



**INVITATION FOR SUBMISSION OF BIDS FOR THE SUPPLY OF  
CHAMPAGNE FOR BUSINESS CLASS SERVICE**

**REFERENCE NO: 202230350**

**CHAIRMAN,  
MINISTRY PROCUREMENT COMMITTEE  
MINISTRY OF PORTS, SHIPPING  
AND AVIATION  
NO 19, CHAITHYA ROAD  
COLOMBO 01.**

**ON BEHALF OF SRILANKAN AIRLINES,**

**COMMERCIAL PROCUREMENT DEPARTMENT (INFLIGHT PROCUREMENT)  
AIRLINE CENTRE  
BANDARANAYAKE INTERNATIONAL AIRPORT  
KATUNAYAKE  
SRI LANKA**

# **Volume 1**

# **SECTION - I**

## **Instructions to Bidders (ITB)**

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### **Instructions to Bidders (ITB)**

ITB shall be read in conjunction with the Section II, Bidding Data Sheet (BDS), which shall take precedence over ITB.

### **General**

#### **1. Scope of Bid**

**1.1** The Purchaser indicated in the Bidding Data Sheet (BDS), issues these Bidding Documents for the supply of Goods and Related Services incidental thereto as specified in Section V, Schedule of Requirements. The name and identification number of this procurement are specified in the BDS

#### **1.2 Throughout these Bidding Documents:**

- (a) the term "in writing" means communicated in written form by email with proof of receipt.
- (b) "day" means calendar day.

#### **2. Source of Funds**

**2.1** Payments under this contract will be financed by the source specified in the BDS.

#### **3. Ethics, Fraud and Corruption**

**3.1.** The attention of the bidders is drawn to the following guidelines of the Procurement Guidelines.

•Parties associated with Procurement Actions, namely, suppliers/contractors and officials shall ensure that they maintain strict confidentiality throughout the process.

•Officials shall refrain from receiving any personal gain from any Procurement Action. No gifts or inducement shall be accepted. Suppliers/contractors are liable to be disqualified from the bidding process if found offering any gift or inducement which may have an effect of influencing a decision or impairing the objectivity of an official.

**3.2.** The Purchaser requires the bidders, suppliers, contractors, and consultants to observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy:

(a) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution.

(b) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract.

(c) "collusive practice" means a scheme or arrangement between two or more bidders, with or without the knowledge of the Purchaser to establish bid prices at artificial, noncompetitive levels; and

(d) "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property process or affect the execution of a contract

**3.3** If the Purchaser found any unethical practices as stipulated under ITB Clause 3.2, the Purchaser will reject a bid, if it is found that a Bidder directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question.

#### **4. Eligible Bidders**

**4.1** All bidders shall possess legal rights to supply the Goods under this contract.

**4.2** A Bidder shall not have a conflict of interest. All bidders found to have conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in this bidding process, if they:

(a) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under these Bidding Documents; or

(b) submit more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one Bid.

**4.3** Local and Foreign Bidders may also submit bids for this procurement exercise.

#### **5. Eligible Goods and Related Services**

**5.1** All goods supplied under this contract shall be complied with applicable standards stipulated by the Sri Lanka Standards Institute (SLSI). In the absence of such standards, the Goods supplied shall be complied to other internationally accepted standards.

## **6. Sections of Bidding Documents the BDS.**

### **Contents of Bidding Documents**

**6.1** The Bidding Documents consist of 2 Volumes, which include all the sections indicated below, and should be read in conjunction with any addendum issued in accordance with ITB Clause 8.

#### **Volume 1**

- Section I. Instructions to Bidders (ITB)
- Section VI. Conditions of Contract
- Section VIII. Contract Forms

#### **Volume 2**

- Section II. Bidding Data Sheet (BDS)
- Section III. Evaluation and Qualification Criteria
- Section IV. Bidding Forms
- Section V. Schedule of Requirements
- Section VII. Contract Data
- Invitation for Bid

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

## **7. Clarification of Bidding Documents**

**7.1** A prospective Bidder requiring any clarification of the Bidding Documents including the restrictiveness of specifications shall contact the Purchaser in writing at the Purchaser's email address specified in the BDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than ten (10) days prior to the deadline for submission of bids. The Purchaser shall publish its response in website specified in BDS including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 8.

## **8. Amendment of Bidding Documents**

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

**8.2** Any addendum issued shall be part of the Bidding Documents and shall be communicated through web site stated in BDS.

**8.3** To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 23.1.

## **9. Cost of Bidding**

**9.1** The Bidder shall bear all costs associated with the Preparation and submission of its bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

## **10. Language of Bid**

**10.1** The Bid, as well as all correspondence and documents relating to the Bid (including supporting documents and printed literature) exchanged by the Bidder and the Purchaser, shall be written in English language.

## **11. Documents Comprising the Bid**

**11.1** The Bid shall comprise the following:

- (a) Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;
- (b) Bid-Securing Declaration, in accordance with ITB Clause 20;
- (c) Documentary evidence in accordance with ITB Clauses 18 and 29, that the Goods and Related Services conform to the Bidding Documents;
- (d) Documentary evidence in accordance with ITB Clause 18 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and
- (e) any other document required in the BDS.

## **12. Bid Submission Form and Price Schedules**

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

## **13. Alternative Bids**

**13.1** Alternative bids shall not be considered.

## **14. Bid Prices and Discounts**

**14.1** The Bidder shall indicate on the Price Schedule the unit prices and total bid prices of the goods it proposes to supply under the Contract.

**14.2** Any discount offered against any single item in the price schedule shall be included in the unit price of the item. However, a Bidder wishes to offer discount as a lot the bidder may do so by indicating such amounts appropriately.

**14.3**(i) Prices indicated on the Price Schedule shall include all duties and sales and other taxes already paid or payable by the Supplier:

(ii) However, VAT shall not be included in the price but shall be indicated separately (for local bidders only)

(iii) the price for inland transportation, insurance and other related services to deliver the goods to their final destination;

(iv) the price of other incidental services

**14.4** The Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as non-responsive and rejected, pursuant to ITB Clause 31.

## **15. Currencies of Bid**

**15.1** Bidders shall quote in USD, GBP, EUR and SGD etc. and payment shall be payable only in the stated currency.

## **16. Documents Establishing the Eligibility of the Bidder**

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

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

**17.1** To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section V, Schedule of Requirements.

**17.2** The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description (given in Section V, Technical Specifications) of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.

**17.3**The Bidder shall also furnish a list giving full particulars, including quantities, available sources necessary for the proper and continuing functioning of the Goods during the period if specified in the BDS following commencement of the use of the goods by the Purchaser.

## **18. Documents Establishing the Qualifications of the Bidder**

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

(a) A Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods.

(b) that, if required in the BDS, in case of a Bidder not doing business within Sri Lanka, the Bidder is or will be (if awarded the contract) represented by an Agent in Sri Lanka equipped and able to carry out the Supplier's stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and

(c) that the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

## **19. Period of Validity of Bids**

**19.1**Bids shall remain valid until the date specified in the BDS. A bid valid for a shorter date shall be rejected by the Purchaser as non-responsive.

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

## **20. Bid Securing Declaration**

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

**20.2**Any bid not accompanied by a substantially responsive Bid Securing Declaration in accordance with ITB Sub-Clause 20.1, may be rejected by the Purchaser as non-responsive.

**20.3** Bid Securing Declaration executed:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Sub-Clause 19.2; or
- (b) if a Bidder does not agree to correction of arithmetical errors in pursuant to ITB Sub-Clause 30.3
- (c) if the successful Bidder fails to:
  - (i) sign the Contract in accordance with ITB Clause 41;
  - (ii) furnish a Performance Security in accordance with ITB Clause 42.

**21. Format and Signing of Bid**

**21.1** The original and the Copy of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder.

**21.2** Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

**22. Submission of Bids**

**22.1** Bidders may always submit their bids by email to the password protected secure email address: [inflightproc@srilankan.com](mailto:inflightproc@srilankan.com)

**23. Deadline for Submission of Bids**

Deadline for Submission of Bids: 03<sup>rd</sup> October 2022 at 10.00 a.m.

**23.1** Bids must be received by the Purchaser's email address and no later than the date and time specified in the BDS.

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

**24. Late Bids**

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

## **25. Withdrawal, and Modification of Bids**

**25.1**A Bidder may withdraw or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 22, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB Sub-Clause 21.2, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

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

(b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 23.

**25.2**Bids requested to be withdrawn in accordance with ITB Sub-Clause 25.1 shall be returned to the Bidders only upon notification of contract award to the successful bidder in accordance with sub clause 41.1

**25.3**No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

## **26. Bid Opening**

**26.1** The Purchaser shall conduct the bid opening online via MS Teams, date and time specified in the BDS.

**26.2**First, emails marked "WITHDRAWAL" shall be opened and read out and the emails with the corresponding bid may be opened at the discretion of the Purchaser. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. emails marked "MODIFICATION" shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only envelopes that are opened and read out at Bid opening shall be considered further.

**26.3**All other emails shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the Bid Prices, including any discounts and alternative offers; the presence of a Bid Security or Bid- Securing Declaration, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out at Bid opening shall be considered for evaluation. No Bid shall be rejected at Bid opening except for late bids, in accordance with ITB Sub- Clause 24.1.

**26.4**The Purchaser shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, or modification; the Bid Price, per lot if applicable, including any discounts, and the presence or absence of a Bid-Securing Declaration. The bids that were opened shall be resealed in separate envelopes, promptly after the bid opening. The Bidders' representatives who are present shall be requested to sign the attendance sheet. A copy of the record shall be distributed to all Bidders who submitted bids in time.

## **27. Evaluation and Comparison of Bids**

**27.1** Information relating to the examination, evaluation, comparison, and post-qualification (if applicable) of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the Contract Award.

**27.2**Any effort by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions may result in the rejection of its Bid.

**27.3**Notwithstanding ITB Sub-Clause 27.2, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, from the time of bid opening to the time of Contract Award, it should do so in writing.

## **28. Clarification of Bids**

**28.1** To assist in the examination, evaluation, comparison and post-qualification of the bids, the Purchaser may, at its discretion, request any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect to its Bid and that is not in response to a request by the Purchaser shall not be considered for purpose of evaluation. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the Evaluation of the bids, in accordance with ITB Clause 30.

## **29. Responsiveness of Bids**

**29.1**The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself.

**29.2**A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviation and reservation or omission.

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

### **30. Nonconformities, Errors, and Omissions omission.**

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

**30.2** Provided that a bid is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

**30.3** Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:

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

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

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

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

(a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or

(b) limits in any substantial way, inconsistent with the Bidding Documents, the Purchaser's rights or the Bidder's obligations under the Contract; or

(c) if rectified would unfairly affect the competitive position of other bidders presenting substantially responsive bids.

### **31. Preliminary Examination of Bids**

**31.1** The Purchaser shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 11 have been provided, and to determine the completeness of each document submitted.

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

(a) Bid Submission Form, in accordance with ITB Sub- Clause 12.1;

(b) Price Schedules, in accordance with ITB Sub-Clause 12;

(c) Bid Securing Declaration, in accordance with ITB Clause 20.

## **32. Examination of Terms and Conditions; Technical Evaluation**

**32.1** The Purchaser shall examine the Bid to confirm that all terms and conditions specified in the CC and the Contract Data have been accepted by the Bidder without any material deviation or reservation.

**32.2** The Purchaser shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 17, to confirm that all requirements specified in Section V, Schedule of Requirements of the Bidding Documents have been met without any material deviation or reservation.

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

## **33. Conversion to Single Currency**

For evaluation purposes, purchaser shall convert the prices to a single currency at the Central Bank of Srilanka selling rate, prevailing at the Bid opening date.

## **34. Evaluation of Bids**

**34.1** The Purchaser shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.

**34.2** To evaluate a Bid, the Purchaser shall only use all the factors, methodologies and criteria defined in this ITB Clause 35.

**34.3** To evaluate a Bid, the Purchaser shall consider the following:

- (a) the Bid Price as quoted in accordance with clause 14;
- (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 30.3;
- (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 14.2; and 14.3
- (d) adjustments due to the application of the evaluation criteria specified in the BDS from amongst those set out in Section III, Evaluation and Qualification Criteria;

**34.4** The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the factors stated in ITB Sub-Clause 35.3, if specified in BDS. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids

**34.5** If so specified in the BDS, these Bidding Documents shall allow Bidders to quote for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations, is specified in Section III, Evaluation and Qualification Criteria.

### **35. Comparison of Bids**

**35.1** The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance to the evaluation criteria.

### **36. Post qualification of the Bidder**

**36.1** The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is qualified to perform the Contract satisfactorily.

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

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

**36.4** Purchaser's Right to Accept Any Bid, and to reject any or All Bids with ITB Clause 34.

**36.5** The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

## **Award of Contract**

### **37. Award Criteria**

**37.1** The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

### **38. Purchaser's Right to Vary Quantities at Time of Award**

**38.1** At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V, Schedule of Requirements, provided this does not exceed twenty five percent (25%) or one unit which ever is higher and without any

change in the unit prices or other terms and conditions of the bid and the Bidding Documents.

### **39. Notification of Award**

**39.1** Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its Bid has been accepted.

**39.2** Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.

**39.3** Upon the successful Bidder's furnishing of the signed Contract Form and performance security pursuant to ITB Clause 43, the Purchaser will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Clause 20.4.

### **40. Signing of Contract**

**40.1** Within Seven (7) days after notification, the Purchaser shall complete the Agreement, and inform the successful Bidder to sign it.

**40.2** Within Seven (7) days of receipt of such information, the successful Bidder shall sign the Agreement.

### **41. Performance Security**

**41.1** Within fourteen (14) days of the receipt of notification of award from the Purchaser, the successful Bidder, shall furnish the Performance Security in accordance with the CC, using for that purpose the Performance Security Form included in Section VIII Contract forms. The Employer shall promptly notify the name of the winning Bidder to each unsuccessful Bidder and discharge the Bid Securities of the unsuccessful bidders pursuant to ITB Sub-Clause 20.4.

**41.2** Failure of the successful Bidder to submit the above- mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security or execution of the Bid- Securing Declaration. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.

## **Section VI - Conditions of Contract**

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## Section VI - Condition of Contract (CC)

### 1. Definitions

- 1.1** The following words and expressions shall have the meanings hereby assigned to them:
- a. **"Contract"** means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
  - b. **"Contract Documents"** means the documents listed in the Contract Agreement, including any amendments thereto.
  - c. **"Contract Price"** means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.
  - d. **"Day"** means calendar day.
  - e. **"Completion"** means the fulfillment of the supply of Goods to the destination specified and completion of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
  - f. **"CC"** means the Conditions of Contract.
  - g. **"Goods"** means all of the commodities, that the Supplier is required to supply to the Purchaser under the Contract.
  - h. **"Purchaser"** means the entity purchasing the Goods and Related Services, as specified in the Contract Data.
  - i. **"Related Services"** means the services incidental to the supply of the goods, such as insurance and other such obligations of the Supplier under the Contract.
  - j. **"Subcontractor - N/A"**
  - k. **"Supplier"** means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
  - l. **"The Project Site, - N/A"**

### 2. Contract Documents

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

### 3. Fraud and Corruption

- 3.1** The Government of Sri Lanka requires the Purchaser as well as bidders, suppliers, contractors, and consultants to observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy:
- a. **"corrupt practice"** means offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
  - b. **"fraudulent practice"** means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
  - c. **"collusive practice"** means a scheme or arrangement between two or more bidders, with or without the knowledge of the Purchaser to establish bid prices at artificial, non-competitive levels; and
  - d. **"Coercive practice"** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract.

### 4. Interpretation

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

#### **4.2 Entire Agreement**

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

#### **4.3 Amendment**

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

#### **4.4 Severability**

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

### 5. Language

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

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

## **6. Joint Venture, Consortium or Association**

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

## **7. Eligibility**

**7.1** Refer to **Contract Data**

## **8. Notices**

**8.1** Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the Contract Data. The term "in writing" means communicated in electronic form with proof of receipt.

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

## **9. Governing Law**

**9.1** The Contract shall be governed by and interpreted in accordance with the **Laws of the Democratic Socialist Republic of Sri Lanka**.

## **10. Settlement of Disputes**

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

**10.2** If, after **twenty-eight (28) days**, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the **Arbitration Act No: 11 of 1995 of the Democratic Socialist Republic of Sri Lanka**. Arbitration shall be carried out in Colombo, Sri Lanka, in the English Language.

- 10.3** Notwithstanding any reference to arbitration herein,
- a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
  - b. the Purchaser shall pay the Supplier any monies due the Supplier

**11. Scope of Supply**

- 11.1** The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

**12. Delivery and Documents**

- 12.1** Subject to **CC Sub-Clause 32.1**, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the **Schedule of Requirements**. Where applicable the details of shipping and other documents to be furnished by the Supplier are specified in the **Contract Data**.

**13. Supplier's Responsibilities**

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

**14. Contract Price**

- 14.1** Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid.

**15. Terms of Payment**

- 15.1** The Contract Price, shall be paid as specified in the **Contract Data**.
- 15.2** The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to **CC Clause 12** and upon fulfillment of all other obligations stipulated in the Contract.
- 15.3** Payments shall be made promptly by the Purchaser, but in no case later than **Sixty (60) days** after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.

**16. Taxes and Duties**

- 16.1** The Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to Country of the Purchaser. The taxes, duties incurred in the country of the purchaser shall be borne by the purchaser.

## **17. Performance Security**

- 17.1** If required as specified in the **Contract Data**, the Supplier shall, within **Fourteen (14) days** of the notification of contract award, provide a performance security of **Ten percent (05%) of the Contract Price** for the performance of the Contract.
- 17.2** The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 17.3** As specified in the **Contract Data**, the Performance Security, if required, shall be in Sri Lanka Rupees and shall be in the format stipulated by the Purchaser in the **Contract Data**, or in another format acceptable to the Purchaser.
- 17.4** The **Performance Security** shall be discharged by the Purchaser and **returned** to the Supplier not later than **Twenty Eight (28) days** following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations.

## **18. Copyright - N/A**

## **19. Confidential Information**

- 19.1** The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract.
- 19.2** The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 19.3** The above provisions of **CC Clause 19** shall not in any way modify any under taking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.
- 19.4** The provisions of **CC Clause 19** shall survive completion or termination, for whatever reason, of the Contract.

## **20. Subcontracting**

- 20.1** The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier

from any of its obligations, duties, responsibilities, or liability under the Contract.

**20.2** Subcontracts shall comply with the provisions of **CC Clauses 3 and 7**.

## **21. Specifications and Standards**

### **21.1** Technical Specifications

- a. The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in **Section V Schedule of Requirements**.
- b. The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.
- c. Where ever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with **CC Clause 32**.

## **22. Packing and Documents**

**22.1** The Supplier shall pack the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

## **23. Insurance**

**23.1** Unless otherwise specified in the Contract Data, the Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery

## **24. Transportation**

**24.1** Unless otherwise specified in the Contract Data, responsibility for arranging transportation of the Goods shall be a responsibility of the supplier.

## **25. Inspections and Tests**

### **25.1**

The following inspections and tests shall be performed: *[insert list of inspections and tests if any]*

A blind tasting session will be conducted by the user department with participation of industry experts which will be an evaluation criteria.

## **26. Liquidated Damages**

**26.1** Except as provided under **CC Clause 31**, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **Contract Data** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **Contract Data**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to **CC Clause 34**.

## **27. Warranty - N/A**

## **28. Patent Indemnity - N/A**

## **29. Limitation of Liability**

**29.1** Except in cases of criminal negligence or willful misconduct,

- 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
- 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.

### **30. Change in Laws and Regulations**

**30.1** Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or by law having the force of law is enacted, promulgated, abrogated, or changed in Sri Lanka that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with **CC Clause 14**.

### **31. Force Majeure**

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

**31.2** For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

**31.3** 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.

### **32. Change Orders and Contract Amendments**

**32.1** The Purchaser may at any time order the Supplier through notice in accordance **CC Clause 8**, to 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 ; and
- d. the Related Services to be provided by the Supplier.

- 32.2** If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery /Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within **Twenty Eight (28) days** from the date of the Supplier's receipt of the Purchaser's change order.
- 32.3** Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed up on in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 32.4** Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

### **33. Extensions of Time**

- 33.1** If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to **CC Clause 12**, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. 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.
- 33.2** Except in case of Force Majeure, as provided under **CC Clause 31**, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to **CC Clause 26**, unless an extension of time is agreed up on, pursuant to **CC Sub-Clause 33.1**.

### **34. Termination**

#### **34.1 Termination for Default**

- a. 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:
- i. if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to **CC Clause 33**;
  - 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, as defined in **CC Clause 3**, in competing for origin executing the Contract.

- b. In the event the Purchaser terminates the Contract in whole or in part, pursuant to **CC Clause 34.1(a)**, the Purchaser may procure, up on such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

**34.2 Termination for Insolvency**

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

**34.3 Termination for Convenience**

- a. The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date up on 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:
  - i. to have any portion completed and delivered at the Contract terms and prices; and/or
  - ii. to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

**35. Assignment**

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

**36. Public Contract Act No.03 of 1987-N/A**

## **Section VIII**

### **Contract Forms**

#### **CONTENTS**

3. Performance Security
4. Clientele Information Form
5. Sample Contract

### 3. Performance Security

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

----- [Issuing Agency's Name, and Address of Issuing Branch or Office] -----

Beneficiary: SriLankan Airlines Limited, Airline Centre, Bandaranaike International Airport, Katunayake, Sri Lanka

Date: -----

PERFORMANCE GUARANTEE No: -----

We have been informed that ----- [name of Bidder] (hereinafter called "the Bidder") has entered into the Contract dated ----- with you, for the -----Supply of -----[name of contract and brief description] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Bidder, we -----[name of Agency] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of -----[amount in figures] (-----) [amount in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the --- day of ----,22 .. [Insert date,28 days beyond the scheduled completion date including the warranty period] and any demand for payment under it must be received by us at this office on or before that date.

\_\_\_\_\_  
[Signature]

#### 4. Clientele Information Form

Company Name	Company Representative's Contact Details (Please state name, official email address and telephone number)	Client since	Products procured
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

## 5. Sample Contract

The Agreement for Provision of Goods (hereinafter referred to as "Agreement") is made and entered into on this \_\_\_\_ day of .....2022

Between;

SRILANKAN AIRLINES LIMITED a company incorporated in Sri Lanka (Company Registration PB 67) and having its registered office at "Airline Centre", Bandaranaike International Airport, Katunayake, Sri Lanka, (hereinafter called and referred to as "SriLankan Airlines" which term or expression shall where the context so requires or admits mean and include the said SriLankan Airlines Limited, its successors, assignees and representatives) of the One Part;

And

\_\_\_\_\_ a company incorporated in \_\_\_\_\_ (Company Registration No. \_\_\_\_\_) and having its registered office at \_\_\_\_\_ (hereinafter called and referred to as the "Contractor" which term or expression shall where the context so requires or admits mean and include the said \_\_\_\_\_ its successors, assignees and representatives) of the Other Part.

WHEREAS SriLankan Airlines is desirous of procuring \_\_\_\_\_ on board the SriLankan Airlines flights (hereinafter referred to as "Goods") as per the specifications and estimated quantities provided in Schedules attached herewith to the Agreement.

WHEREAS the Contractor is engaged in supply of \_\_\_\_\_ and desirous of supplying the Goods to SriLankan Airlines on a non-exclusive basis according to the specifications and estimated quantities mentioned herein and communicated by SriLankan Airlines from time to time in the future;

WHEREAS the Contractor has expressed its offer to provide SriLankan Airlines with the Goods according to the terms and conditions provided herein and which offer has been accepted by SriLankan Airlines;

WHEREAS prior to the said offer and the execution of the Agreement, the Contractor has been apprised of the requirements and specification required by SriLankan Airlines for the supply and delivery of Goods and to all other matters which might have influenced the Contractor in making its Tender and has agreed to supply and deliver the Goods to SriLankan Airlines pursuant to the said requirements and specifications set forth in the Tender;

WHEREAS the Contractor has expressed its desire to provide SriLankan Airlines with Goods according to the terms and conditions provided herein.

# **Volume-2**

**Section - II**  
**Bidding Data Sheet (BDS)**

**Contents**

- A - General**
- B - Contents of Bidding Documents**
- C - Preparation of Bids**
- D - Submission and Opening of Bids**
- E - Evaluation and Comparison of B**

**Section II. Bidding Data Sheet (BDS)**

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

<b>ITB Clause Reference</b>	<b>A. General</b>
<b>ITB 1.1</b>	The Purchaser is : SriLankan Airlines Ltd
<b>ITB 1.1</b>	The name and identification number of the Contract are: Supply of Champagne for Business Class Service 202230350
<b>ITB 2.1</b>	The source of funding is: SriLankan Airlines Ltd
	<b>B. Contents of Bidding Documents</b>
<b>ITB 7.1</b>	For <b><u>Clarification of bid purposes</u></b> only, the Purchaser's address is: Attention: Senior Commercial Procurement Executive (Inflight) Address: Commercial Procurement, Airline Centre, SriLankan Airlines, BIA, Katunayake, Srilanka. Telephone: 0197332777/0710212777 Facsimile number: 0197335225 Electronic mail address: <a href="mailto:sampath.sudasinghe@srilankan.com">sampath.sudasinghe@srilankan.com</a>
	<b>C. Preparation of Bids</b>
<b>ITB 11.1 (e)</b>	The Bidder shall submit the following additional documents: (a). Proof of document to confirm the Champagne is produced in the region of France
<b>ITB 14.3</b>	The bidders may quote following minimum quantities: (a) Champagne - (small bottle) 375 ml - 19,200 (b) Champagne - (large bottle) 750 ml - 24,000

<b>ITB 15.1</b>	Local bidders shall quote the duty-free price. Foreign bidders shall quote the duty-free price in respective foreign currencies: USD, GBP, EUR, SGD etc
<b>ITB 17.3</b>	Period of time the Goods are expected to be functioning (for the purpose of spare parts): N/A
<b>ITB 18.1</b>	The bid shall be valid until 31 <sup>st</sup> January 2023 (120 days from the bid submission deadline)
<b>ITB 20.1</b>	Bid shall include "Bid Securing Declaration" using the form included in Section IV Bidding Forms.
	<b>D. Submission and Opening of Bids</b>
<b>ITB 22.2 (c)</b>	The subject of the email shall bear the following identification marks: 'Supply of Champagne for Business Class Services <b>202230350</b> '
<b>ITB 23.1</b>	For bid submission purposes, the Purchaser's email address and location is:  Attention: Commercial Procurement Manager (Inflight)  Address: Commercial Procurement (Inflight), Airline Centre, SriLankan Airlines, Katunayake.  <b>Password protected secure email address for which the Bid need to be submitted: <a href="mailto:inflightproc@srilankan.com">inflightproc@srilankan.com</a></b>  <b>The deadline for the Bid submission:</b> <b>Date: 03<sup>rd</sup> October 2022 Time: 10.00 a.m.</b> <b>Deadline for submission of samples: 17<sup>th</sup> October 2022 EOD.</b>
<b>ITB 26.1</b>	The bid opening shall take place at:  Address: SriLankan Airlines, Commercial Procurement Meeting Room,  Airline Centre, Katunayake.  Date : 03 <sup>rd</sup> October 2022  Time : 10.30 a.m.
	<b>E. Evaluation and Comparison of Bids</b>
<b>ITB 35.4</b>	The following factors and methodology will be used for evaluation: 1. Should be compliant to the technical specifications 2. Blind tasting session 3. Unit Price

## **Section III**

### **Evaluation and Qualification Criteria**

#### **Contents**

1. Qualification Criteria
2. Evaluation Criteria

1. Qualification Criteria

- (a) Should be Produced in the Champagne region of France according to traditional methods. (Proof of documents such as Business registration or license required)
- (b) Should be "Brut Champagne"
- (c). Should be in glass bottles
- (d). Should be already supplying to Airlines and major hotel chains

2. Evaluation Criteria

- 2.1. Should be compliant to the technical specifications
- 2.2. Blind tasting session
- 2.3. Unit Price

## **Section – IV**

### **Bidding Forms**

#### **Contents**

**Bid Submission form**  
**Price Schedule**  
**Price and Completion Schedule**  
**Bid-Securing Declaration**  
**Manufacturer’s Authorization**

#### **Section IV -**

Bid Submission Form.....	
Price Schedule: .....	
Price and Completion Schedule .....	
Bid-Securing Declaration .....	
Manufacturer’s Authorization .....	

## **Bid Submission Form**

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

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

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

**To: SriLankan Airlines Ltd**

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents.
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods

Supply of Champagne for Business Class Services 202230350

### **Local bidders**

- (a) The total price of our Bid without VAT, Duty free price including any discounts offered is: *[insert the total bid price in words and figures];*
- (b) The total price of our Bid including VAT, Duty free price including any discounts offered is: *[insert the total bid price in words and figures];*

### **Foreign bidders**

- (a) The total price of our Bid in foreign currencies: *USD, GBP, EUR, SGD* and any discounts offered is: *[insert the total bid price in words and figures];*
- (b) Our bid shall be valid for the period of time specified in ITB Sub-Clause 18.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 23.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (c) If our bid is accepted, we commit to obtain a performance security of equivalent to 5% of the estimated total cost due performance of the Contract;
- (d) We have no conflict of interest in accordance with ITB Sub-Clause 4.3;
- (e) Our firm, its affiliates or subsidiaries - including any subcontractors or suppliers for any part of the contract - has not been declared blacklisted by the National Procurement Agency;
- (f) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (l) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

Signed: *[insert signature of person whose name and capacity are shown]*  
In the capacity of *[insert legal capacity of person signing the Bid Submission Form]*

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

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

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

**PRICE SCHEDULE**

Line Item N°	Description of Goods	Label & Region	Country of Origin/ manufacture	Estimated Quantity for 02 years	Unit of Measure	Local Bidders Unit price Duty free price (Delivery to bulk store)	Foreign Bidders Unit price in foreign currency CFR-Colombo Price	Currency	Payment Terms (60 days credit from the date of invoice)	Lead Time days (Production + Delivery)	Remarks
1	(large bottle) Champagne - 750 ml			19,200	Glass Bottle						
3	(small bottle) Champagne - 375 ml			24,000	Glass Bottle						

**PLEASE SUBMIT YOUR BEST AND FINAL OFFER**

*Bid Validity: .....*  
*Bid Declaration: Yes/ No (to be attached with the bid)*  
*Signature: ..... [Signature of person signing the Bid]*  
*Designation: ..... [Designation of person signing the Bid with frank]*  
*Date: ..... [Insert date]*

## **Bid-Securing Declaration**

*[The **Bidder** shall fill in this form in accordance with the instructions indicated in brackets]*

Date: -----*[insert date by bidder]*

\*Name of contract -- *[insert name]*

\*Contract Identification N<sup>o</sup>: -----*[insert number]*

\*Invitation for Bid No.: ----- *insert number]*

\*To: ----- *[insert the name of the Purchaser]*

We, the undersigned, declare that:

1. We understand that, according to instructions to bidders (hereinafter "the ITB"), bids must be supported by a bid-securing declaration;
2. We accept that we shall be suspended from being eligible for contract award in any contract where bids have being invited by any of the Procuring Entity as defined in the Procurement Guidelines published by National Procurement Agency of Sri Lanka, for the period of time of *three years* starting on *the latest date set for closing of bids of this bid*, if we:
  - (a) withdraw our Bid during the period of bid validity period specified;
  - or
  - (b) do not accept the correction of errors in accordance with the Instructions to Bidders of the Bidding Documents; or
  - (c) having been notified of the acceptance of our Bid by you, during the period of bid validity, (i) fail or refuse to execute the Contract Form, if required, or (ii) fail or refuse to furnish the performance security, in accordance with the ITB.
3. We understand this bid securing shall expire if we are not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder that the bidder was unsuccessful; or (ii) twenty-eight days after the expiration of our bid.
4. We understand that if we are a JV, the Bid Securing Declaration must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed *[insert signature(s) of authorized representative]* In the Capacity of *[insert title]*

Name *[insert printed or typed name]*

Duly authorized to sign the bid for and on behalf of *[insert authorizing entity]*

Dated on *[insert day]* day of *[insert month]*, *[insert year]*

## **Manufacturer's Authorization**

*[The Bidder 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. The Bidder shall include it in its bid, if so indicated in the BDS.]*

Date: *[insert date (as day, month and year) of Bid Submission]*  
No.: *[insert number of bidding process]*

To: *[insert complete name of Purchaser]*

### WHEREAS

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

We hereby extend our full guarantee and warranty in accordance with Clause 27 of the Conditions of Contract, with respect to the Goods offered by the above firm.

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

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

Title: *[insert title]*

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

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*



# **Section V**

## **Schedule of Requirements**

### **Contents**

1. List of Goods and Delivery Schedule
2. Technical Specifications
3. Inspection and Tests

### 1. List of Goods and Delivery Schedule

Line Item	Description of Goods	Estimated quantity for 02 years	Unit of Measurement	Final Destination	Delivery Date
01	<b><u>Large Bottle</u></b> Champagne - 750 ml	19,200	Glass Bottle	Bulk Stores, Katunayake, Sri Lanka	As per SLA requirement
02	<b><u>Small Bottle</u></b> Champagne - 375 ml	24,000	Glass Bottle	Bulk Stores, Katunayake, Sri Lanka	As per SLA requirement

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## 2. TECHNICAL SPECIFICATIONS

Running Number	Technical Specifications (Mandatory)	Bidder's Response (Yes/No)	Remarks
1.	<p><b>Capacity:</b> Proposed label(s) should be available in both capacities</p> <p>a). Champagne (large bottle) - 750 ml b). Champagne (small bottle) - 375ml</p>	a). b).	
2.	<p><b>Bottle Details :</b> Glass bottle</p>		
3.	<p><b>Availability of champagne throughout the contract period</b> The proposed champagne/s should be available throughout the contracted period</p>		
4.	<p><b>Printing on the bottle</b> It is mandatory that the selected champagne label to be printed (or any other option) with '<b>Specially bottled for SriLankan Airlines – Not for Sale</b>'</p>		

<b>Running Number</b>	<b>General Specifications (Mandatory)</b>	<b>Bidder's Response (Yes/ No)</b>	<b>Remarks</b>
5.	<p><b>Delivery</b></p> <p>On a staggered basis over the period of contract.</p> <p>Sea freight on FCL basis</p>		
6.	<p><b>Packing</b></p> <ul style="list-style-type: none"> <li>➢ 6 or 12 bottles X 01 carton suitable for sea freighting (if differ, please specify clearly)</li> <li>➢ Cartons (5 ply) should be able to withstand adverse conditions when sea freighting</li> <li>➢ Cartons should carry separators to minimize damages while shipping</li> <li>➢ Should be palletized and polythene/shrink wrapped</li> </ul>		
7.	<p><b>Carton Marking</b></p> <p>Item code, quantity per carton to be printed on each carton.</p>		
8.	<p><b>Confirmation to the clauses in the contract</b></p> <p>Agree to accept all terms and conditions specified in the Draft Contract in "Annexure G") and the Contract Data Without any material deviation or reservation</p> <p>Please mention your concerns (if any) in remarks column</p>		
9.	<p>Confirmation to provide the Performance Bond (Equivalent to 5% of the total estimated cost of the tender)</p>		
10.	<p>Order Cancellation Policy (Please specify)</p>		

### 3. Inspections and Tests

The following inspections and tests shall be performed: *[insert list of inspections and tests if any]*

A blind tasting session will be conducted by the user department with participation of industry experts which will be an evaluation criteria.

## Section VII. Contract Data

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

<b>CC 1.1(i)</b>	The Purchaser is: SriLankan Airlines Ltd
<b>CC 1.1 (m)</b>	The Project Site(s)/Final Destination(s) is/are: Delivery to SriLankan Airlines bulk store – Katunayake, Srilanka
<b>CC 8.1</b>	For <b>notices</b> , the Purchaser's address shall be:  Attention: Commercial Procurement Manager (Inflight)  Address: SriLankan Airlines, Airline Centre, Katunayake, Sri Lanka.  Telephone: 0197331015  Facsimile number: 0197335225  Electronic mail address: <a href="mailto:pasan.amaratunge@srilankan.com">pasan.amaratunge@srilankan.com</a>
<b>CC 12.1</b>	Details of Shipping and other Documents to be furnished by the Supplier are <sup>1</sup>  Commercial Invoice, BL, Packing list, Country of origin
<b>CC 15.1</b>	CC 15.1- The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:  Payment to the supplier will be made after 60 days from the date of delivery
<b>CC 17.1</b>	A Performance Security shall be required
<b>CC 26.1</b>	The liquidated damage shall be: 01 % for each day of delay commencing from 10 days from the original date of delivery
<b>CC 26.1</b>	The maximum amount of liquidated damages shall be 01 % for 30 days

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IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. OBLIGATIONS OF THE CONTRACTOR:

1.1 The Contractor shall:

- 1.1.1 Deliver Goods as more fully described in the Schedule A in quantities ordered by SriLankan Airlines from time to time, to the locations more fully described in Schedule B hereto according to the specifications provided in Annex A (such schedules and annexes to be part and parcel of this Agreement) on non-exclusive basis on the terms and conditions set out herein.
- 1.1.2 Be deemed to have appraised itself fully of the provisions of this Agreement.
- 1.1.3 Ensure that Goods provided under this Agreement shall:
  - a) be in accordance with the specifications set out in Annex A.
  - b) conform with any sample provided by the Contractor during the selection process or thereafter and approved by SriLankan Airlines.
  - c) be fit for the purposes envisaged under this Agreement and suitable for consumption.
  - d) meet hygiene and food safety standard specified by IFSA/AEA World Food Safety Guideline and/or ICQA Food Processing Safety Standards.
- 1.1.4 Ensure that it has the necessary/required licenses, approvals and authorizations to provide Goods to SriLankan Airlines envisaged under this Agreement.
- 1.1.5 Deliver the Goods on CFR-CMB basis (defined as per INCOTERMS latest version) to the locations set out in Schedule B in quantities mentioned in the relevant purchase order/releases within 80 days of the date of the order confirmation by SriLankan Airlines. The Contractor shall be responsible for providing all transportation necessary for the safe movement of Goods to the locations as specified in Schedule B of the Agreement.
- 1.1.6 If required by SriLankan Airlines, accept ad-hoc orders to supply Goods to SriLankan Airlines in additional quantities and additional orders for Juices for on board use which are recognized in this Agreement subject to availability and adequate lead time. Where an additional order is placed for juices for on board use which are recognized in this Agreement, the Contractor shall make available the additional quantities and additional orders at the rates stipulated in Schedule C.

- 1.1.7 At its own cost comply with all requirements of any Governmental or local Governmental regulations (particularly with those pertaining to Board of Investment of Sri Lanka, Customs in Sri Lanka or any other country, safety, health, labour, clearing and security) and shall indemnify and hold harmless SriLankan Airlines against any loss, damage or claim that may arise due to the non-compliance with any such regulations.
  - 1.1.8 Invoice SriLankan Airlines for the Goods at the rates and in the manner specified and described herein (particularly as set out in Clause 3 and Schedule C).
  - 1.1.9 Not assign, transfer or sublet its rights or obligations under this Agreement without the prior written approval of SriLankan Airlines. Provided that the Contractor shall not be relieved of responsibility under this Agreement for such portion of its obligations as are assigned, transferred or sublet.
  - 1.1.10 Not at any time, during or after the term of this Agreement, divulge or allow to be divulged to any person any confidential information relating to the business and operations of SriLankan Airlines unless duly authorized in writing by SriLankan Airlines or required under any law.
  - 1.1.11 Pay liquidated damages as stipulated in Schedule C if the Contractor fails to deliver the Goods on time or SriLankan Airlines rejects the Goods pursuant to Clause 2.6 hereof.
  - 1.1.12 Subject to the terms and conditions of this Agreement, the Goods shall be delivered on CFR-CMB (INCOTERMS latest version) and the rights and obligations of the Parties and the transfer of risk and title shall be governed in terms of CFR-CMB (INCOTERMS latest version).
- 1.2 In the event any of the Goods supplied or delivered pursuant to this Agreement are rejected by SriLankan Airlines, the Contractor shall take immediate steps, and not later than 15 working days from the rejected date to either replace the rejected Goods or make alternations necessary to meet the specifications, free of any costs to SriLankan Airlines.
- 1.3 In the event of any item of the Goods being damaged at any stage prior to the handing over of the Goods to nominated freight forwarder at the port of dispatch or if any item of the Goods are lost during transit from the Contractor's warehouse to the locations as set forth under Schedule B or if any item of the Goods are wrongly supplied, the Contractor shall replace the said damaged, lost or wrongfully supplied item of Goods with new ones and shall ensure that supply and delivery of same is affected speedily and no later than Four (04) weeks from the date of notification by SriLankan Airlines

("Replacement") at its own cost. SriLankan Airlines shall not be liable for any damage or deterioration caused or occurring to the wrongly supplied items under Clause 1.3 while in the custody of SriLankan Airlines. In the event the Contractor fails to provide any of the item of Goods within a reasonable period of time, SriLankan Airlines shall be at liberty to purchase such items of Goods from another source and the Contractor shall reimburse SriLankan Airlines' for any cost incurred in respect of same.

## 2. RIGHTS AND OBLIGATIONS OF SRILANKAN AIRLINES:

- 2.1 SriLankan Airlines shall pay the Contractor for Goods provided at the rates and in the manner specified and described herein (particularly in Clause 3 and Schedule C hereto). For the avoidance of doubt, the adjustment/variation of the quantity of Goods provided under this Agreement shall still be provided by the Contractor in accordance to the same rates as specified under Schedule C.
- 2.2 SriLankan Airlines may vary the Goods specified in the specifications set out in Annex A hereto, giving sufficient lead time, with mutual agreement of the Contractor.
- 2.3 SriLankan Airlines shall have the right to charge liquidated damages against the Contractor as provided in Schedule C where the Contractor fails to deliver the Goods as required under this Agreement or any non-compliance or breach by the Contractor of any of its obligations under this Agreement.
- 2.4 Notwithstanding anything contained in this Agreement, SriLankan Airlines may at any time hire, purchase and/ or engage any other person(s)/contractor(s) to purchase goods which are similar to the Goods contemplated in this Agreement and/or which SriLankan Airlines may deem in its opinion as specialized in nature.
- 2.5 Have the right to inspect and reject the Goods (or any part thereof) provided under this Agreement if in its opinion it decides that such Goods (or any part thereof) fail to meet the specifications required by SriLankan Airlines under this Agreement or is not of merchantable quality and unfit for the purposes intended. SriLankan Airlines right to inspect and where necessary, reject the Goods (or part thereof) after the Goods' arrival or issuance of the Delivery Note shall in no way be limited or waived by reason of the Goods having previously been inspected and passed by SriLankan Airlines or its representative prior to the Goods delivery.
- 2.5 When the Goods are received at the locations as specified in Schedule B, SriLankan Airlines shall conduct a quality and quantity inspection of the same and shall accept the Goods at the locations. If there is a discrepancy in qty received and qty indicated in invoice, UL will inform same to vendor within 3 working days of receipt of shipment to stores.

- 2.6 Upon the acceptance of the Goods by SriLankan Airlines, the Goods shall become and remain the property of SriLankan Airlines. Notwithstanding that title in whole or in part of the Goods may have passed to SriLankan Airlines pursuant to Clause 2.7, the Contractor shall remain and be responsible to SriLankan Airlines to make good any loss or damage to such Goods due to any act or negligence on the part of the Contractor or Contractor's Representatives; or arising from any incident whatsoever from the commencement of this Agreement until the Goods are handed over to SriLankan Airlines at the port of destination, Colombo and accepted by SriLankan Airlines.
- 2.7 Nothing in this Agreement shall prevent SriLankan Airlines from sourcing similar Goods or any Juices for on board use from any third party on whatsoever basis during the period of the Agreement.
- 2.9 In the event SriLankan Airlines in its opinion decide that the Goods are not in accordance to the requirements and specifications set forth under this Agreement, SriLankan Airlines shall have the right to reject the Goods and:
- (i) refrain from making any payments pursuant to such Order made in respect of such Goods; and
  - (ii) either replace the rejected Goods with goods meeting the specifications required under this Agreement free of any costs to SriLankan Airlines; or
  - (iii) obtain substitute goods for the rejected Goods and the Contractor shall reimburse to SriLankan Airlines all costs incurred by SriLankan Airlines in respect of same.

### 3. INVOICING & PAYMENT:

- 3.1 The Contractor shall provide the Goods at the rates assigned to each category as described in Schedule C hereto.
- 3.2 The Contractor shall not increase the rates, charges or any other prices set out in this Agreement during the period of this Agreement.
- 3.3 Subject to Clause 3.5, SriLankan Airlines will settle all invoices submitted by the Contractor for Goods under this Agreement within 90 days from the date of shipping. The invoice will be raised at the time of departure of the Goods from the warehouse of the Contractor. A copy of invoice will be emailed to SriLankan Airlines at the time, the invoice is raised.
- 3.4 SriLankan Airlines shall inform any dispute on any invoice within 10 days of receipt of the invoice from the Contractor and proceed to settle the undisputed amount within the payment period referred to in Clause 3.3 hereof. The Parties shall endeavour to resolve the dispute on the invoice

amicably within 30 days of notification or any other period mutually agreed and where the Parties fail to resolve the dispute amicably, Parties shall resort to the dispute resolution mechanism provided in this Agreement as a mean to resolve the dispute. If the dispute is resolved in the Contractor's favour, the amount payable to the Contractor shall be payable within fourteen (14) days of the resolution of the dispute.

- 3.5 SriLankan Airlines shall be entitled to withhold any payments due to the Contractor under this Agreement and any sums of money required to be withheld by SriLankan Airlines under any law or regulation for the time being in force and/or pursuant to this Agreement.
- 3.6 Payment shall be made in according to the payment details provided in Schedule C.
- 3.7 Invoices to be addressed to: Manager Financial Services, SriLankan Airlines Ltd, Airlines Centre, BIA, Katunayake, Sri Lanka and/or email to: swarna.liyanage@srilankan.com

#### 4. LIABILITY & INDEMNITY:

- 4.1 The Contractor shall indemnify and hold harmless SriLankan Airlines free and clear from and against any and all losses, costs, expenses, claims, damages and liabilities, to SriLankan Airlines, its officers, agents, employees, representatives or any third parties and/or any property, that may arise pursuant to this Agreement, in particular pursuant to (but not limited to) any:
  - a) Claim in respect of any workers of the Contractor under the Workman's Compensation laws or any other law;
  - b) Accident, injury or death caused to any person by negligence or wilful misconduct of the Contractor, its servants, agents employees or representatives;
  - c) Acts of theft, pilferage, damage of property caused by the Contractor or its servants, agents employees or representatives;
  - d) if the Goods provided to SriLankan Airlines are not suitable for the use intended and/or does not meet the specifications set out in this Agreement including alleged illness, injury, death or damage as a result of the use of any the Goods produced, packaged, stored or shipped by Contractor; provided, however, that the Contractor shall not be responsible for, and shall not be required to provide indemnification against, any liability for illness, injury, death or damage attributable to defects in Goods that independent investigation discloses originated solely after the Goods left the custody and control of Contractor and was not attributable to any act or omission of Contractor prior to such Goods leaving such custody and control;

- e) violation of any laws, regulations or intellectual property rights of any party;
- f) breach of any obligations, representations, warranties or covenants in the Agreement by the Contractor;

4.2 SriLankan Airlines shall indemnify and hold harmless the Contractor free and clear from and against any and all losses, costs, expenses, claims, damages and liabilities that may arise pursuant to the death or injury of a worker of the Contractor or damage to the Contractor's (or its workers) property caused by SriLankan Airlines' negligence or wilful misconduct.

## 5. INSURANCE:

5.1 The Contractor shall, without prejudice to its obligations under Clause 5.1 and as a condition precedent to this Agreement, at its own cost secure policies of insurance as described below, acceptable to SriLankan Airlines which shall be kept current throughout the term of this Agreement. These insurances will include but not limited to;

- a) Commercial general liability insurance policy including product liability with a limit of indemnity of not less than USD 500,000 any one incident. The policy shall cover third party (including employees of SriLankan Airlines) for injury / death and/or property damage caused by the Contractor or their representatives and shall include liability for any injury /death to persons (including passengers) using or consuming the products / services offered by the Contractor in the performance of this contract.
- b) Workmen's Compensation Insurance or employer's liability insurance for all employees of the contractor or their representatives involved with performance of this contract. The policy shall include extensions for riot and terrorism.

5.2 Such insurances as aforementioned incorporate the following provisions in respect of liability assumed by the Contractor under this Agreement (unless otherwise specified by SriLankan Airlines):

- a) Name SriLankan Airlines, its successors and assigns, directors, officers, servants, employees, agents and contractors as additional assureds.
- b) A severability of interest clause, where the insurances (except with regard to the limits of liability) will operate in all respects as if there were a separate policy covering each assured.
- c) Confirm that such insurances shall be primary without right of contribution from any other insurance carried by SriLankan Airlines.

- d) Provide that the cover afforded to SriLankan Airlines shall not be invalidated by act or omission by the Contractor or by any other person and shall remain valid regardless of any breach or violation by the Contractor or any other person of any warranty, declaration or condition contained in such insurances.
- e) The Insurer (of the insurances) will provide 15 days prior written notice to SriLankan Airlines of any material change of the insurances affected pursuant to this Clause.

- 5.3 The Contractor shall also within 15 days of the execution of this Agreement and at each consequent renewal (or renewal of insurances whichever shall occur first) produce an Insurance Policy/Certificate/Endorsement evidencing coverage as per the requirements of Clause 5.1.
- 5.4 In the event the Contractor defaults and/or fails to comply with any of its obligations under this Clause, SriLankan Airlines may (without prejudice to any other remedy available under this Agreement) pay any premiums that may remain due and unpaid provided that SriLankan Airlines shall be entitled to deduct or charge the Contractor any such amounts expended by it to pay such aforementioned unpaid premiums.
- 5.5 The insurance coverage required by Clause 5.1 and 5.2 shall at all times be valid and adequate to meet all the obligations set out above and any other obligations required by law. Failure to maintain insurance coverage to the required level will be considered by SriLankan Airlines as a fundamental breach of this Agreement.

6. NON-COMPLIANCE:

- 6.1 In the event of the non-compliance or breach by the Contractor of any of its obligations contained in this Agreement, SriLankan Airlines may at its discretion, without prejudice to any of its rights under this Agreement:
- a) Terminate this Agreement as per Clause 7 below:
  - b) Charge the Contractor liquidated damages at the rate specified in Schedule C of the estimated amount of the monies payable for the relevant Goods for the relevant period of non-compliance or breach; and/or
  - c) Obtain the Goods from another contractor provided however, that in the event any money is expended by SriLankan Airlines on account of the Contractor's non-compliance or breach of its duties, such said expenditure shall be re-charged to the Contractor.

The Contractor shall in the aforementioned instances make good the irregularity, breach and/or lapse as soon as possible to the satisfaction of SriLankan Airlines and shall reimburse SriLankan Airlines any expenses incurred by it in such said instances.

7. TERM & TERMINATION:

7.1 This Agreement shall be valid for a period of 02 years commencing from \_\_\_\_\_ July 2022 until \_\_\_\_\_ unless terminated earlier and shall automatically stand terminated upon the expiry of the Agreement. Notwithstanding the above, the Parties may extend the Term of this Agreement upon the expiry of the Term for a further period of 1 year by written mutual agreement on the same terms and conditions of this Agreement; provided however that such extension shall be subject to the Contractor's satisfactory performance of the Agreement decided at the sole discretion of SriLankan Airlines.

7.2 Notwithstanding Clause 7.1, SriLankan Airlines may terminate this Agreement at any time, without assigning any reasons whatsoever, by giving the Contractor 90 days' written notice of termination without any liability to pay compensation and such termination shall take effect on the expiry of the said 90 days' notice period.

7.3 SriLankan Airlines may terminate this Agreement forthwith in writing in the event the Contractor does not:

- a) provide the Goods at the time, manner and/or to the specifications/ quality required by SriLankan Airlines pursuant to this Agreement;
- b) comply with the requirements and/or notices of SriLankan Airlines; and/or
- c) Perform, fails or is failing in the performance of any of its obligations under this Agreement.

7.4 Subject to Clause 7.3 hereof, either party shall have the right to terminate this Agreement forthwith at any time by giving written notice to the other upon the happening of any of the following events:

- a) if the other party is in breach of any of the terms or conditions of this Agreement and fails to rectify same within 30 days of the written notice of the breach to the defaulting party or immediately if the breach is incapable of remedy;
- b) if the other party enters into liquidation whether compulsory or voluntary (otherwise than for the purpose of amalgamation or

reconstruction) or compounds with or enters into a scheme of arrangement for the benefit of its creditors or has a receiver appointed of all or any part of its assets or takes or suffers any similar action in consequence of debt; and/or

d) if the other party shall cease substantially to carry on trade or shall threaten to cease substantially to carry on trade.

e) Disruption to the performance of the Agreement for a period of more than 60 days due to force majeure event.

7.5 Expiration or termination of this Agreement pursuant to the provisions of this Clause shall be without prejudice to the accrued rights and liabilities of either party.

7.6 On termination of this Agreement the Contractor shall only be entitled to receive the payment of monies (less any monies as SriLankan Airlines is entitled to deduct/set-off under this Agreement) for Goods duly provided in accordance with the terms of this Agreement. The Contractor shall not be entitled to any further costs, remuneration consequential or special damages, loss of profits or revenue claimed to have been suffered by the Contractor (including its agents, employees and representatives) as a result of this Agreement.

7.7 In the event SriLankan Airlines terminates this Agreement in whole or in part, pursuant to 7.3 a), b) or c) of the Agreement, SriLankan Airlines may procure upon such terms and in such manner as it deems appropriate, goods, as the case may be, similar to those undelivered under the Agreement, and the Contractor shall be liable to SriLankan Airlines for any excess costs for such similar goods procured by SriLankan Airlines. However, the Contractor shall continue performance of the Agreement to the extent not terminated herein.

## 8. GOVERNING LAW:

8.1 This Agreement shall be governed by the laws of Sri Lanka and subject to the jurisdiction of the courts in Sri Lanka.

## 9. FORCE MAJEURE:

9.1 In the event that either party shall be wholly or partly unable to carry out its obligations under this Agreement by reasons or causes beyond its control, including by way of illustration Acts of God or the public enemy, fire, floods, explosions, epidemics, insurrection, riots or other civil commotion, war, Government order or by any other cause (excluding, however, strikes, lockouts or other labour troubles), which it could not be reasonably be expected to foresee or avoid, then the performance of its obligations in so far

as they are affected by such cause shall be excused during the continuance of any inability so caused. Such cause(s) shall however as far as possible be remedied by the affected party with all reasonable despatch.

9.2 Notwithstanding the above each party shall give the other as soon as possible notice of the occurrence or imminent occurrence of an event as indicated above and where such notice is given verbally it shall be followed immediately in writing.

9.3 In the event the force majeure event relates to delivery of Goods by the Contractor, unless otherwise directed by SriLankan Airlines in writing, the Contractor shall continue to perform its obligations under the Agreement as far as is reasonable and practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event. In case of delays in the completion of delivery in accordance to the time schedule as specified in the respective Purchase Order(s) due to any of the force majeure event mentioned above, the time schedule for the delivery of Goods shall be extended accordingly.

#### 10. GENERAL:

10.1 This Agreement shall constitute the entire agreement and understanding of the parties and shall supersede all prior agreements, whether written or oral between the parties hereto concerning the subject matter hereof.

10.2 In the event of a conflict between this Agreement and its Schedules, the Schedules shall take precedence over this Agreement in respect of the subject matter thereof. In the event of a discrepancy between Purchase Order and the Agreement, the Purchase Order will take precedence over this Agreement in respect of the subject matter thereof.

10.3 In the event that either party shall be rendered wholly or partly unable to carry out its obligations under this Agreement as a result of strikes, lockouts and labour troubles, then such party so incapacitated shall compensate such other for damage and/or loss suffered by such other as a result of such strike, lockout or labour trouble.

10.4 At all times the Contractor (together with its workers) will be deemed to be an independent contractor and shall not under any circumstances be considered an employee, representative or agent of SriLankan Airlines.

10.5 The right and remedies of SriLankan Airlines against the Contractor for the breach of any condition and for obligations undertaken by the Contractor under this Agreement shall not be prejudiced or deemed to be waived by reason of any indulgence or forbearance of SriLankan Airlines.

- 10.6 Nothing in this Agreement shall prevent SriLankan Airlines from availing itself of any remedies provided under the general law in addition to the remedies stipulated in this Agreement.
- 10.7 Except to the extent as amended under the Purchase Order(s), this Agreement shall not be varied or modified otherwise than by an instrument in writing of even date herewith or subsequent hereto executed by or on behalf of SriLankan Airlines and the Contractor by its duly authorised representatives.
- 10.8 If any provision of this Agreement should become or be adjudged invalid or unenforceable for any reason whatsoever, such invalidity or unenforceability shall not affect any other part of this Agreement and all other provisions shall remain valid and in full force and effect.
- 10.9 The titles to the clauses in the Agreement are for convenience of reference only and do not form part of this Agreement and shall not in any way affect the interpretation thereof.
- 10.10 SriLankan Airlines does not grant the Contractor any right, title or interest in any of its designs, labels, know-how, trade names, trademarks, service marks, logos and other distinctive brand features or business identifiers, logo, copyright or any other intellectual property rights of SriLankan Airlines ("Intellectual Property Rights") except as expressly authorised in writing by SriLankan Airlines and the Contractor shall not have any right, title or interest in the said Intellectual Property Rights of SriLankan Airlines other than the right to use it for purposes of this Agreement for the Term hereof only with the express written consent of the SriLankan Airlines.
- 10.11 The Contractor shall not issue any press release or other public announcement related to this Agreement, written or oral, without the prior written consent of SriLankan Airlines, except as required by law or a court order. For avoidance of any doubt, the Contractor shall not make, give or issue any press release or other press activity involving or referring to SriLankan Airlines or any of its affiliates or their services or operations, without SriLankan Airlines prior written approval.
- 10.12 The Contractor expressly assures and warrants that it has all the necessary approvals, authorizations and licenses to enter into this Agreement and to provide the Goods envisaged under this Agreement.
- 10.13 Any notice or other communication required or authorised by this Agreement to be served or given by either party to the other shall be deemed to have been duly served or given if in writing and
- (a) left at or sent by prepaid registered post to the last known place of business of that; or

(b) sent by fax or e-mail to such place of business and confirmed by prepaid registered post, similarly addressed, within 24 hours of the dispatch of such fax or e-mail.

In the case of SriLankan Airlines to –

SriLankan Airlines Limited  
Commercial Procurement,  
Bandaranaike International Airport,  
Katunayake  
Sri Lanka  
Fax : 01 9733 5225  
E-mail: sampath.sudasnghe@srilankan.com  
Attention: Mr.Pasan Amaratunge

In the case of the Contractor to -

IN WITNESS WHEREOF the parties hereto have caused their authorized signatories to place their hands hereunto and to one other of the same tenor on the date first referred to above in:

For and on behalf of  
SRILANKAN AIRLINES LIMITED

for and on behalf of

\_\_\_\_\_  
Name: \_\_\_\_\_  
Designation:

Name:  
Designation:

Witness:  
\_\_\_\_\_

Witness:

Name:  
Designation:

Name:  
Designation:

## SCHEDULE A

### 1. Preliminary:

- 1.1 The specifications of Goods shall be deemed to form and be read and construed as an integral part of the Agreement.
- 1.2 If persons contracted by and on behalf of the Contractor require any security passes, clearances or other relevant documentation for the provision of Goods, the Contractor shall ensure that such passes clearances and documentation have been duly secured from the relevant parties/authorities in a timely manner.
- 1.3 Please refer Annex A attached for Specifications of the

### 2. Time Schedule:

- 2.1 The Contractor shall upon receipt of the Purchase Order successfully complete the supply and delivery of the Goods to the locations specified in Schedule B according to the time tables given by SriLankan Airlines as set forth under the Purchase Agreement, Purchase Order or Purchase release in accordance to the terms and conditions of the Agreement.

## SCHEDULE B

### (LOCATIONS)

1. Locations:

The Contractor shall supply and deliver the Goods on CFR-CMB basis (INCOTERMS latest version). Contractor will be responsible for the shipment till it reaches Colombo port.

2. Access to Locations:

- 2.1 Access to and from all premises of SriLankan Airlines will be subject to instructions and directions given by SriLankan Airlines and/or any other relevant party or authority.
- 2.2 The Contractor will ensure that workers contracted for and on behalf of the Contractor to provide the Goods under this Agreement shall under no circumstance violate Clause 2.1 above.
- 2.3 The Contractor shall indemnify SriLankan Airlines or any other party for death, injury, loss or damage in the event the Contractor or its workers for whatever reason are in breach of Clause 2.1 or any other stipulations under this Agreement.