

GAMUDA GROUP PROCUREMENT OFFICE

e-Bidding Terms and Conditions

1. Interpretation

In these e-Bidding Conditions (unless the context otherwise requires):

- a. Invitation to Tender means the document designated as such which has been issued to the Tenderer manually or electronically in conjunction with the other Tender Documents.
- b. e-Bidding is a real-time online event during which participants submit competitive bids for specific goods or services.
- c. Bidder means Contractor, Supplier, or vendor who responds to an Invitation to Bid
- d. Bidding Period; number of days or weeks up to the bid date that are available to a prospective bidder to prepare and lodge a bid.
- e. Bidding Info Pack is; a document equivalent to the Event Information Document which contains information and rules regarding the e-Bidding Event. The Bidding Info Pack will be provided by Gamuda Group to the Bidders during Invitation to Bid.

2. General Terms and Conditions Governing the e-Bidding activities: -

- a. Bidders must maintain its password and user identity in safe and secure custody.
- b. Gamuda Group does not bind itself to accept or consider all or any part of any bids and Gamuda Group shall be entitled to conduct a re-bid for all or any of the Items and Auction without assigning any reasons.
- c. Confidentiality: -

Bidders must maintain the Bidding Info Pack package, other confidential materials provided by the Gamuda Group, and all bids provided by itself or another bidder in confidence and shall not disclose to any third party for whatever purposes without prior written consent of Gamuda Group Bidders shall also keep all software, manuals and documentation provided by Gamuda Group in confidence and if requested shall return the same to Gamuda Group at the end of the procurement activity.

3. Terms and Conditions with Ariba: -

- a. Each bidder must prior to the e-Bidding event participation read, understand, agree, observe and abide by the terms & conditions and rules/information stated in the applicable Bidding Info Pack; to be provided by Gamuda Group to the bidders (including its amendments that may be notified by Gamuda Group in such manners as Gamuda Group shall deem fit) (the "Bidding Info Pack").

4. Terms and Conditions on the e-Bidding Procedures: -

- a. Only qualified bidders are eligible to partake in the e-Bidding event. The e-Bidding procedures shall be administrated by the applicable Bidding Info Pack and all bids shall be submitted in accordance with the rules and information in the Bidding Info

Pack and such other relevant rules and regulations that may be determined by Gamuda Group at the material time, if any.

- b. The opening price shall be similar to the price submitted by the relevant Bidder in the RFP or a lower price agreed by the Bidders after the RFP or before the e-Bidding depending on the auction type.
 - c. Each submitted bid shall be lower than the preceding bid and the percentage of reduction shall be equal or higher than the percentage determined by Gamuda Group.
 - d. Bids shall only be submitted via online bidding mechanism provided by Gamuda Group. Any bids that are submitted via any other mechanism including, but not limited to, post, courier, fax, E-mail, or orally shall not be entertained or accepted by Gamuda Group unless Bidder has obtained written approval from Gamuda Group prior to the e-Bidding event date.
 - e. Although Gamuda Group and Ariba work fully to prevent any unethical behaviour among the bidders, bidders shall immediately notify Gamuda Group if they witness practices that are deemed unfair.
 - f. Any Bidder experiencing difficulties during an e-Bidding event must notify Gamuda Group immediately. "Difficulties" include any event or problem, which interferes with the relevant bidder's ability to participate in the e-Bidding, and may include, but is not limited to data entry errors, software problems, or hardware problems. Bidders will have ten (10) minutes after the items go into "Pending" status for Ariba to identify any problems; if Ariba judges that any party has been disadvantaged by a problem, Ariba will correct the problem and may return the items to "Open" status. There shall be a "Review" period prior to re-opening the e-Bidding.
 - g. All auctions would be preceded by a Mock Event to train the Bidders on auction participation rules and process.
5. With regards to e-Bidding for tenders above RM2 million should the tenderer decide to participate, a sum of an amount as stated in the RFP (the "Earnest Money") will be imposed payable via Company Cheque to The Group Berhad as security for due observance and performance of this tendering activity (where applicable only). The sum will be refunded Free of Interest no later than 6 months after the date of the tender unless the Earnest Money is forfeit based on any one or more of the following grounds:
- - a. The relevant tenderer defaults or breaches any of the terms and conditions of this Tender, the RFP and/or all other documents and appendices prepared or to be prepared in relation to the on-line tendering, or the rules and regulations determined by Gamuda Group;
 - b. Qualified tenderer fails to participate or withdraw from the tender for whatever reasons;
 - c. The successful tenderer declines, refuses or rejects to accept Gamuda Group's award of the tender for whatever reasons.
6. Although the e-Bidding price is one of the important factors in the award decision, Gamuda Group reserves its right to award to the Bidders most suitable based on the technical and contractual parameters that have been pre-determined by Gamuda Group.