

4-5th Floor, Digital Empire Building, Building C, 16
Deogyong-daero 1556beon-gil, Yeongtong-gu, Suwon-si,
Gyeonggi-do, 16690 Republic of Korea

Tel:82-31-300-0400 FAX: 82-31-300-0499

www.sdbiosensor.com



PROCUREMENT OF GOODS

DIRECT PROCUREMENT

**For Procurement under COVID-19 Emergency Response
Operations**

June 2020

This document is subject to copyright.

This document may be used and reproduced for non-commercial purposes only. Any commercial use, including without limitation reselling, charging to access, redistribute, or for derivative works such as unofficial translations based on this document is not allowed.



Direct Procurement of Goods

Procurement of: STANDARD COVID-19 Ag Test

Ref No: *COVID19/G/DC-04*

Project: *Georgia Emergency COVID-19 Response Project – P173911*

Purchaser: *Ministry of Internally Displaced Persons (IDP) from Occupied Territories, Labour, Health and Social Affairs*

Country: *Georgia*

Issued on: *June 12, 2020*

Table of Contents

Invitation for Direct Contracting of Goods.....	5
ANNEX 1: Purchaser's Requirements.....	8
ANNEX 2: Offer Forms.....	11
ANNEX 3: Contract Forms	17

Invitation for Direct Contracting of Goods

Direct Contracting Ref No.: COVID19/G/DC-04

Direct Contracting Date: 12.06.2020

To: SD BIOSENSOR

C-4&5 F, 16, Deogyong-daero, 1556beon-gil, Yeongtong-gu
Suwon-si, Gyeonggi-do, Republic of Korea, 16690

Dear Victor Yang:

Invitation for Direct Contracting

The *Government of Georgia* has received financing from the World Bank (Bank) toward the cost of the Georgia Emergency COVID-19 Response Project and intends to apply part of the proceeds toward payments under the contract for Procurement of STANDARD COVID-19 AG TESTS.

The *Ministry of IDP from Occupied Territories, Labour, Health and Social Affairs (MoIDPLHSA)* now invites your offer for the Goods and the Related Services, described in Annex 1: Purchaser's Requirements, attached to this invitation.

Eligible Goods and Related Services

All the Goods and Related Services to be supplied under the Contract and financed by the Bank may have their origin in any country except for the following countries: *none*.

Manufacturer's Authorization

If you do not manufacture or produce the Goods to be supplied, please submit a Manufacturer's Authorization using the form included to this invitation for direct contracting to demonstrate that you are authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's Country.

Performance Security

N/A

Validity of offers

Please indicate the validity of the offer.

Quoted Price

Prices shall be quoted in the following manner:

- (a) For Goods to be supplied from within the Purchaser's Country:

- (i) the price of the Goods quoted EXW, including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
 - (ii) any Purchaser's Country sales tax and other taxes which will be payable on the Goods if the Contract is awarded to the Supplier; and
 - (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site)
- (b) For Goods to be supplied from abroad:
- (i) **the price of the Goods, quoted CIP named place of destination in the Purchaser's Country: Tbilisi, Georgia**
 - (ii) **the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site): N/A**
- (c) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, **whenever such Related Services are specified in the Schedule of Requirements**, the price of each item comprising the Related Services (inclusive of any applicable taxes).

The offered unit prices shall be fixed during the performance of the Contract and not subject to adjustment.

You may quote your price in a freely convertible foreign currency of your choice in addition to the currency of the Purchaser's Country (for any local costs as applicable).

Clarifications

Any clarification request regarding this invitation for direct contracting may be sent in writing to **Giorgi Tsotskolauri at info@moh.gov.ge** before June 16, 2020 **16:00 hrs. of local time**.

Submission of Offer

- a. Please submit your offer within **five (5) days** using the form attached at Annex 2 and **email: info@moh.gov.ge**.
- b. The address for submission of Offer is:

Attention: Giorgi Tsotskolauri

E-mail address: info@moh.gov.ge

Contract negotiations and award of contract

The contract will be concluded subject to the satisfactory conclusion of negotiations, ***in light of the circumstances, any negotiation is expected to be virtual.***

The Purchaser shall publish a contract award notice on its website with free access, if available, or in a newspaper of national circulation or UNDB online, within 15 days after award of contract or

as soon as practicable thereafter. The information shall include the name of the successful Supplier, the Contract Price, the Contract duration and summary of its scope.

Fraud and Corruption

The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework, as set forth in the attachment to the Contract Conditions (Attachment A).

In further pursuance of this policy, the supplier shall permit and shall cause their agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and personnel, to permit the Bank to inspect all accounts, records and other documents relating to the RFQ and contract performance (in the case of award), and to have them audited by auditors appointed by the Bank.

On behalf of the Purchaser:

Signature:

Name: Giorgi Tsotskolauri

Title/position: Deputy Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

Attachments:

Annex 1: Purchaser's Requirements

Annex 2: Supplier's Offer Form

Annex 3: Contract Forms

1.1 List of Goods and Delivery Period

Line Item N°	Description of Goods	Quantity required	Physical unit	Named Place of Destination (for CIP)	Place of Final Destination (Project Site)	Applicable Incoterms	Delivery Period from Date of
1	Standard COVID-19 AG Test	50,000	2000	Tbilisi, Georgia	118 Tsereteli ave, Tbilisi, Georgia	CIP	Within one (1) week after receipt of payment. It can be changed depending on flight schedule.

[illegible]

1.2 List of Related Services and Completion Schedule

Service	Description of Service	Quantity required	Physical Unit	Place where Services shall be performed	Completion Period of Services
<i>[insert Service No]</i>	<i>[insert description of Related Services]</i>	<i>[insert quantity of items to be supplied]</i>	<i>[insert physical unit for the items]</i>	<i>[insert name of the Place]</i>	<i>[insert no. of days such as from Delivery Period or receipt of Goods, as appropriate]</i>



1.3 Technical Specifications

Summary of Technical Specifications. The Goods and Related Services shall comply with following Technical Specifications and Standards:

<i>Item No</i>	<i>Name of Goods or Related Service</i>	<i>Technical Specifications and Standards</i>
<i>1</i>	<i>Standard COVID-19 AG Test</i>	COVID-19 Ag test based on the rapid chromatographic immunoassay for the qualitative detection of specific antigens to SARS-CoV-2 present in human nasopharynx. Specimen type - Nasopharyngeal swab. Delivers result no later than 30 mins. Easy to use (no more than four steps). Included internal control - procedural control detecting the capability of the assay. Desired if pack includes all accessories needed for taking sample and its application to test & no equipment needed. Clinical sensitivity greater than 84% (within 95% confidence intervals), Clinical specificity greater than 98% (within 95% confidence intervals). Absence of cross-reactivity with other human coronaviruses. Regulatory status – CE-marked, IVD, preferable approved by FDA. Reagent storage temperature 2- 30°C.

ANNEX 2: Offer Forms

Supplier's Offer Form

From:	SD Biosensor, Inc.
Supplier's Representative:	Taylor Hor
Title/Position:	Vice President
Address:	C-5 Floor, Digital Empire Building, 16, Deongyeong –daero 1556beon-gil, Yeongtong-gu, Suwon-si, Gyeonggi-do, 16690, Republic of Korea
Email:	victor@sdbiosensor.com

To:	Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia
Purchaser's Representative:	Giorgi Tsotskolauri
Title/Position:	Deputy Minister
Address :	144 Ak. Tsereteli ave., Tbilisi 0119 Georgia
Invitation for Direct Contracting Ref No.:	COVID19/G/DC-04
Date of Offer:	17-June-2020

Dear Deputy Minister,

SUBMISSION OF OFFER

1. Conformity and no reservations

In response to the above invitation for direct contracting, we offer to supply the Goods, as per this invitation subject to any negotiations that may be carried out to finalize the contract.

2. Eligibility

If awarded the Contract, the Goods that we supply shall be sourced from an eligible country.

We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and

other development banks. Further, we are not ineligible under the Purchaser's Country laws or official regulations or pursuant to a decision of the United Nations Security Council.

3. Offered Price

The total price of our offer is six hundred twelve thousand two hundred twenty dollars, \$612,200.

4. Validity of the Offer

Our offer shall be valid until *[31-July-2020]*.

5. Performance Security *N/A*

6. Commissions, gratuities, fees

We have paid, or will pay the following commissions, gratuities, or fees with respect to this offer.

none.

7. Not Bound to Accept

We understand that you reserve the right to:

- a. accept or reject the offer, and
- b. annul the direct contracting process at any time prior to the award of the Contract.

8. Fraud and Corruption

We hereby certify that we have taken steps to ensure that no person acting for us, or on our behalf, engages in any type of Fraud and Corruption.

On behalf of the Supplier:

Name of the person duly authorized to sign the offer on behalf of the Supplier: Taylor Hor

Title of the person signing the offer: *Vice president*

Signature of the person named above:

Date signed

17 June 2020



Price Schedule 2

Goods to be supplied from within the Purchaser's country

1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4x5)	<i>[IF REQUIRED]</i> Price per line item for inland transportation and other services required in the Purchaser's Country to convey the Goods to their final destination as specified in the invitation for direct contracting	Sales and other taxes payable per line item if Contract is awarded	Total Price per line item (Col. 6+7)
<i>[insert number of the item]</i>	<i>[insert name of Good]</i>	<i>[insert quoted Delivery Date / quoted phased Delivery dates if applicable]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert EXW unit price]</i>	<i>[insert total EXW price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[insert sales and other taxes payable per line item if Contract is awarded]</i>	<i>[insert total price per item]</i>
							Offered Price	

Price Schedule 3
Related Services [If applicable]

1	2	3	4	5	6	7
Item No.	Item description	Description of Services (excludes inland transportation and other services required in the Purchaser's Country to convey the goods to their final destination)	Country of Origin	Completion Period at place of final destination	Quantity and physical unit	Unit price
[insert number of the item]		[insert name of Services]	[insert country of origin of the Services]	[insert Delivery Period at place of final destination per Service]	[insert number of items to be supplied and name of the physical unit]	[insert unit price per item]
Offered Price						

Price Schedule 4
Total Price

The total cost for the supply and delivery of the Goods, and related Services is as follows:

Price Schedule	Amount
Goods: Price Schedule 1	\$612,200
Goods: Price Schedule 2	
Related Services: Price Schedule 3	
Total Price	\$612,200

Manufacturer's Authorization

[The Supplier shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer.]

Date: 15-June-2020

Request for Invitation for Direct Contracting No.:

To: Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia

WHEREAS

We *SD Biosensor, Inc.*, who are official manufacturers of *COVID Diagnostic Rapid Test*, having factories at 74, Osongsaengmyeong 4-ro, Osong-eup, Heungdeok-gu, Cheongju-si, Chungcheongbuk-do, REPUBLIC of KOREA do hereby authorize Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia to submit an offer the purpose of which is to provide the following Goods, manufactured by us *STANDARD Q COVID-19 Ag Test*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 20 of the Conditions of Contract, with respect to the Goods offered by the above firm.

Signed:



Name: *Taylor Hor*

Title: *Vice President*

Dated on 17th day of June, 2020

ANNEX 3: Contract Forms

Contract Agreement

THIS AGREEMENT made the [*insert: number*] day of [*insert: month*], [*insert: year*].

BETWEEN

- (1) [*insert complete name of Purchaser*], a [*insert description of type of legal entity, for example, an agency of the Ministry of of the Government of { insert name of Country of Purchaser }, or corporation incorporated under the laws of { insert name of Country of Purchaser }*] and having its principal place of business at [*insert address of Purchaser*] (hereinafter called “the Purchaser”), of the one part, and
- (2) [*insert name of Supplier*], a corporation incorporated under the laws of [*insert: country of Supplier*] and having its principal place of business at [*insert: address of Supplier*] (hereinafter called “the Supplier”), of the other part :

WHEREAS the Purchaser invited an offer for certain Goods and ancillary services, [*insert brief description of Goods and Services*], carried out contract negotiations as applicable, and has accepted the offer by the Supplier for the supply of those Goods and [*Related Services, if any*]

The Purchaser and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (a) Minutes of Negotiations
 - (b) the Supplier’s offer
 - (c) Conditions of Contract
 - (d) the Purchaser’s Requirements (including the Schedule of Requirements and Technical Specifications)
 - (e) the completed Schedules (including Price Schedules)
 - (f) any other document listed as forming part of the Contract
33. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

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

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of *[the Purchaser's country, unless agreed otherwise]* on the day, month and year indicated above.

[To facilitate this emergency procurement, if acceptable to the Purchaser and the Supplier, electronic signature of the Contract Agreement such as using DocuSign is recommended.]

For and on behalf of the Purchaser:

Signed: *[insert signature]*

in the capacity of *[insert title or other appropriate designation]*

in the presence of *[insert identification of official witness]*

For and on behalf of the Supplier:

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

in the capacity of *[insert title or other appropriate designation]*

in the presence of *[insert identification of official witness]*

Conditions of Contract

1. Definitions	<p>1.1 <i>The following words and expressions shall have the meanings hereby assigned to them:</i></p> <ul style="list-style-type: none"> (a) "Bank" means the World Bank and refers to the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA). (b) "CC" means the Conditions of Contract. (c) "Contract" means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein. (d) "Contract Documents" means the documents listed in the Contract Agreement, including any amendments thereto. (e) "Contract Price" means the price payable to the Supplier as specified in CC 8.1, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract. (f) "Day" means calendar day. (g) "Completion" means the fulfillment of the Related Services, as applicable, by the Supplier in accordance with the terms and conditions set forth in the Contract. (h) "CC" means the Conditions of Contract. (i) "Goods" means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract. (j) "Party" means the Purchaser or the Contractor, as the context requires, and "Parties" means both of them. (k) "Purchaser" means the entity purchasing the Goods and Related Services as applicable, as specified in CC 2. (l) "Purchaser's Country" is the country specified in the CC 2. (m) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training
-----------------------	--

		<p>and initial maintenance and other such obligations of the Supplier under the Contract, as applicable.</p> <p>(n) "Subcontractor" means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.</p> <p>(o) "Supplier" means the person, private or government entity, or a combination of the above, whose offer to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.</p> <p>(p) "The Project Site," where applicable, means the place named in the CC.</p>
2. Purchaser, Purchaser's Country, Project Site/Final Destination	<p>2.1 The Purchaser is: <i>Ministry of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs</i></p> <p>2.2 The Purchaser's Country is: <i>Georgia</i></p> <p>2.3 The Project Site(s)/Final Destination(s) is/are: <i>Tbilisi International Airport, Georgia</i></p>	
3. Incoterms	3.1 The edition of Incoterms that shall apply is: INCOTERM 2010	
4. Notices and Addresses for notices	<p>4.1 Any notice given by one Party to the other pursuant to the Contract shall be in writing to the address hereafter using the quickest available method such as electronic mail with proof of receipt.</p> <p>A notice shall be effective when delivered or on the notice's effective date, whichever is later.</p> <p><u>Address for notices to the Purchaser:</u></p> <p><i>Giorgi Tsotskolauri</i> <i>Deputy Minister</i> <i>144, Ak. Tsereteli avenue, Tbilisi, Georgia</i> <i>info@moh.gov.ge</i></p> <p><u>Address for notices to the Supplier:</u></p> <p><i>[insert the name of officer authorized to receive notices]</i> <i>[title/position]</i> <i>[department/work unit]</i> <i>[address]</i> <i>[Electronic mail address]</i></p>	
5. Governing Law	5.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's Country.	

6. Settlement of Disputes	<p>6.1</p> <p>(a) Contract with foreign Supplier:</p> <p>All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.</p>
7. Shipping and other documents to be provided	<p>7.1</p> <p>The Delivery of the Goods and Completion of the Related Services as applicable shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements.</p> <p>Details of Shipping and other Documents to be furnished by the Supplier are: an airway bill, insurance certificate, Manufacturer's or Supplier's warranty certificate, inspection certificate issued by nominated inspection agency, Supplier's factory shipping details.</p> <p>The above documents shall be received by the Purchaser:</p> <p>(i) before arrival of the Goods, if the mode of payment is through letter of credit if so specified in CC 9. If the documents are not received before arrival of the Goods, the Supplier will be responsible for any consequent expenses; or otherwise;</p> <p>(ii) on shipment.</p>
8. Contract Price	<p>8.1</p> <p>The Contract Price is specified in Price Schedule 4.</p> <p>8.2</p> <p>The unit prices charged by the Supplier for the Goods supplied and the Related Services as applicable performed under the Contract shall not vary from the prices agreed in the Contract.</p>
9. Terms of payment	<p>9.1</p> <p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>The Purchaser shall not process the payments using the Direct Payment disbursement method, as defined in the World Bank's Disbursement Guidelines for Investment Project Financing.</p> <p>Payment for Goods supplied from abroad:</p> <p>Payment of foreign currency portion shall be made in USD [<i>currency of the Contract Price</i>] in the following manner:</p> <p>(i) Advance Payment:</p>

	<ul style="list-style-type: none"> Forty (40) percent of the Contract Price shall be paid, within ten (10) days of signing of the Contract and upon submission of a claim for the amount and a bank demand guarantee, in the form provided in the request for invitation for direct contracting or another form acceptable to the Purchaser, for equivalent amount valid until the Goods are delivered. <p>(ii) On Shipment: Sixty (60) percent of the Contract Price of the Goods shipped shall be paid, within 15 days after submission of documents specified in CC 7.</p>
10. Taxes and Duties	<p>10.1 For Goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country.</p> <p>10.2 For Goods Manufactured within the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.</p> <p>10.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.</p>
11. Performance Security	11.1 <i>N/A</i>
12. Subcontractors	12.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in Supplier's offer. Such notification, in the original offer or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.
13. Specifications and Standards	13.1 The Goods and Related Services if applicable supplied under this Contract shall conform to the technical specifications and standards mentioned in the Technical Specifications and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
14. Packing, marking and documentation	14.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing

	<p>case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.</p> <p>14.2 The packing, marking and documentation within and outside the packages shall be: <i>or refer to the Technical Specifications</i>]</p>
15. Insurance cover	15.1 The insurance coverage shall be as specified in the Incoterms
16. Transportation	<p>16.1 Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p> <p>Mode of Transport: The main mode of international transport shall be by air.</p>
17. Site of inspections and tests	17.1 The inspections and tests shall be conducted at: <i>(i) on shipment in the supplier's country; (ii) on arrival at Tbilisi International Airport, purchaser's country.</i>
18. Delivery Date and Completion Date	18.1 The Delivery Date of the Goods shall be: within one (1) week after receipt of payment
19. Liquidated damages and bonuses	<p>19.1 The liquidated damage shall be 1% of the price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance.</p> <p>The maximum amount of liquidated damages shall be 10 % of the Contract Price. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to CC 26.</p>
20. Warranty	<p>20.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.</p> <p>20.2 The Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.</p> <p>20.3 The warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination, or for thirteen (13) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.</p>

	<p>20.4 The period for repair or replacement after being notified of the defect by the Purchaser shall be <i>thirty (30)</i> days.</p> <p>20.5 If having been notified, the Supplier fails to remedy the defect within the period specified in CC 20.4, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.</p> <p>20.6 For purposes of the warranty, the place(s) of final destination(s) shall be: <i>Tbilisi, Georgia</i></p>
21. Copyright	<p>21.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.</p>
22. Fraud and Corruption	<p>22.1 The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework, as set forth in the attachment to the Conditions of Contract.</p> <p>22.2 The Purchaser requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the direct contracting process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.</p>
23. Inspections and Audit by the Bank	<p>23.1 Pursuant to paragraph 2.2 e. of the attachment to the Conditions of Contract, the Supplier shall permit and shall cause its agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and personnel, to permit, the Bank and/or persons appointed by the Bank to inspect the site and/or the accounts, records and other documents relating to the respect to the direct contracting process or contract execution. The Supplier's and its subcontractors attention is drawn to CC 22.1 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures).</p>

24. Limitation of Liability	<p>24.1 Except in cases of criminal negligence or willful misconduct,</p> <p>(a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and</p> <p>(b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Purchaser with respect to patent infringement.</p>
25. Force Majeure	<p>25.1 The Supplier shall not be liable for forfeiture of its Performance Security (if required), liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.</p> <p>25.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, and freight embargoes.</p> <p>25.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.</p> <p>25.4 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other Party.</p>
26. Termination	<p>26.1 Termination for Default</p>

	<p>The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:</p> <ul style="list-style-type: none"> (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser; (ii) if the Supplier fails to perform any other obligation under the Contract; or (iii) if the Supplier, in the judgment of the Purchaser has engaged in Fraud and Corruption, in competing for or in executing the Contract. <p>In the event the Purchaser terminates the Contract in whole or in part, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services if applicable similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services if applicable. However, the Supplier shall continue performance of the Contract to the extent not terminated.</p> <p>26.2 Termination for Convenience</p> <ul style="list-style-type: none"> (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective. (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect: <ul style="list-style-type: none"> (i) to have any portion completed and delivered at the Contract terms and prices; and/or (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services if applicable and for materials and parts previously procured by the Supplier.
Additional Clauses	

Attachment A to the Conditions of Contract

Fraud and Corruption

(Text in this Appendix shall not be modified)

1. Purpose

- 1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

- 2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

- 2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:
 - i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

- (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
 - d. Pursuant to the Bank's Anti- Corruption Guidelines and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated ² sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
 - e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect³ all accounts, records and other documents relating to the procurement process,

¹ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

³ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

Advance Payment Security Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[Insert name and Address of Purchaser]*

Date: *[Insert date of issue]*

Advance Payment Guarantee No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

Contract No.: *[insert Purchaser's reference for the specific Contract]*

We have been informed that *[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into a Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the execution of *[insert name of contract and brief description of Goods and Related Services if applicable]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum *[insert amount in figures]* () *[insert amount in words]* is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* *[insert amount in words]*¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- (a) has used the advance payment for purposes other than toward delivery of Goods; or
- (b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number *[insert number]* at *[insert name and address of Applicant's bank]*.

This guarantee shall expire, at the latest, upon our receipt of a copy of the payment certificate indicating that ninety (90) percent of the Contract Price, has been certified for payment, or on the

¹ The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Purchaser.

[insert day] day of *[insert month]*, 2*[insert year]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

