time specified by the Managing Director , TSS or a clearance certificate from TSS is sent to the Bank before expiry of the validity of the Bond.

This guarantee is valid until the _____ day of _____ 201____ .

authorized signature and seal of the guarantors (Bank)

address of the guarantors (Bank)

Date _____

ANNEX F

LIST OF CERTIFICATES ATTACHED

Sl	Subject of Certificate	Details of Issuing Authority		
		Name of the Operator & Address & Website	Tel number & Fax Number	Contact person who can speak English (name, designation, phone & fax number, e-mail)

ANNEX G

(Letter Head Pad)

DECLARATION ON OBSERVANCE OF ETHICS

(To be submitted by the bidder against obligations set forth in Regulation # 15 of The Public Procurement Regulations 2006)

We..... *(name and address of the bidder)*....., in order to fulfill the obligations stated in clause # 1.3.7 of Chapter One Book 2 and Regulation 15 of The Public Procurement Regulations 2006, hereby declare that, in order to observe the highest standard of ethics during the implementation of procurement proceedings and the execution of the contracts:

1. We shall not engage in:
 - (a) a corrupt practice, which shall mean giving or promising to give, directly or indirectly, to any officer or employee of a procuring entity or other governmental/private authority or individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a procuring entity in connection with the procurement proceedings or contract execution;
 - (b) a fraudulent practice which shall mean a misrepresentation or omission of facts in order to influence the procurement proceedings or the execution of the contract;
 - (c) a collusive practice, which shall mean a scheme or arrangement between two or more tenderers, with or without the knowledge of the procuring entity, designed to rig tender prices thereby denying a procuring entity from the benefits of genuine competition; or
 - (d) a coercive practice, which shall mean harming or threatening to harm, directly or indirectly, persons or their property to influence the procurement proceedings, or affect the execution of a contract.
2. We agree that, should any of such corrupt, fraudulent, collusive or coercive practice of any kind referred above in 1 a) to 1 d) come into the knowledge of TSS and/ or any other organization of the government of Bangladesh.
 - a) TSS shall first allow us to provide an explanation, and
 - b) If we either do not provide any explanation or if our offered explanation is found by TSS to be not satisfactory, TSS may, at its own discretion, exclusively and/ or combinedly
 - i. exclude us from further participation in the procurement proceedings; and/or
 - ii. exclude us from further execution of the contract: and /or
 - iii. declare us ineligible, either indefinitely or a stated period of time, from participation in procurement proceedings.

(Signature and Seal)

ANNEX H

(Letter head Pad)

DECLARATION OF JOINT LIABILITY

(To be submitted by the bidder against obligations set forth in Regulation # 12(8) of The Public Procurement Regulations 2006 and to be submitted only if the bid is submitted by a Joint Venture Consortium/Association)

We,.....(*name and address of the members of the Joint Venture Consortium or Association*)..., in order to fulfill the obligations stated in clause # 1.3.8 of chapter One of Book 2 and Regulation 12(8) of the Public Procurement Regulation 2006, hereby declare that:

1.(*Name and address of the lead company*)... shall represent us for all purposes related to this procurement proceedings.
2. All partners of the Joint Venture Consortium/Association shall be jointly and severally liable for the execution of the contract.
3. We shall not assign the contract to any other party or parties.
4. We may appoint sub-contractors (if any) with prior approval from TSS but this shall not absolve us from any of the responsibilities or liabilities due to us.

(Signature and Seals)

ANNEX I

SAMPLE PROFORMA FOR CONTRACT

This SECTION deals with probable CONDITIONS OF TENDER & CONTRACT whereupon the Contract shall be negotiated between the Successful Tenderer and TSS. Hence the final details may vary as the result of negotiations. The purpose of including this SECTION is to provide Bidders with the principles of the Contract; and thus Bidders financial proposals are expected to include any miscellaneous cost that these contractual requirements may impose. Bidder must mention in his schedule of compliance whether he is agreed with this or not. However, the bidder shall note that its disagreement to any or many clause(s) of this proposed contract shall not be binding upon TSS until and unless such clauses are amended before signature of the contract.

Section - 1

Introduction to the Contract

This Contract is signed in Dhaka, Bangladesh on thisth day of, 201....

BETWEEN

Managing Director, Telephone Shilpa Sangstha Limited, Tongi, Gazipur, Bangladesh.
(hereinafter referred to as TSS/ Purchaser) of the ONE PARTY.

AND

-----duly organized and existing under the laws of -----
----- having its registered office ----- (which as its
representative office in Dhaka at -----) represented by
Mr. (hereinafter referred to as the Contractor) of the OTHER PARTY.

WITNESSETH

WHEREAS TSS invited International Tender for "**Supply of STM-1MUX & ONU in modular form & assist TSS for Installation, Testing and Commissioning of STM-1, MUX & ONU at various sites on Turn- key Basis**". in the Telecommunication network of Bangladesh as described in annexure to this Contract.

and

WHEREAS the Contractor made their Technical and Commercial Proposal -----
and whereas TSS has accepted their proposal vide Notification of award No. -----

NOW THEREFORE, in consideration of the payment by TSS of the sum of -----
----- only to be paid through local Letter of Credit in the
manner described below and according to the terms and conditions laid down herein, the
Contractor agrees that:

1. In accordance with the terms and conditions laid down herein, the Contractor shall perform full turn-key design, manufacture, ship, supply, install, test, adjust, commission and provide all related service for all system, equipment, goods, materials and services as specified in this contract.
2. And the following attached documents shall automatically become inseparable part of the contract :
 - i) Section 2 : Definitions
 - ii) Section 3 : Terms and Conditions of the Contract

Detail BoQ and other Annexure shall also be part of the Contract.

Section – 2

DEFINITIONS

In this Tender Document the words herein below set forth shall have the following meanings, unless otherwise stated .

- 2.1. **"Tenderer/ Contractor"** means a national of eligible source country or juridical person incorporated and registered in the eligible source country and has submitted his Tender/Bid or Tender proposal (*as hereinafter defined*) to TSS before the closing date of Tender.
- 2.2. **"Purchaser"** means Managing Director, TSS Ltd., Tongi, Gazipur.
- 2.3. **"Bangladesh Bank"** means the Central Reserve Bank of the Government of Bangladesh.
- 2.4. **"BTCL" means BANGLADESH TELECOMMUNICATION COMPANY LIMITED.**
- 2.5. **"TSS"** means **Telephone Shilpa Sangstha Limited "**
- 2.6. **"Tender", "Bid" or "Tender proposal"** means the written offer in response to this INVITATION OF TENDER.
- 2.7. **"Successful Tenderer/ Contractor"** means a Tenderer/ Contractor who has received written notice from TSS saying that his tender is acceptable and with whom TSS wishes to negotiate & to conclude the Contract (*as hereinafter defined*).
- 2.8. **"Contractor/ Supplier"** means a successful Tenderer/ Contractor who would sign the Contract with TSS.
- 2.9. **"Contract"** means the written agreement concluded between TSS and Contractor for the execution of the Project.
- 2.10. **"Contract Price"** means the amount payable to Contractor under the Contract for the full and proper performance by Contractor of his part of the Contract as determined under the provision of the Contract.
- 2.11. **"Work"** means all the work (*both equipment & Services as hereinafter defined*) under the Contract up to the issuance of the last Final Acceptance Certificate of the System including full turn-key supply, installation and testing services of the Equipment, handing over of the spare parts, test equipment, vehicles, remaining materials to TSS, clearing up of the Sites, training and submission of all the documents.
- 2.12. **"Equipment"** means any and all kinds of equipment, apparatus, materials and things that are to be provided by the Contractor to TSS under the Contract.
- 2.13. **"Service/ Services"** means full turn-key installation and testing services of the Equipment including survey, planning, designing, training and operation & maintenance assistance etc., as provided under the contract.

- 2.14. **"BoQ/ Bill of Quantity"** means the list of items (including the quantities and unit & total prices) of Equipment and Services required for full turn-key completion of the contract.
- 2.15. **"Site"** means the land, building or other places on, over, under, in or through which the Work is to be executed.
- 2.16. **"Contractor's Goods"** means any and all kinds of equipment, machinery, tool, material and temporary facilities that are necessary for the execution of the work and owned by the Contractor (excluding any material listed in the contract BoQ), including special construction vehicles and passenger vehicles used for personnel transportation.
- 2.17. **"Force Majeure"** means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events include wars or revolutions, prolonged political unrest, earthquakes, fires, floods, epidemic, quarantine restrictions and freight embargoes.
- 2.18. **"Consignee"** means the Managing Director, Telephone Shilpa Sangstha Ltd., Tongi, Gazipur.
- 2.19 **"Coming into Force"** Coming into force of the Contract means (a) Submission of Performance Guarantee by the selected contractor (b) Signing of the contract by both parties and (c) Opening of the L/C (Letter of Credit) by the Purchaser.

Section – 3

TERMS AND CONDITIONS OF THE CONTRACT

1. Application:

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

2. Laws, Rules and Regulations.

The laws, rules and regulations of the Government of the People's Republic of Bangladesh having jurisdiction over the project shall govern with the same force and effect as if written herein. Where such laws, rules and regulations conflict with the Contract, the laws, rules and regulations of the Government of the People's Republic of Bangladesh shall prevail.

3. Contractor's Duties.

Contractor shall perform his duties in accordance with the Contract, including purchaser's TENDER DOCUMENT and contractor's Tender proposal.

4. Contractor's Risk.

4.1 Contractor shall take upon himself the whole risk of executing the Work according to the Implementation Time Schedule and the Equipment obtained for the purpose of the Contract and the Services executed by him under the Contract shall be at his risk until the issuance of the Provisional Acceptance Certificate of the System.

4.2 As for the damage, loss or injury caused by Force Majeure respective clause(s) shall apply.

5. Transfer of Title and Risk.

The title of ownership for the Equipment to be supplied under the Contract shall be transferred to TSS at the moment of issuing of bill of lading or airway bill when the Equipment is actually loaded on board of ocean cargo vessels or aircraft at the port of shipment.

5.1 Contractor's own Goods shall not be subject to this Clause.

5.2 However, this transfer of title shall not be construed as meaning an acceptance of the equipment by TSS.

5.3 Contractor shall be kept responsible for the whole risk of executing the Work as prescribed in Clause 4, and shall be responsible for handling and storage of the

equipment until Contractor receives the Provisional Acceptance Certificate of the System. Contractor shall carry out accurate daily book-keeping on taking-in and-out of the Equipment, so that up-to-date data are available at any time for TSS's inspection.

- 5.4 The entire title of the System shall be automatically passed to TSS at the issuance of the Provisional Acceptance Certificate of the System.

6. Standards.

The goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications and relevant International/Regional institutional standards or higher and when no applicable standard is mentioned, to the authoritative standard appropriate to the Goods, country of origin and such standards shall be the latest issued by the concerned institution.

7. Country of Origin of Goods

Country of origin of all equipment shall be as mentioned in the bid offer or its subsequent approved amendment (if any) and such may be any country except Israel.

8. Inspections and Tests.

- 8.1 The Purchaser or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the contract.

- 8.2 The following inspection procedures and tests may be required by the purchaser / its representative:

The Managing Director, TSS or his authorized representative(s) shall be entitled at all reasonable time during manufacture to inspect, examine and test in the contractors premises, the materials and working of the plant in accordance with the Supplier's standard Customer's Proof of Concept items and procedure. If that part of the plant is being manufactured at others premises, the Supplier shall obtain for BTCL and TSS or its authorized representative(s) permission to inspect, examine and test as if the said plant was being manufactured in the Supplier's premises. Such inspection, examination or testing, if made, shall not release the supplier from obligation under the Contract. The supplier shall submit the manufacturing schedule of all the equipment to TSS within one month after coming into Force of the Contract. The manufacturing schedule includes the time schedule for the manufacturing of all the equipment and the names, address and telephone numbers of plants, factories and places where the equipment is to be manufactured. BTCL and TSS's authorized representative(s) may witness the final tests of the equipment at manufacturer's plant. Requirement for Customer's Proof of Concept (CPOC) shall be in accordance with the Technical Specification. The costs to be incurred for any such inspection, if made, shall be borne by the supplier. BTCL and TSS will dispatch engineers to the country of manufacturing. Each of these engineers will be paid by the supplier for:

- (a) Return full fare air ticket from and to Dhaka.
- (b) Daily allowance.
- (c) Local transportation and accommodation.

- (d) Insurance (if needed)
- (e) Medical services if required.

An advance notice of 30 days shall be given by the supplier stating the likely date and place where the equipment will be ready for test purpose by engineers. CPOC will not start until the TSS inspection team arrives at the factory premises for eyewitness the result of the test and certify on the required document.

- 8.3 Should any inspected or tested goods fail to conform to the Specifications, the Purchaser may reject them and the Supplier shall either replace the rejected goods or make all alterations necessary to meet specification requirements free of cost to the Purchaser.
- 8.4 The Purchaser's right to inspect, test and where necessary, reject the goods after the goods arrival in the Purchaser's country shall in no way be limited or waived by reason of the goods having previously been inspected, tested and passed by the Purchaser or its representative prior to the goods, shipment from the country of origin.
- 8.5 Nothing in Clause 8 shall, in any way, release the Supplier from any warranty or other obligations under this contract.

9. Packing and Marking.

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open storage, Packing case size and weight shall take into consideration, where appropriate, the remoteness of the goods, final destination and the absence of heavy handling facilities at all points in transit and weather conditions in all relevant countries.
- 9.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract.

10. Delivery and Documents.

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified by the purchaser in its Technical Specifications. The Contractor shall submit detailed implementation plan including engineering plan, transportation plan, installation, erection, testing cutover service plan and training plan, together with detail implementation time sequence and estimated duration of individual items.
- 10.2 For the purposes of the contract, "**FOB**" "**CPT**", "**C&F**" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of the International Rules for the interpretation of the Trade Terms published by the International Chamber of Commerce, Paris, and commonly referred to as INCOTERMS.

10.3 Upon shipment the supplier shall submit the following documents to the purchaser with a copy to the insurance company:

- i) The Supplier's original invoice showing goods description, quantity, unit price and total amount with weight and measurement certificate, 6 copies & bill of exchange 3 copies.
- ii) Three originals and six copies of the negotiable clean on board Airway bill marked Freight Prepaid.
- iii) One original packing list identifying the content of each package.
- iv) Manufacturer's/Supplier's guarantee certificate.
- v) Inspection Certificate issued by the nominated inspection agency and the supplier's factory inspection report.
- vi) Certificate of Origin, One original and three copies.

The above documents shall be received ten days prior to the arrival of the goods at the port and, if not received, the supplier will be responsible for any consequent expenses.

For domestic Goods:

- i) Copies of the supplier invoice showing goods description, quantity, unit price, total amount.
- ii) Delivery note. Railway receipt/truck receipt.
- iii) Manufacturer's/Supplier's guarantee certificate.
- iv) Inspection certificate issued by the nominated inspection agency, and the supplier's factory report, and

11. Insurance.

- 11.1 TSS shall obtain open cover marine insurance policy in an amount equal to 110% of the C&F value of the goods from Sadharan Bima Corporation Bangladesh, from port of shipment up to the installations sites against all risks for the total cost of equipment to be imported under this agreement which will become the property of the purchaser.
- 11.2 The policy should such that in case of damage, short receipt or any other type of loss of equipment the claim should be recoverable in the currency of the country of origin of equipment or any other freely convertible currency.
- 11.3 Supplier shall furnish a declaration of shipment containing full particulars of each consignment such as number of packages, description of cargo name of vessel sailing date, seaport of shipment, seaport of destination (For air freight: Flight No. Date, Port of Shipment, Port of Destination) and the value of the consignment (C&F) value to the insurance company nominated by the purchaser so as to reach them within 14 (fourteen) days from the date of each shipment.
- 11.4 In case of delay the declaration of shipment shall be telegraphically communicated to the nominated insurance company who shall issue a specific insurance policy or certificate and forward it to the purchaser.

- 11.5 In case of any damage or short receipt of material, the report by the authorized surveyor of the insurance company shall be in consultation with representatives of both purchaser and supplier. **In any case the cost of repair or re-supply (including all relevant taxes) should be borne by the supplier.**

12. Transportation.

All types of foreign and local transportation including loading-unloading shall be supplier's responsibility.

13. Incidental Services.

- 13.1 In addition to any other services already stated in the tender document and the BoQ of this contract, the supplier shall be required to provide, but not limited to the following services:

- (a) Supervision of on site assembly, installation and start-up of the supplied goods.
- (b) Self testing of all equipment to ensure their proper performance.
- (c) Providing material and technical assistance to TSS for PAT of the system.
- (d) Providing all types of material and technical support to TSS up to issuance of the last PAC.
- (e) Furnishing of detailed operations and maintenance manuals for each appropriate unit of the supplied goods.
- (f) Furnishing of tools and test equipment required for assembly installation & maintenance of the system.
- (g) Furnishing of proper documentation.

- 13.2 Prices charged by the supplier for the proceeding incidental services, even if not done so, shall be considered to have been included in BoQ.

14. Maintenance Spare Parts and Consumable Items.

- 14.1 The contractor, at his own cost, shall supply all necessary spare parts and consumables to be used during installation, testing & commissioning and operation of the systems, up to the end of Guarantee Period.

15. Guarantee for supply of spare parts

The Contractor provides the guarantee to the effect that, he shall guarantee the flow and availability of all spare parts and units with or without major design changes during life time of the system i.e., at least 5 (five) years from the issuance of Final Acceptance Certificate (FAC).

16. Guarantee for Expansion

As per Book-2 of the Tender Document.

17. Guarantee Period for the equipment

- 17.1. The contract includes a guarantee period for all the equipment and services covered by this purchase. The guarantee period shall deem to have started from the cut-over of the first equipment into commercial service and last for 2(two) calendar years from “the date of effect” of the last Provisional Acceptance Certificate (PAC) of the contract. The Guarantee shall cover smooth operation and maintenance of the entire system covered by this purchase.
- 17.2. If any equipment or part of equipment fails during this guarantee period, the Bidder shall change this equipment or its concerned part at his own cost. In such cases, the period of counting of the period for the concerned equipment will restart from the date of putting into service of the replace or repaired part(s) of that equipment.

18. Maintenance support by the contractor

18.1 Maintenance Support up to Guarantee Period and after FAC

As per book-2 of Tender Document.

19. Testing

19.1 CPOC

As per Book-2 of Tender Document.

19.2. Provisional Acceptance Test (PAT)

As per Book-2 of Tender Document.

19.3 Final Acceptance Test (FAT)

As per book-2 of Tender Document.

20. Cut-over of the systems

The systems shall, generally, be put into commercial service after successful completion of the PAT. But TSS shall reserve the right to put any or all portion of any or all systems to commercial service under special circumstances even if such portion(s) have not successfully passed the PAT, with the permission of the contractor. Under such circumstances, the contractor shall not be relieved of his responsibilities of successful completion of the PAT for the relevant portion(s).

21. Training

The Contractor shall provide the following training facilities to nominated Engineering Personnel of TSS and BTCL. The training curriculum shall be enough to facilitate transfer of technology for planning, designing, expanding and proper operation & maintenance of all the systems covered by this purchases.

21.1 Factory Training

As per Book-2 of Tender Document.

21.2 Local Training

As per book-2 of Tender Document.

22. Storage of Materials

The contractor shall be responsible for storage of all materials at his own cost and risk. TSS may offer storage spaces, if available, at sites; but in such cases the security responsibilities and risks shall vest upon the contractor.

23. Inter-connection between different new ODF/DDFs and all existing ODF/DDFs of BTCL

The Contractor shall be responsible for making inter-connection facility (including supply of all required material, connectors at both ends of interconnecting cable and related service) between the different newly installed ODF/DDFs and BTCL's existing ODF/DDFs, as and where necessary.

24. Inter-work with the Existing Systems

The Contractor shall be responsible to ensure that all the system covered by this purchase shall be able to inter-work with all the related existing systems of BTCL. The contractor shall also be entirely responsible to solve any mismatch, if encountered.

25. Documentation

The Contractor shall supply at least (but not limited to) the following documents before PAT of each station.

- a) Technical Documentation for all equipment- 1 set of hard copy and 1 set in CD; per site.
- b) As-built drawings for all equipment : 1 set in CD and 1 set in hard copy; per site.
- c) Station AC power wiring diagrams : 1 set in CD and 1 set in hard copy per site.
- d) Earthing diagrams : 1 set in CD and 1 set in hard copy per site.
- e) Detail technical document for NMC: 1 set in CD and 1 set in hard copy.

26. Effective Date of Contract

The **Effective Date of Contract (EDC)** will be the date of the irrevocable letter of credit issued by TSS.

27. Terms of Payment

27.1 The Supplier's request (s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as by shipping documents, submitted, pursuant to paragraph below and upon fulfilment of other obligations stipulated in the contract.

27.2 Payment for US Dollar Part:

- | | | |
|-----|---------------------------------|----------------------------------|
| (a) | Payment for equipment price | : As per Chapter- Three, BOOK 1. |
| (b) | Payment for Service | : As per Chapter- Three, BOOK 1. |
| (c) | Payment for CPOC | : As per Chapter- Three, BOOK 1. |
| (d) | Payment for training | : As per Chapter- Three, BOOK 1. |
| (e) | Payment for Maintenance Support | : As per Chapter- Three, BOOK 1. |
| (f) | Payment for Maintenance Service | : As per Chapter- Three, BOOK 1. |

27.3 Payment for Bangladesh Taka :

- | | | |
|-----|----------------------------------|----------------------------------|
| (a) | Payment for equipment price | : As per Chapter- Three, BOOK 1. |
| (b) | Payment for Service | : As per Chapter- Three, BOOK 1. |
| (c) | Payment for training | : As per Chapter- Three, BOOK 1. |
| (d) | Payment for Maintenance Support | : As per Chapter- Three, BOOK 1. |
| (e) | Payment for Local Transportation | : As per Chapter- Three, BOOK 1. |

28. Change of Order.

28.1 The purchaser may at any time, by a written order given to the supplier, make changes within the general scope of the contract in any one or more of the following:

- (a) 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 or
- (d) The services to be provided by the supplier.

28.2 If any such change causes an increase or decrease in the cost of or the time required for, the supplier's performance of any part of the work under the contract, whether changed or not changed by the order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall accordingly be amended. Any claim by the supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the supplier's receipt of the purchaser's change order.

29. Contract Amendments.

No variation in or modification of the contract shall be made except by written amendment signed by the parties.

30. Assignment.

The Supplier shall not assign to any Organization or Sub-Contractor(s) in whole or in part its obligations to perform under the contract, except with the purchaser's prior written consent.

31. Subcontracts.

The supplier shall notify the purchaser in writing of all subcontracts awarded under the contract if not already specified in his bid. Such notification, in his original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

32. Delays in the Supplier's Performance.

32.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule specified by the purchaser in its Technical Specifications and/or Contract.

32.2 An unexcused delay by the supplier in the performance of its delivery or implementation obligations shall render the supplier liable to any or all of the following sanctions: forfeiture of its performance security, imposition of liquidated damages, and/or termination of the contract for default.

32.3 If any time during performance of the contract, the supplier or its subcontractor (s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause (s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at its discretion extend the supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the contract. Providing of such extension does not in any way relieve the supplier/contractor from facing the liability of liquidated damage charges as stipulated in clause 33, unless the extension is made to meet the requirements of the executing agency.

33. Liquidated Damages.

If the supplier fails to deliver any or all of the goods or perform the services within the time schedule specified in the contract, the purchaser shall ,without prejudice to its other remedies under the contract, deduct from the contract price, as liquidated damages as sum equivalent to zero point five percent (**0.5%**) of the price of the delayed delivery goods or unperformed services for each week of delay until actual delivery or performance, up to a maximum deduction of **10%** (ten percent) of the maximum is reached, the purchaser may consider termination of the contract.

34. Termination for Default.

34.1 The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, terminate the contract in whole or in part:

- (a) If the supplier fails to deliver any or all of the goods within the time period (s) specified in the contract, or any extension thereof granted by the purchaser.
 - (b) If the supplier fails to perform any other obligations under the contract.
- 34.2 In the event the purchaser terminates the contract in whole or in part, pursuant of para 34.1, the purchaser may procure, upon such terms and in such manner as it deems appropriate, good similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods. However, the supplier shall continue performance of the contract to the extent not terminated.

35. Force Majeure.

- 35.1 Notwithstanding the provisions of Clauses 32,33,34, 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 obligation under the contract is the result of an event of Force Majeure.
- 35.2 For purposes of this clause, “**Force Majeure**” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the purchaser either in its sovereign or contractual capacity wars or revolutions fires, floods, epidemic, quarantine restrictions and freight embargoes.
- 35.3 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 is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

36. Termination for Insolvency.

The purchaser may at any time terminate the contract by giving written notice to the supplier, without compensation to the supplier, if the supplier becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

37. Termination for convenience.

- 37.1 The purchaser, may sent written notice to the supplier, terminate the contract, in whole or in part, at any time for its convenience. The notice of termination shall specify for its convenience, the extent to which performance of work under the contract the terminated and the date upon which such termination becomes effective.
- 37.2 The goods that are complete and ready for shipment within 30 days after the supplier's receipt of notice of termination shall be purchased by the purchaser at the contract terms and prices. For the remaining goods, the purchaser may elect:

- (a) to have any portion completed and delivered at the contract terms and prices, and/or.
- (b) to cancel the remainder and pay to the supplier an agreed amount for partially completed goods and for material and parts previously procured by the supplier.

38. Resolution of Disputes.

The dispute resolution mechanism to be applied shall be as follows:

- 38.1 The purchaser and the Contractor 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.
- 38.2 In the case of a dispute between the purchaser and the Contractor, the dispute shall be referred to arbitrators, one to be nominated by the purchaser and the other by Contractor and an additional as Chairman of the Tribunal be appointed by the arbitrators and the decisions of the arbitrators shall conform to provisions of Arbitration Act, 2001. The assessment of costs incidental to the reference and award respectively shall be at the discretion of the arbitration tribunal. Project implementation under this agreement shall continue during the arbitration proceedings. The venue of the arbitration shall be Dhaka in Bangladesh.

39. Notice.

For the purpose of all notices, the following shall be the address of the purchaser and supplier.

Managing Director,
Telephone Shilpa Sangstha Limited,
Tongi, Gazipur.
FAX : 880-2-9812700

Copy of such notice must be given to the Project Director (Full address of Project Director will be given during contract signing) and the Supplier (To be filled in the time of contract signing).

40. Familiarization with the sites.

The supplier shall be deemed to have familiarized himself with the nature and location of the work, the general and local conditions of the sites, and all other matters which can in any way affect the work under the contract.

41. Completion of equipment.

The supplier shall be responsible for the supply of goods as required. Any goods or materials etc. omitted which may be necessary for the completion and efficient performance of the system in accordance with the specifications shall be supplied by the supplier without any extra costs as if the cost of such goods or materials, etc. shall be deemed to have been included in the contract price. The supplier may at any time,

with the prior written approval of TSS make such changes in design of equipment as may in the supplier's opinion be necessary or desirable for reasons such as improvement of performance of equipment and the like, provided such modifications do not enhance the cost of equipment and its maintenance. Where any modification suggested by contractor would entail an alteration to the price or delivery times, such modifications agreement by the both parties.

42. Progress Reports.

42.1 During the work implementation period combined technical and management monthly reports shall be prepared and eight copies of each shall be submitted to TSS within 10 (ten) days of the next following month.

42.2 Management report with executive summary.

The management report shall present a complete review of the status of the program, accomplishments and developments. It shall include the schedule for the supplier's implementation performance in accordance with the contract and shall measure actual performance in accordance therewith.

42.3 Technical Report.

The technical report shall complement and supplement the management report and shall include but not be limited to:

- description of completed technical activities and attained milestones,
- problem areas, both current and potential, with plans for corrective actions to avoid adverse effects on the program. The right is reserved to request expansion of any report item, or to request data and detailed schedules on additional areas.

43. Planning.

Within one month of the **Effective Date of the Contract**, the supplier shall give.

- the dates of readiness for CPOC
- the dates of beginning and completion of installation on the sites.
- the dates of readiness for initial acceptance testing.

The supplier shall provide an updated plan every one month showing progress and any possible slippage.

The purchaser shall appoint a field installation manager with whom the supplier's project manager shall maintain the closest possible co-operation at all times.

44. Meetings.

At the beginning of the works, a meeting shall be held to co-ordinate the works (planning and technical aspects) of the various entities involved in the project. Representatives of the supplier and the purchaser shall have sufficient delegated authority to participate fruitfully in this meeting and shall be fully conversant with all

background of the project. A technical review shall be held during this meeting to examine the finalized design proposed by the supplier after a final survey conducted by him.

45. Supplier's personnel.

- 45.1 The supplier shall ensure that the staff he provides under the contract are suited in skill, health and temperament for the conditions and environment in which the work are to be implemented and that at least one member of such staff at each location where major installation work is necessary can converse fluently and competently discuss technical matters in converse fluently and competently discuss technical matters in English, The supplier shall where requested produce to the purchaser a full curriculum vitae in respect of each of his personnel.
- 45.2 The supplier shall at the request replace any of the supplier's personnel on site if it is mutually agreed that they have proved to be unsuitable under term.
- 45.3 The contractor shall not engage any personnel for any work without employment permit, where such permits are required under existing laws of Bangladesh.

46. Facilities and Services.

- 46.1 The purchaser shall at the supplier's request and at his expense assist in a timely fashion in the issuance of any work and/or entry permits, licenses, visas, etc. for personnel employed or temporarily engaged by the contractor.
- 46.2 The supplier may have telephone and fax facilities at each installation site, wherever possible. In such cases, all call charges and installation charges shall be borne by the contractor.
- 46.3 The contractor shall, at his own expense, arrange premises for his office, land for his storage site, transportation facilities, office staffs, and any other facilities.

47. Covering Language.

The contract shall be written in English. All correspondence and other documents pertaining to the contract which are exchanged by the parties shall also be in the same language.

48. Taxes and Duties.

- 48.1 The contractor shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies for all goods, materials and personnel relevant to this contract, imposed outside the purchaser's country.
- 48.2 Taxes on articles, goods etc. brought into Bangladesh for contractor's personnel and office will be paid by the supplier.

- 48.3 TSS shall pay all taxes and duties, payable under government laws related to custom clearance, for all goods and materials brought into Bangladesh in connection with the BOQ of the contract.
- 48.4 The contractor shall be liable to pay all corporate, personal taxes and withholding taxes, as imposed under existing laws of the country. No exemptions from such payment shall be entertained until such exemptions are already entitled under existing laws.
- 48.5 Before winding up of its activities after end of the project works, the contractor shall provide TSS with a guarantee that it has no outstanding taxes or duties payable to any organization of Bangladesh.
- 48.6 If during issuance of FAC of the contract, it is found that the contractor has any outstanding liability to any organization of Bangladesh; such sum will be deducted from the payment due for FAC.
- 50 Bidders/Manufacturers already Black Listed in TSS or BTCL

Bid of any bidder who is already black listed in BTCL will be considered as “**not eligible**” and will not be considered for evaluation. If any bidder quotes any equipment from any manufacturer who is already Black Listed in BTCL and TSS, then the bid will be considered as “**not eligible**” and will not be considered for evaluation. At present the following Bidders/Manufacturers are Black Listed in BTCL:-

1. M/S Marconi SpA Italy
2. M/S Gulf Bangladesh Associates Ltd., Dilkusha, Dhaka.

450. Target Date for Completion.

TSS expects that the completion date of the work as 06 months after coming into force of the contract. The Target date, however, may be improved depending upon the implementation time schedule of the contractor.

(END OF DOCUMENT)