



**STANDARD BIDDING DOCUMENTS FOR
PROCUREMENT OF GOODS**

BIDDING DOCUMENTS
Issued on: 20th September 2023

for

SUPPLY AND DELIVERY OF A MINIBUS

CONTRACT NUMBER - SADC/3/5/4/84

PROCURING ENTITY: SADC SECRETARIAT

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Invitation for Bids (IFB)

Dear All,

1. The Southern African Development Community (SADC) invites proposals to provide the following goods and related/ancillary services: **SUPPLY AND DELIVERY OF A MINIBUS**. More details on the Goods and Related Services are provided in the attached Supply Requirements.
2. The Bidding Documents has been addressed to all interested Bidders:
3. A contractor will be selected under the open bidding procurement method and procedures described in this Bidding Documents.
4. The Bidding Documents includes the following documents:
 - i. PART 1 – Bidding Procedures
 - ii. Section I. Instructions to Bidders
 - iii. Section II. Bidding Data Sheet (BDS)
 - iv. Section III. Evaluation
 - v. Section IV. Bidding Forms
 - vi. PART 2 – Supply Requirements
 - vii. Section V. Schedule of Requirements
 - viii. PART 3 - Contract

Yours sincerely,



Thomas Chabwera
Head of Procurement
20th September 2023

PART 1 – Bidding Procedures

Section I. Instructions to Bidders

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Section I. Instructions to Bidders

Definitions

Definitions

- (a) “BD” means the Bidding Documents to be prepared by the Procuring Entity for the selection of Contractor, based on the SADC Secretariat Standard Template.
- (b) “Bidder” means company or joint venture/ consortium invited to submit technical and financial proposal for this contract.
- (c) “Procuring Entity” means the procurement entity with which the selected legal entity will sign the contract.
- (d) “Contractor” means any legal entity that may deliver or delivers the goods/equipment to the Client under the Contract.
- (e) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that are the General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (f) “Bid Data Sheet (BDS)” means such part of the Instructions to Bidders used to reflect specific contract and assignment conditions.
- (g) “Day” means calendar day.
- (h) “Evaluation Committee” it is a panel of experts appointed by the Procuring Entity and assigned to evaluate the bids. The Evaluation Committee consist in a Chairperson and a Secretary with no voting rights and an odd number of voting members (evaluators).
- (i) “Instructions to Bidders” (Section 2 of the BD) means the document which provides shortlisted Bidders with all information needed to prepare their Proposals.
- (j) “LOI” (Section 1 of the BD) means the Letter of Invitation being sent by the Procuring Entity to the shortlisted Bidders.
- (k) “Proposal” means the Technical Proposal and the Financial Proposal.
- (l) “Related/ancillary Services” means the secondary services related to the main Goods contract which will be also offered (training, maintenance etc)
- (m) “Subcontractor” means any person or entity with whom the Bidder or Contractors intends to subcontracts any part of the contract.
- (n) “Technical Specifications” means the document included in the BD as Section V that provides the minimum technical characteristics and the quantities of goods and related/ancillary services need by the Procuring Entity from the Contractor.

A. General

1. **Scope of Bid**
 - 1.1 The Procuring Entity **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 VI, Schedule of Requirements. The name and identification number of the contract for this procurement are **specified in the BDS**. The name, identification, and number of lots of are **provided in the BDS**.
 - 1.2 The procurement method used for acquisition of the Goods and Related Services incidental thereto as specified in Section VI, Schedule of Requirements of Invitation, is as indicated in **the Bidding Data Sheet**, method detailed in the edition of the Guidelines indicated in **the Bidding Data Sheet**.
 - 1.3 The Bidders are invited to submit a Technical Proposal and a Financial Proposal for the goods and related services specified in Section VI, Schedule of Requirements.
 - 1.4 Unless otherwise **specified in the BDS**, when the Contract is divided into lots, Bidders may bid for one, more or for all lots as they wish. However, the quantity of goods and ancillary services indicated under each individual lot shall be indivisible. Bids for only part of the goods and related/ancillary services indicated under each lot shall be considered incomplete and automatically disqualified.

2. **Fraud and Corruption**
 - 2.1 It is the SADC Secretariat policy to require that Procuring Entity as well as bidders, suppliers, and contractors and their subcontractors under SADC Secretariat-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.¹ In pursuance of this policy, the SADC Secretariat:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice”² is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

¹ In this context, any action taken by a bidder, supplier, contractor, or a sub-contractor to influence the procurement process or contract execution for undue advantage is improper.

² “another party” refers to a public official acting in relation to the procurement process or contract execution]. In this context, “public official” includes SADC Secretariat staff and employees of other organizations taking or reviewing procurement decisions.

- (ii) “fraudulent practice”³ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “collusive practice”⁴ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice”⁵ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators in order to materially impede a SADC Secretariat, or a governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the SADC Secretariat or governmental or inspection and audit rights.
- (b) It will take the following measures against the bidder recommended for award who has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - (i) will reject the bid for award;
 - (ii) will declare the bidder/the contractor, including its affiliates, ineligible, either indefinitely or for a stated period of time, to become a SADC Secretariat

³ a “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

⁴ “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

⁵ a “party” refers to a participant in the procurement process or contract execution.

contractor;

- (iii) will cancel or terminate any ongoing contract with the bidder /the contractor;
- (iv) will request the relevant national authorities to conduct a joint investigation with SADC Secretariat to inspect or carry out audits of the bidder /the contractor' accounting records and financial statements in connection with the contract in question for which it was found guilty of engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices;
- (v) will forfeit the bid or performance securities of the bidder /the contractor;
- (vi) will suspend any payments due to the bidder/ contractor, under the contract in question or any other contract the bidder/contractor might have with the organization, until the extent of damage caused by the its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the SADC Secretariat's contract are determined and recovered, and
- (vii) will sue the bidder /contractor to recover the damages caused by its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question, if they are not fully recovered by the securities and the payments otherwise due to the bidder/contractor.

3. Eligible Bidders 3.1 Pursuant the paragraph 3.2 to 3.4 of this Clause, participation in tender and in award of contracts shall be open on equal terms to:

- (a) Natural persons, companies or firms, or associations or public or semi -public agencies.
- (b) Cooperative societies and other legal persons governed by public or private law.
- (c) Joint ventures, consortium or association of firms.

3.2 Bidders shall not be eligible for the award of contracts where:

- (a) They are bankrupt;
- (b) Payments to them have been suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with their national laws in the total or partial loss of the right to administer and dispose

of their property;

(c) Legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property;

(d) They have been convicted, by a final judgment, of any crime or offence concerning their professional conduct;

(e) They are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender;

(f) They have been sanctioned by SADC Secretariat pursuant SADC Procurement and Grants Policy;

3.3 Only shortlisted Bidders indicated in **the Bidding Data Sheet** are allowed to participate in this bidding process. If a Bidders is shortlisted as Joint Venture or Consortium, the composition of Joint Venture or Consortium can be changed with prior approval of the Procuring Entity and only if (i) is supported by solid and objective arguments, (ii) does not alter the competition, (iii) is not generating a conflict, and (iv) is not invalidating the criteria and conditions in place when the joint venture or consortium was prequalified.

3.4 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 Procuring Entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the general services to be purchased under these Bidding Documents. Affiliates are the group of companies, firms, associations, etc. where the Bidder or any of the major shareholders owns a minimum of twenty percent (20%) of shares of the share capital. For the same purpose, major shareholder is any legal or physical person who owns no less than twenty percent (20%) of the shares of the Bidder; or

(b) submit more than one bid in this bidding process, except for alternative offers permitted under ITB Clause 13. However, this does not limit the participation of subcontractors in more than one bid; or

- (c) they have controlling partners in common; or
- (d) they receive or have received any direct or indirect subsidy from any of them; or
- (e) they have the same legal representative for purposes of this bid; or
- (f) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, or influence the decisions of the Procuring Entity regarding this bidding process; or
- (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Procuring Entity as project manager, supervisor, assessor, monitor, evaluator, auditor or any others similar assignment for the contract.

3.5 A Bidder that is under a declaration of ineligibility by the SADC Secretariat in accordance with ITB Clause 2, at the date of contract award, shall be disqualified. The list of debarred firms is available at the electronic address specified in the **BDS**.

4. Eligible Goods and Related Services

- 4.1 Unless otherwise stated **in the BDS**, SADC Secretariat does not restrict the Goods and Related Services to be supplied under the Contract and on the basis of their origin.
- 4.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, installation, training, and initial maintenance.
- 4.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

B. Contents of Bidding Documents

5. Sections of Bidding Documents

- 5.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addendum issued in accordance with ITB Clause 7.

PART 1 Bidding Procedures

- Section I. Instructions to Bidders (ITB)
- Section II. Bidding Data Sheet (BDS)
- Section III. Evaluation Criteria
- Section IV. Bidding Forms

PART 2 Supply Requirements

- Section VI. Schedule of Requirements

PART 3 Contract

- Section VII. Contract Forms
- Section VIII. Special Conditions of Contract (SCC)
- Section IX. General Conditions of Contract (GCC)

- 5.2 The Invitation for Bids issued by the Procuring Entity is not part of the Bidding Documents.
- 5.3 The Procuring Entity is not responsible for the completeness of the Bidding Documents and their addendum, if they were not obtained directly from the Procuring Entity.
- 5.4 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.

6. Clarification of Bidding Documents

- 6.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Procuring Entity in writing at the Procuring Entity's address **specified in the BDS**. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of bids. The Procuring Entity shall forward copies of its response to all those who have acquired the Bidding Documents directly from it, including a description of the inquiry but without identifying its source at the latest 11 days before the deadline for submission. Should the Procuring Entity deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 7 and ITB Sub-Clause 23.2.

7. Amendment of Bidding

- 7.1 At any time prior to the deadline for submission of bids, the Procuring Entity may amend the Bidding Documents by issuing

Documents

addendum.

- 7.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the Procuring Entity.
- 7.3 To give shortlisted Bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring Entity may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 23.2

C. Preparation of Bids

- 8. Cost of Bidding** 8.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 9. Language of Bid** 9.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring Entity, shall be written in the language indicated in the **BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the official language of the bidding process, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 10. Documents Comprising the Bid** 10.1 The Bid shall comprise the following:
- (a) Bid Submission Form, Technical Offer Form and the applicable Price Schedules, in accordance with ITB Clauses 11, 13, and 14;
 - (b) Bid Security, in accordance with ITB Clause 20, if required;
 - (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 21;
 - (d) documentary evidence in accordance with ITB Clause 15 establishing the Bidder's eligibility to bid;
 - (e) documentary evidence in accordance with ITB Clause 16, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
 - (f) documentary evidence in accordance with ITB Clauses 17 and 29, that the Goods and Related Services conform to the Bidding Documents;

- (g) documentary evidence in accordance with ITB Clause 18 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and
- (h) any other document **required in the BDS**.

11. Bid Submission Form, Technical Offer Form and Price Schedules

- 11.1 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.
- 11.2 The Bidder shall submit the Technical Offer 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.
- 11.3 The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section IV, Bidding Forms

12. Alternative Bids

- 12.1 Unless otherwise **specified in the BDS**, alternative bids shall not be considered.

13. Bid Prices and Discounts

- 13.1 The prices and discounts quoted by the Bidder in the Bid Submission Form and in the Price Schedules shall conform to the requirements specified below.
- 13.2 All lots and items must be listed and priced separately in the Price Schedules.
- 13.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discounts offered.
- 13.4 The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form.
- 13.5 The terms EXW, CIP, DAP, DDP, CIF and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, as specified in the **BDS**.
- 13.6 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of bids by the Procuring Entity. This shall not in any way limit the Procuring Entity's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any

eligible country, in accordance with Section V Eligible Countries. Similarly, the Bidder may obtain insurance services from any eligible country in accordance with Section V Eligible Countries. Prices shall be entered in the following manner:

- (a) For Goods manufactured in the Procuring Entity's Country:
 - (i) the price of the Goods quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
 - (ii) any Procuring Entity's Country sales tax and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
 - (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) specified in the **BDS**.
- (b) For Goods manufactured outside the Procuring Entity's Country, to be imported:
 - (i) the price of the Goods, quoted CIP named place of destination, in the Procuring Entity's Country, or CIF named port of destination, as specified in the **BDS**;
 - (ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **BDS**;
 - (iii) in addition to the CIP prices specified in (b)(i) above, the price of the Goods to be imported may be quoted FCA (named place of destination) or CPT (named place of destination), if so specified in the **BDS**;
- (c) For Goods manufactured outside the Procuring Entity's Country, already imported:

[For previously imported Goods, the quoted price shall be distinguishable from the original import value of these Goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be

paid by the Procuring Entity. For clarity the bidders are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference of those values.]

- (i) the price of the Goods, including the original import value of the Goods; plus, any mark-up (or rebate); plus, any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported.
 - (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
 - (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;
 - (iv) any Procuring Entity's Country sales and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
 - (v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **BDS**.
 - (d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
 - (i) the price of each item comprising the Related Services (inclusive of any applicable taxes).
- 13.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the **BDS**. A Bid submitted with an adjustable price quotation shall be treated as non responsive and shall be rejected, pursuant to ITB Clause 29. However, if in accordance with the **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 13.8 If so indicated in ITB Sub-Clause 1.3, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Bidders wishing to offer any price reduction

(discount) for the award of more than one Contract shall specify the applicable price reduction in accordance with ITB Sub-Clause 13.4 provided the bids for all lots are submitted and opened at the same time.

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| 14. Currencies of Bid | <p>14.1 The Bidder shall quote in US Dollars. Bids express in any other currency will be automatically rejected.</p> <p>14.2 The bidders shall bear all the associated cost and risk deriving from currency exchange from US Dollars into their normal currency of trade.</p> |
| 15. Documents Establishing the Eligibility of the Bidder | <p>15.1 To establish their eligibility in accordance with ITB Clause 3, Bidders shall complete the Bid Submission Form, included in Section IV, Bidding Forms.</p> |
| 16. Documents Establishing the Eligibility of the Goods and Related Services | <p>16.1 To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 4, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.</p> |
| 17. Documents Establishing the Conformity of the Goods and Related Services | <p>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 VI, Schedule of Requirements.</p> <p>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 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.</p> <p>17.3 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period specified in the BDS following commencement of the use of the goods by the Procuring Entity.</p> <p>17.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Procuring Entity in the Schedule of</p> |

Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.

**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 Procuring Entity's satisfaction:

- (a) that, if **required in the BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Procuring Entity's Country;
- (b) that, if **required in the BDS**, in case of a Bidder not doing business within the Procuring Entity's Country, the Bidder is or will be (if awarded the contract) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-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 for the period **specified in the BDS** after the bid submission deadline date prescribed by the Procuring Entity. A bid valid for a shorter period shall be rejected by the Procuring Entity as non responsive.

19.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 20, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB Sub-Clause 19.3.

19.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the

initial bid validity, the Contract price shall be adjusted as specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.

20. Bid Security

- 20.1 The Bidder shall furnish as part of its bid, a Bid, if required, as **specified in the BDS**.
- 20.2 The Bid Security shall be in the amount specified in the **BDS** and denominated in US Dollars, and shall:
- (a) at the bidder's option, be in the form of either a letter of credit, or a bank guarantee from a banking institution;
 - (b) be issued by a reputable banking institution selected by the bidder and located in any eligible country as **specified in the BDS**. If the institution issuing the bond is located outside the Procuring Entity's Country, it shall have a correspondent financial institution located in the Procuring Entity's Country to make it enforceable.
 - (c) be substantially in accordance with the form of Bid Security included in Section IV, Bidding Forms, or other form approved by the Procuring Entity prior to bid submission;
 - (d) be payable promptly upon written demand by the Procuring Entity in case the conditions listed in ITB Clause 20.5 are invoked;
 - (e) be submitted in its original form; copies will not be accepted;
 - (f) remain valid for a period of 28 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Clause 19.2;
- 20.3 If a Bid Security is required in accordance with ITB Sub-Clause 20.1, any bid not accompanied by a substantially responsive Bid Security in accordance with ITB Sub-Clause 20.1, shall be rejected by the Procuring Entity as non-responsive.
- 20.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the Performance Security pursuant to ITB Clause 40.
- 20.5 The Bid Security may be forfeited or the 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 the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB Clause 39;
 - (ii) furnish a Performance Security in accordance with ITB Clause 40.

20.6 The Bid Security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in Section IV “Bidding Forms,” Bidder Information Form Item 7.

20.7 If a bid security is **not required in the BDS**, and

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid Form, except as provided in ITB 19.2, or
- (b) if the successful Bidder fails to: sign the Contract in accordance with ITB 39; or furnish a performance security in accordance with ITB 40;

the Procuring Entity may, **if provided for in the BDS**, declare the Bidder disqualified to be awarded a contract by the SADC Secretariat for a period of time **as stated in the BDS**.

21. Format and Signing of Bid

- 21.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 10 and clearly mark it “ORIGINAL.” In addition, the Bidder shall submit copies of the bid, in the number specified in the **BDS** and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.
- 21.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder.
- 21.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

D. Submission and Opening of Bids

22. Submission, Sealing and Marking of

- 22.1 Bidders may always submit their bids by certified mail/courier or by hand. When so specified in the **BDS**, bidders shall have the

- Bids** option of submitting their bids electronically.
- (a) Bidders submitting bids by mail or by hand, shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB Clause 12, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB sub-Clauses 22.2 and 22.3.
 - (b) Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the **BDS**.
- 22.2 The inner and outer envelopes shall:
- (a) Bear the name and address of the Bidder;
 - (b) be addressed to the Procuring Entity in accordance with ITB Sub-Clause 23.1;
 - (c) bear the specific identification of this bidding process indicated in ITB 1.1 and any additional identification marks as **specified in the BDS**; and
 - (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB Sub-Clause 26.1.
- 22.3 If all envelopes are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid.
- 23. Deadline for Submission of Bids**
- 23.1 Bids must be received by the Procuring Entity at the address and no later than the date and time **specified in the BDS**.
 - 23.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 7, in which case all rights and obligations of the Procuring Entity and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 24. Late Bids**
- 24.1 The Procuring Entity 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 Procuring Entity after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.
- 25. Withdrawal, Substitution,**
- 25.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice in accordance with

**and
Modification of
Bids**

ITB Clause 22, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) 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 envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
- (b) received by the Procuring Entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 23.

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

25.3 No bid 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 Procuring Entity shall conduct the bid opening in public at the address, date and time **specified in the BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB Sub-Clause 22.1, shall be as **specified in the BDS**.

26.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid will be opened. 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. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes 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 envelopes 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 Procuring Entity 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 Procuring Entity 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, substitution, or modification; the Bid Price, per lot if applicable, including any discounts, and alternative offers if they were permitted; and the presence or absence of a Bid Security or Bid-Securing Declaration, if one was required. 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, and posted online when electronic bidding is permitted.

E. Evaluation and Comparison of Bids

- 27. Confidentiality**
- 27.1 Information relating to the examination, evaluation, comparison, and qualification 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 Procuring Entity in the examination, evaluation, and comparison, of the bids or contract award decisions may result in the rejection of its Bid.
- 27.3 Notwithstanding ITB Sub-Clause 27.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Procuring Entity on any matter related to the bidding process, it should do so in writing.
- 28. Clarification of Bids**
- 28.1 To assist in the examination, evaluation, and comparison of the bids, the Procuring Entity may, at its discretion, ask 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 Procuring Entity shall not be considered. The

Procuring Entity'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 Procuring Entity in the evaluation of the bids, in accordance with ITB Clause 30.

29. Responsiveness of Bids

29.1 The Procuring Entity'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, reservation, or omission. 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 Procuring Entity'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.

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

30. Nonconformities, Errors, and Omissions

30.1 Provided that a Bid is substantially responsive, the Procuring Entity 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 Procuring Entity 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 Procuring Entity 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

Procuring Entity 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.

30.4 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected.

**31. Preliminary
Examination of
Bids**

31.1 The Procuring Entity shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 10 have been provided, and to determine the completeness of each document submitted.

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

- (a) Bid Submission Form, in accordance with ITB Sub-Clause 11.1;
- (b) Technical Offer Form, in accordance with ITB Sub-Clause 11.2;
- (c) Price Schedules, in accordance with ITB Sub-Clause 11.3;
- (d) Bid Security, in accordance with ITB Clause 20, if applicable.

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

32.1 The Procuring Entity shall examine the Bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.

32.2 The Procuring Entity shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 17, to confirm that all requirements specified in Section VI, 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 Procuring Entity determines that the Bid is not substantially responsive in accordance with ITB Clause 29, it shall reject the Bid.

32.4 The evaluation committee shall use the Administrative Compliance Grid and the Technical Compliance Grid in order to assess the qualification and evaluation criteria (see Section IV Bidding Forms).

33. Evaluation of Bids

33.1 The Procuring Entity shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.

33.2 To evaluate a Bid, the Procuring Entity shall only use all the factors, methodologies and criteria defined in this ITB. No other criteria or methodology shall be permitted.

33.3 To evaluate a Bid, the Procuring Entity shall consider the following:

- (a) evaluation will be done for Items or Lots, as **specified in the BDS**; and 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 13.4; and
- (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.

33.4 The Procuring Entity's evaluation of a bid will exclude and not take into account:

- (a) In the case of Goods manufactured in the Procuring Entity's Country, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;
- (b) in the case of Goods manufactured outside the Procuring Entity's Country, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder;
- (c) any allowance for price adjustment during the period of

execution of the contract, if provided in the bid.

- 33.5 The Procuring Entity's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 13. 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, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors, methodologies and criteria to be used shall be as specified in ITB 33.3 (d).
- 33.6 If so **specified in the BDS**, the Procuring Entity shall grant a margin of preference in the evaluation of bids offering General Services and Related Goods manufactured in the SADC countries, when compared to bids offering General Services and Related Goods works manufactured elsewhere. The margin of preference shall be calculated as a fifteen percent (15%) discount to the evaluated total price. To qualify for the regional preference, the bids shall offer Goods and Related Services of at least fifty percent (50%) in contract value of SADC origin.
- 33.7 If so **specified in the BDS**, these Bidding Documents shall allow Bidders to quote separate prices for one or more lots, and shall allow the Procuring Entity 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.
- 34. Comparison of Bids** 34.1 The Procuring Entity shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 33.
- 35. Procuring Entity's Right to Accept Any Bid, and to Reject Any or All Bids** 35.1 The Procuring Entity 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.

F. Award of Contract

- 36. Award Criteria** 36.1 The Procuring Entity 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 against the qualification criteria specified in Section III, Evaluation and Qualification Criteria. .

**37. Procuring
Entity's Right
to Vary
Quantities at
Time of Award**

37.1 At the time the Contract is awarded, the Procuring Entity reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VI, Schedule of Requirements, provided this does not exceed the percentages **specified in the BDS**, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents.

**38. Notification of
Award**

38.1 Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder, in writing, that its Bid has been accepted.

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

38.3 The Procuring Entity shall publish a Contract Award Notice on SADC Secretariat website and in UNDB online and in the dgMarket the results of the evaluation, and notify in writing both the successful and unsuccessful bidder. After publication of the Contract Award Notice, within maximum ten (10) working days' unsuccessful bidders may appeal in writing to the Procuring Entity decision in accordance with the relevant clause of SADC Secretariat Procurement Guidelines **specified in the BDS**.

38.4 In case of an appeal, the Procuring Entity may suspend the signature of the contract with the successful bidder until appeal procedures are completed and a final decision it's taken by the SADC Secretariat. All bidders will be informed in writing about the suspension of the award of the contract and might be requested to extend the validity of their offers in accordance with ITB Clause 19.

38.5 Upon the successful Bidder's furnishing of the signed Contract Form and performance security pursuant to ITB Clause 40, the Procuring Entity will promptly discharge the bid security of each unsuccessful Bidder, pursuant to ITB Clause 20.4.

39. Signing of Contract

- 39.1 Promptly after notification, the Procuring Entity shall send the successful Bidder the Agreement and the Special Conditions of Contract.
- 39.2 Within twenty-eight (28) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Procuring Entity.
- 39.3 Notwithstanding ITB 39.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Procuring Entity, to the country of the Procuring Entity, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Bidder shall not be bound by its bid, always provided, always provided, however, that the Bidder can demonstrate to the satisfaction of the Procuring Entity and of the SADC Secretariat that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

40. Performance Security

- 40.1 Within twenty-eight (28) days of the receipt of notification of award from the Procuring Entity, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section IX Contract forms, or another Form acceptable to the Procuring Entity. The Procuring Entity 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.
- 40.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Procuring Entity may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Procuring Entity to be qualified to perform the Contract satisfactorily.

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.

[Instructions for completing the Bid Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITB Clauses.]

ITB Clause Reference	A. General
ITB 1.1	The Procuring Entity is: <i>SADC SECRETARIAT</i>
ITB 1.1	The name and identification number of the Contract is: SUPPLY AND DELIVERY OF A MINIBUS FOR SADC SECRETARIAT: SADC/3/5/4/84
ITB 1.2	The procurement method is: <i>Open Bidding</i> . The procurement is governed by SADC Procurement and Grants Policy 2019 and Procurement and Grants Guidelines of August 2021
ITB 1.3	Bidders are <i>allowed</i> to bid for all lots or for combinations of lots. The following restrictions shall apply: <i>["None"]</i>
ITB 3.5	A list of firms debarred from participating in SADC Secretariat financed projects is available at <i>[www.sadc.int]</i>
ITB 5.1	Goods and related services originating from the following countries are not eligible for SADC Secretariat financed contracts: <i>["Not Applicable"]</i>
	B. Contents of Bidding Documents

ITB 6.1	<p>For <u>Clarification of bid purposes</u> only, the Procuring Entity's address is: Attention: <i>Mr Thomas Chabwera</i> <i>Head of Procurement</i> <i>SADC Secretariat</i> Electronic mail address: tchabwera@sadc.int; pchifani@sadc.int Copy: frandrianaiaina@sadc.int <i>The closing date for receipt of requests for clarification is 2nd October 2023 at 16:00 Hours.</i> <i>The Closing date for response to request for clarifications is 12th October 2023 at 16:00 Hours local time</i></p>
	C. Preparation of Bids
ITB 9	The official language of the bidding process is : English
ITB 10.1 (h)	<p>The Bidder shall submit the following additional documents in its bid:</p> <ul style="list-style-type: none"> (i) <i>Valid and relevant Certificate of Incorporation,</i> (ii) <i>Valid Tax Clearance Certificate</i> (iii) <i>The Banking details and</i> (iv) <i>Past experience of supplying similar items - attach a minimum of 3 copies of Purchase Orders and valid contact details.</i> (v) <i>Valid Authorized manufacturer's authorization</i> (vi) <i>Valid Authorised suppliers of Motor Vehicle</i> (vii) <i>Duly completed and signed sworn in statement sworn at Commissioner of Oath or Notary</i>
ITB 12.1	Alternative Bids <i>shall not be</i> considered.

ITB 13.5	The Incoterms edition is: [<i>“Incoterms 2020”</i>].
ITB 13.6 (b) (i) and (c) (iii)	Place of Destination: Southern African Development Community (SADC) Secretariat Western Commercial Road (near Lobatse and Willie Siboni Roads) CBD Plot 54385 New CBD City: Gaborone Country: Botswana
ITB 13.6 (b) (iii)	In addition to the CIP price specified in ITB 14.6 (b)(i), the price of the Goods manufactured outside the Procuring Entity’s Country shall be quoted: <i>Free On Board</i>
ITB 13.7	The prices quoted by the Bidders are <i>not</i> adjustable
ITB 17.3	Period of time the Goods are expected to be functioning (for the purpose of spare parts): <i>5 YEARS</i>
ITB 18.1 (a)	Manufacturer’s authorization is: Required
ITB 18.1 (b)	After sales service is: Required
ITB 19.1	The bid validity period shall be <i>120</i> days starting from the closing date of bids
ITB 20.2	No bid security is required
ITB 20.2b	The eligible countries are: All SADC Member states countries
ITB 20.7	If the Bidder incurs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Procuring Entity will declare the Bidder ineligible to be awarded contracts by the SADC Secretariat for a period of three (3) years.
ITB 21.1	The bid shall be submitted as original in PDF form at and initialed on each page and to be submitted through collab link: https://collab.sadc.int/s/b3EKqn3mGbH3t4s
	D. Submission and Opening of Bids
ITB 22.1(a)	Bidders are requested to submit an electronic version of their bid through collab virtual tender link : https://collab.sadc.int/s/b3EKqn3mGbH3t4s

ITB 22.1 (b)	<p>The electronic bidding submission procedures shall be: PDF documents initialed on each page and submitted via collab link: https://collab.sadc.int/s/b3EKqn3mGbH3t4s</p>
ITB 22.2 (c)	<p>The subject section of the email shall bear the following identification information: SUPPLY AND DELIVERY OF A MINIBUS: SADC/3/5/4/84</p>
ITB 23.1	<p>For bid submission purposes, the Procuring Entity's address is: Head of Procurement Southern African Development Community (SADC) Secretariat Attention: Mr. Thomas Chabwera Email: tenders@sadc.int and tchabwera@sadc.int With copy to pchifani@sadc.int; frandrianiaina@sadc.int</p> <p>The deadline for the submission of bids is: Friday 20th October 2023.</p> <p>Time:at or before Midnight (Botswana Time) <i>Bids submitted after deadline shall be disqualified.</i></p>
ITB 26.1	<p>There will be public bid opening through zoom link provided below for bidders wishing to be present; Monday 23rd October 2023 Time :1000 Hours</p> <p>Join Zoom Meeting https://us02web.zoom.us/j/83040362634?pwd=SkJPdnZacGJRUIZaR3RTU3pOeElYdz09</p> <p>Meeting ID: 830 4036 2634 Passcode: 160380</p>
	E. Evaluation and Comparison of Bids
ITB 33.3(a)	<p>Evaluation for all Lots will be done as follows;</p> <p>(i) <i>If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the main bid prices.</i></p> <p><i>An item not listed in the Price Schedule shall be assumed as not included in the bid, and the bid shall be considered non-responsive</i></p>

ITB 33.3(d)	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: <i>[refer to Schedule III, Evaluation and Qualification Criteria; insert complementary details if necessary]</i></p> <p>(a) Deviation in Delivery schedule: <i>No</i></p> <p>(b) Deviation in payment schedule: <i>No</i></p> <p>(c) the cost of major replacement components, mandatory spare parts, and service: <i>No</i></p> <p>(d) the availability in the Procuring Entity's Country of spare parts and after-sales services for the equipment offered in the bid: <i>No</i></p> <p>(e) the projected operating and maintenance costs during the life of the equipment: <i>No</i></p> <p>(f) the performance and productivity of the equipment offered: <i>No</i></p>
ITB 33.6	The Procuring Entity shall grant Regional Preference for the purpose of the evaluation of this Contract.
ITB 33.7	Bidders <i>shall not</i> be allowed to quote separate prices for one or more lots. <i>[refer to Section III Evaluation and Qualification Criteria, for the evaluation methodology, if appropriate]</i>
	F. Award of Contract
ITB 37.1	<i>Varying of quantities at the time of award will be up to 15%</i>
ITB 38.3	SADC Secretariat Procurement Guidelines, August 2021, Section 7.

Section III. Award, Evaluation and Qualification/Selection Criteria

This Section complements the Instructions to Bidders. It contains the criteria that the Procuring Entity may use to evaluate a bid and determine whether a Bidder has the required qualifications. No other criteria shall be used.

[The Procuring Entity shall select the criteria deemed appropriate for the procurement process, insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]

Contents

1. Evaluation Criteria (ITB 33.3 (d))

3. Qualification Criteria (ITB 36)

1. Evaluation Criteria (ITB 33.3 (d))

The Procuring Entity's evaluation of a bid may take into account, in addition to the Bid Price (**award criteria**) quoted in accordance with ITB Clause 13.6, one or more of the following factors as specified in ITB Sub-Clause 33.3(d) and in BDS referring to ITB 33.3(d), using the following criteria.

- (a) Delivery schedule. (as per Incoterms specified in the BDS)

The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in Section VI, Delivery Schedule. No credit will be given to deliveries before the earliest date, and bids offering delivery after the final date shall be treated as non-responsive. Within this acceptable period, an adjustment, as specified in BDS Sub-Clause 33.3(d), will be added, for evaluation purposes only, to the bid price of bids offering deliveries later than the "Earliest Delivery Date" specified in Section VI, Delivery Schedule.

- (c) Cost of major replacement components, mandatory spare parts, and service. *[insert one of the following]*

(i) *The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the BDS Sub-Clause 17.3, is in the List of Goods. An adjustment equal to the total cost of these items, at the unit prices quoted in each bid, shall be added to the bid price, for evaluation purposes only.*

- (d) Availability in the Procuring Entity's Country of spare parts and after sales services for equipment offered in the bid.

An adjustment equal to the cost to the Procuring Entity of establishing the minimum service facilities and parts inventories, as outlined in BDS Sub-Clause 33.3(d), if quoted separately, shall be added to the bid price, for evaluation purposes only.

- (e) Projected operating and maintenance costs.

Operating and maintenance costs. An adjustment to take into account the operating and maintenance costs of the Goods will be added to the bid price, for evaluation purposes only, if specified in BDS Sub-Clause 33.3(d). The adjustment will be evaluated in accordance with the methodology specified in the BDS Sub-Clause 36.3(d).

- (f) Performance and productivity of the equipment. *[insert one of the following]*

(ii) An adjustment to take into account the productivity of the goods offered in the bid will be added to the bid price, for evaluation purposes only, if specified in BDS Sub-Clause 33.3(d). The adjustment will be evaluated based on the cost per unit of the actual productivity of goods offered in

the bid with respect to minimum required values, using the methodology specified in BDS Sub-Clause 33.3(d).

(g) Specific additional criteria

Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in BDS Sub-Clause 33.

2. Multiple Contracts (ITB 33.7)

The Procuring Entity shall award multiple contracts to the Bidder that offers the lowest evaluated combination per Lot (one contract per Lot)

3. SELECTION/QUALIFICATION CRITERIA (ITB 36)

No.	Subject	Requirement	Compliance with the requirement		Source of information	Supporting document
			Single Entity	Joint Venture or Consortium		
2.1	Experience in implementing similar contracts	a) Experience as Contractor, in at least <i>two</i> (2) contracts of similar nature within the last five (5) years, each with a value of at least US\$ 70,000.00 (Seventy thousand United States dollars)	Must meet the requirement	All members together must meet the requirement	Form 2	Requested attachments to Form 2
2.2	Financial Resources	i) Minimum average annual turnover of US\$60,000.00 (Sixty thousand United States dollars)	Must meet the requirement	All members together must meet the requirement	Form 3	Requested attachments to Form 3

No.	Subject	Requirement	Compliance with the requirement		Source of information	Supporting document
		ii) Access to a dedicated credit line or overdraft facility of US\$60,000.00 (Sixty thousand United States dollars)	Must meet the requirement	The leader of the consortia must meet the requirement alone	Form 3	Requested attachments to Form 3
2.3	Personnel Resources	b) Availability of experts with the following: Car dealership. Should have at least 04 permanent staff members	Must meet the requirement	All members together must meet the requirement	Form 4	Requested attachments to Form 4
2.4	Professional Capacity	<i>Valid Authorised suppliers of Motor Vehicle</i> <i>i) Valid Manufacturer Authorisation: tax clearance, clearance certificate, certificate of incorporation</i>	Must meet the requirement	All members together must meet the requirement	Any format of the form	Attach proof of membership and licenses

Section IV. Bidding Forms

PART 1 - For bidder completion

Form 1 – Bidder Information Form

Form 2 – Experience in implementing similar contracts

Form 3 – Financial situation

Form 4 – Availability of personnel

PART 2 - For Information only

Description of goods

Draft Contract

PART A-For Bidder completion

Bid Submission Form

Date: [insert day, month, year]

PROJECT NAME: SUPPLY AND DELIVERY OF A MINIBUS

REFERENCE NUMBER: SADC/3/5/4/84

LOT NUMBER: One (1)

LOT NAME: SUPPLY AND DELIVERY OF A MINIBUS

To: Southern Africa Development Community Secretariat

1 SUBMITTED by [i.e., the identity of the Applicant]

	Name(s) of legal entity or entities making this application	Nationality ⁺
Partner in charge *		
Partner 2*		
Etc ... *		

*add / delete additional lines for consortium partners as appropriate. **Note that a sub-contractor is not considered to be a consortium partner for the purposes of this application form.** If this application is being submitted by an individual legal entity, the name of that legal entity should be entered as '**Partner in Charge**' (and all other lines should be deleted). Any change in the identity of the Partner in Charge and/or any JV/consortium partners between the deadline for receipt of applications and the award of the contract (other than for reasons of changes to the legal structure of the individual entities concerned) will result in the immediate exclusion of the Applicant from the procurement procedure.

⁺Country in which the legal entity is registered.

2 CONTACT PERSON (for this application)

Name	
Organisation	
Address	
Telephone	
Fax	
e-mail	

3 STATEMENT (for this application)

We, the undersigned, bid for the referenced contract and declare that:

- (a) we have examined and have no reservations to the Bidding Documents, including Addendum(s) No(s)., issued in accordance with Instructions to Bidders (ITB) Clause 7: *[insert the number and issuing date of each addendum]*, and we are committed to deliver the goods indicated in the ITB 1.1 /Section 6 of the Bidding Document.
- (b) we are fully aware that, in the case of a Joint Venture/Consortium, the composition of the Joint Venture/Consortium cannot be modified in the course of the procurement procedure. We are also aware that the Joint Venture/Consortium partners would have joint and several liability towards the Procuring Entity concerning participation in both the procurement procedure and any contract awarded to us as a result of it.
- (c) we, including any subcontractors or suppliers for any part of the contract resulting from this prequalification process, complies with the eligibility criteria stated at ITB 3;
- (d) we, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest, in accordance with ITB Sub-Clause 3.4;
- (e) we, including any subcontractors or suppliers for any part of the contract, have not been declared ineligible by the Procuring Entity, or under any SADC country laws or official regulations;
- (f) we, in accordance with GCC-Clause 19, plan to subcontract the following key activities and/or parts of the works:

[insert any of the key activities identified in Section GCC Clause 19 which the Bidder intends to subcontract]
- (g) we declare that the following commissions, gratuities, or fees have been paid or are to be paid with respect to the prequalification process, the corresponding bidding process or execution of the Contract:

<u>Name of Recipient</u>	<u>Address</u>	<u>Reason</u>	<u>Amount</u>
<i>[insert full name for each occurrence]</i>	<i>[insert street/ number/city/country]</i>	<i>[indicate reason]</i>	<i>[specify amount in US\$ <u>equivalent</u>]</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

[If none has been paid or is to be paid, indicate “none”.]

- (h) We understand that you may cancel the bidding process at any time and that you are neither bound to accept any bid that you may receive, without incurring any liability to the Bidders.

Signed *[insert signature(s) of an authorized representative(s) of the Bidder]*

Name *[insert full name of person signing the bid]*

In the Capacity of *[insert capacity of person signing the bid]*

Duly authorized to sign the bid for and on behalf of: Bidder's Name *[insert full name of the Bidder]*

Address *[insert street number/town or city/country address]*

Phone:

Fax:

Email:

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

Attached are certified copies of original documents of *[in case of Joint Venture/Consortium these documents must be provided for each partner of the Joint Venture/Consortium]*

- ☐ The Fiscal Certificate to demonstrate the compliance with the Eligibility Requirement 1.5 reference to Clause ITB 3.2 (d).
- ☐ The sworn / solemn statement (affidavit) made by the interested party in front of a judicial or administrative authority, a notary, or a qualified professional body in its country of origin or provenance to demonstrate the compliance with the Eligibility Requirement 1.2, 1.3, 1.4, 1.6 and 1.7 reference to Clause ITB 3.2 (a), (b), (c), (e) and (f).
- ☐ The power of attorney for the authorized representative of the signatory of the application to allow her/him to engage the Bidder into contracts with Procuring Entity.
- ☐ In case of JV/Consortium, the JV/Consortium agreement, in accordance with ITB 6.3 (c).

TEMPLATE OF THE SWORN STATEMENT

To be submitted on the headed notepaper of the legal entity concerned

<Date>

To: Southern African Development Community (SADC)

Western Commercial Road (near Lobatse and Willie Siboni Roads)

CBD Plot 54385

New CBD

City: Gaborone

Country: Botswana

Your ref: < Publication reference >

Dear Sir/Madam

In response to your prequalification notice < Publication reference >, we, < Name(s) of legal entity or entities>,

hereby declare that we do not fall into any of the following situations:

- being bankrupt or wound up, are having our affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are being subject of proceedings concerning those matters, or are being in any similar situations arising from a similar procedure provided for in the national legislation or regulations of the SADC member states.*
- have been convicted of offences concerning our professional conduct by a judgment, which has the force of res judicata; (i.e. against which no appeal is possible).*
- have been declared guilty of grave professional misconduct proven by any means which Procuring Entity can justify.*
- have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Procuring Entity's financial interests.*
- are being currently subject to an administrative penalty.*

We further declare that in case we get shortlisted we will provide necessary supporting documents that will prove that we do not fall into any of

Form 1

Bidder Information Form

Date: *[insert day, month, year]*

PROJECT NAME: SUPPLY AND DELIVERY OF A MINIBUS
REFERENCE NUMBER: SADC/3/5/4/84

Page *[insert page number]* of *[insert total number]* pages.

This Bid is submitted as *["Single Entity" or "Joint Venture/Consortium" delete as appropriate]*

(In case of Joint Venture/Consortium) The partner in charge is *[insert full legal name]*

Bidders' legal name(s): *[insert full legal name of the Joint Venture/consortium and of each of the partners]*

Bidders' country of constitution: *[indicate country of Constitution of the Joint Venture/Consortium and of each of the partners]*

Bidders' year of constitution: *[indicate year of Constitution of the Joint Venture/Consortium and of each of the partners]*

Bidders' legal address in country of constitution: *[insert street/ number/ town or city/ country of the Joint Venture/Consortium and of each of the partners]*

Bidders' registration number in the country of constitution *[indicate the registration number of the Joint Venture/consortium and of each of the partners]*

Bidders authorized representative information *[of the Joint Venture/Consortium and of each of the partners]*

Name: *[insert full legal name]*

Address: *[insert street/ number/ town or city/ country]*

Telephone/Fax numbers: *[insert telephone/fax numbers, including country and city codes]*

E-mail address: *[indicate e-mail address]*

Attached are copies of original documents of *[in case of Joint Venture/Consortium these documents must be provided for each partner of the Joint Venture/Consortium]*

☐ **Articles of Incorporation or Documents of Constitution**, and documents of registration of the legal entity named above.

Signed *[insert signature(s) of an authorized representative(s) of the Bidder]*

Name *[insert full name of person signing the Bid]*

In the Capacity of *[insert capacity of person signing the Bid]*

Duly authorized to sign the Bid for and on behalf of: Bidder's Name *[insert full name of*

Bidder] Address *[insert street number/town or city/country address]*

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

Form 2

Experience in implementing similar contracts.

(Maximum 5 references – of maximum one page per reference)

[The following table shall be filled in for the Bidder and for each partner of a Joint Venture/Consortium]

Bidder's/Joint Venture Partner's Legal Name: *[insert full name]*

Date: *[insert day, month, year]*

Bidder JV Party Legal Name: *[insert full name]*

Contract No. and title:

PROJECT NAME: SUPPLY AND DELIVERY OF A MINIBUS

REFERENCE NUMBER: SADC/3/5/4/84

[Identify contracts completed in the last 5 years that demonstrate experience in implementation of similar contracts pursuant to Section 3, Qualification Criteria and Requirements, Sub-Factor 2.1 (a). List contracts chronologically, according to their commencement (starting) dates.]

Starting Month / Year	Ending Month / Year	Contract Identification	Role of Applicant
<i>[indicate month/ year]</i>	<i>[indicate month/ year]</i>	Contract name: <i>[insert full name]</i> Brief description of the contract performed: <i>[describe the scope of the contract]</i> Amount of contract: <i>[insert amount in USD equivalent]</i> Total project value: Name of the Client: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i> Contact person for references <i>[indicate full name, position and contact points: address, phone, fax, email]</i>	<i>(insert "Contractor, Subcontractor, Lead Partner or Partner")]</i>
		Contract name: <i>[insert full name]</i> Brief description of the contract performed: <i>[describe the scope of the contract]</i>	<i>(insert "Contractor, Subcontractor, Lead</i>

A. _____

Amount of contract: <i>[insert amount in USD equivalent]</i>	<i>Partner or Partner”)]</i>
Total project value:	
Name of the Client: <i>[indicate full name]</i>	
Address: <i>[indicate street/number/town or city/country]</i>	
Contact person for references <i>[indicate full name, position and contact points: address, phone, fax, email]]</i>	
Contract name: <i>[insert full name]</i>	<i>(insert "Contractor,</i>
Brief description of the contract performed: <i>[describe the scope of the contract]</i>	<i>Subcontractor, Lead</i>
Amount of contract: <i>[insert amount in USD equivalent]</i>	<i>Partner or Partner”)]</i>
Total project value:	
Name of the Client: <i>[indicate full name]</i>	
Address: <i>[indicate street/number/town or city/country]</i>	
Contact person for references <i>[indicate full name, position and contact points: address, phone, fax, email]]</i>	

Add rows when required.

For a reference to qualify it must be accompanied by copies of:

- ☐ **Contracts indicated** above; and
- ☐ **Acceptance certificates** to demonstrate that the contracts indicated are completed and accepted by the Client

Signed by: *[insert signature(s) of (an) authorized representative(s) of the Bidder]*

Name: *[insert full name of person signing the bid]*

In the Capacity of: *[insert capacity of person signing the bid]*

Duly authorized to sign the bid for and on behalf of: *[insert full name of Bidder]* Address: *[insert street number/town or city/country address]*

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

Form 3 Financial Situation

Applicant's Legal Name: *[insert full name]*
year]

Date: *[insert day, month,*

PROJECT NAME: **SUPPLY AND DELIVERY OF A MINIBUS**
 REFERENCE NUMBER: **SADC/3/5/4/84**

Page *[insert page number]* of *[insert total number]* pages

1. Financial data *[a summary table and a table for each of the partner shall be included]*

[Insert on of the title "Summary Table", or "Name of the partner: [insert name]]

Financial information in
(US\$ equivalent in 000s)

Historic information for previous *[insert number]* years,
[insert in words]
(US\$ equivalent in 000s)

	Year 1	Year 2	Year 3	Year ...	Average
Annual Turnover					
<i>Out of which:</i>					
Annual Turnover Specific to the area of the contract					
Information from Balance Sheet					
Total Assets					
Total Liabilities					
Net Worth					
Information from Income Statement					
Total Revenue					
<i>Out of which:</i>					
Total Operational Revenues					
Total Expenses					
<i>Out of which:</i>					
Total Operational Expenses					
Profits Before Taxes					
<i>Out of which:</i>					
Operational Profit					

2. Financial documents

The Bidder and its parties shall provide copies of the balance sheets and/or financial statements for three years pursuant Section 3, Qualifications Criteria and Requirements, Sub-factor 2.2 (i) and 2.2 (ii). The financial statements shall:

- (a) reflect the financial situation of the Bidder or partner to a JV/Consortium, and not sister or parent companies.

A. _____

- (b) be audited by a certified accountant.
 - (c) be complete, including all notes to the financial statements.
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
- ☐ Attached are copies of financial statements (certified copies of the balance sheets – including all related notes, audit reports and/or similar statements of the accounts; audited by certified reputable auditors or certified by the fiscal authority of the country where the applicant is registered/ incorporated) for the three years required above; and complying with the requirements.

Signed *[insert signature(s) of an authorized representative(s) of the Bidder]*

Name *[insert full name of person signing the bid]*

In the Capacity of *[insert capacity of person signing the bid]*

Duly authorized to sign the bid for and on behalf of: Bidder's Name *[insert full name of*

Bidder] Address *[insert street number/town or city/country address]*

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

Form 4

Availability of Personnel

[The following table shall be filled in for the Bidder and jointly for the Joint Venture/Consortium]
 Applicant's/Joint Venture Partner's Legal Name: *[insert full name]* Date: *[insert day, month, year]*

PROJECT NAME: **SUPPLY AND DELIVERY OF A MINIBUS**
 REFERENCE NUMBER: **SADC/3/5/4/84**

Page *[insert page number]* of *[insert total number]* pages

Provide information on the availability of the personnel resources over the past three (3) years pursuant to Section 3, Qualification Criteria and Requirements, Sub-Factor 2.3 (a)

Partner	#	Staff	Current year	Year -1	Year -2	Year -3	Average
Lead Partner [Insert Name]	1	Permanent Staff					
	2	Permanent staff in % of total (item 1 divide by item 9)					
	3	Of which staff specialized in the area of the contract					
	4	Specialized staff in % of total (item 3 divide by item 9)					
	5	Non-permanent staff					
	6	Non-permanent staff in % of total (item 5 divide by item 9)					
	7	Of which staff specialized in the area of the contract					
	8	Specialized staff in % of total (item 7 divide by item 9)					
	9	TOTAL					

A. _____

Partner	#	Staff	Current year	Year -1	Year -2	Year -3	Average
Partner 1 [Insert Name]	1	Permanent Staff					
	2	Permanent staff in % of total (item 1 divide by item 9)					
	3	Of which staff specialized in the area of the contract					
	4	Specialized staff in % of total (item 3 divide by item 9)					
	5	Non-permanent staff					
	6	Non-permanent staff in % of total (item 5 divide by item 9)					
	7	Of which staff specialized in the area of the contract					
	8	Specialized staff in % of total (item 7 divide by item 9)					
	9	TOTAL					

Partner 2 [Insert Name]	1	Permanent Staff					
	2	Permanent staff in % of total (item 1 divide by item 9)					
	3	Of which staff specialized in the area of the contract					
	4	Specialized staff in % of total (item 3 divide by item 9)					
	5	Non-permanent staff					
	6	Non-permanent staff in % of total (item 5 divide by item 9)					
	7	Of which staff specialized in the area of the contract					
	8	Specialized staff in % of total (item 7 divide by item 9)					
	9	TOTAL					

Add rows when required.

Signed [insert signature(s) of an authorized representative(s) of the Bidder]

Name [insert full name of person signing the bid]

In the Capacity of [insert capacity of person signing the bid]

Duly authorized to sign the application for and on behalf of: Bidder's Name *[insert full name of Bidder]* Address *[insert street number/town or city/country address]*

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

Signature of the applicant

Signature of competent authority (see footnote)

Price Schedule Forms

*[The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Price Schedules** shall coincide with the Technical Specification Form specified by the Procuring Entity in the Bidding Forms]*

Price Schedule: Goods Manufactured Outside the Procuring Entity's Country, to be Imported.

(Group C bids, goods to be imported)							Date: _____ Contract No: _____ Page N° _____ of _____	
In US Dollars								
1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price CIP <i>[insert place of destination]</i> in accordance with ITB 13.6(b)(i)	DPP Price per line item (Col. 5x6)	Price per line item for inland transportation and other services required in the Procuring Entity's country to convey the Goods to their final destination specified in BDS	Total Price per Line item (Col. 7+8)
<i>[insert number of the item]</i>	<i>[insert name of good]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price CIP per unit]</i>	<i>[insert total CIP price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[insert total price of the line item]</i>
Total Price								

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[Insert Date]*

A. _____

Price Schedule: Goods Manufactured Outside the Procuring Entity's Country, already imported.

(Group C bids, Goods already imported)										Date: _____ Contract No: _____ Page N° _____ of _____	
In US Dollars											
1	2	3	4	5	6	7	8	9	10	11	12
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid, in accordance with ITB 13.6(c)(i)	Custom Duties and Import Taxes paid per unit in accordance with ITB 13.6(c)(ii), [to be supported by documents]	Unit Price net of custom duties and import taxes, in accordance with ITB 13.6(c)(iii) (Col. 6 minus Col.7)	Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITB 13.6(c)(i) (Col. 5×8)	Price per line item for inland transportation and other services required in the Procuring Entity's country to convey the goods to their final destination, as specified in BDS in accordance with ITB 13.6(c)(v)	Sales and other taxes paid or payable per item if Contract is awarded (in accordance with ITB 13.6(c)(iv))	Total Price per line item (Col. 9+10)
<i>[insert number of the item]</i>	<i>[insert name of Goods]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per unit]</i>	<i>[insert custom duties and taxes paid per unit]</i>	<i>[insert unit price net of custom duties and import taxes]</i>	<i>[insert price per line item net of custom duties and import taxes]</i>	<i>[insert price per line item for inland transportation and other services required in the Procuring Entity's country]</i>	<i>[insert sales and other taxes payable per item if Contract is awarded]</i>	<i>[insert total price per line item]</i>
Total Bid Price											

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

1.

Price Schedule: Goods Manufactured in the Procuring Entity's Country

Procuring Entity's Country _____				(Group A and B bids) In US Dollars				Date: _____ Contract No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7	8	9	10
Line Item N°	Description of Goods	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4x5)	Price per line item for inland transportation and other services required in the Procuring Entity's Country to convey the Goods to their final destination	Cost of local labor, raw materials and components from with origin in the Procuring Entity's Country % of Col. 5	Sales and other taxes payable per line item if Contract is awarded (in accordance with ITB 13.6(a)(ii))	Total Price per line item (Col. 6+7)
<i>[insert number of the item]</i>	<i>[insert name of Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert EXW unit price]</i>	<i>[insert total EXW price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[Insert cost of local labor, raw material and components from within the Purchase's country as a % of the EXW price per line item]</i>	<i>[insert sales and other taxes payable per line item if Contract is awarded]</i>	<i>[insert total price per item]</i>
Total Price									

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

Price and Completion Schedule - Related Services

In US Dollars						Date: _____ Contract No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7	
Service N°	Description of Services (excludes inland transportation and other services required in the Procuring Entity's country to convey the goods to their final destination)	Country of Origin	Delivery Date at place of Final destination	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6 or estimate)	
<i>[insert number of the Service]</i>	<i>[insert name of Services]</i>	<i>[insert country of origin of the Services]</i>	<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item]</i>	<i>[insert total price per item]</i>	
Total Bid Price							

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

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]*
Contract No.: *[insert number]*

To: *[insert complete name of Procuring Entity]*

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 26 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

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

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

Title: *[insert title]*

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

Inspections and Tests

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

1. Test drive

ADMINISTRATIVE COMPLIANCE GRID FOR GOODS

(To be filled by evaluators).

Contract title :	SUPPLY AND DELIVERY OF A MINIBUS	Publication Reference:	SADC/3/5/4/84
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Tender envelope number	Name of Bidder	Is documentation complete? (Y/N)	Is language as required? (Y/N)	Is Bid submission form complete? (Y/N)	Is Bidder's declaration signed (by all consortium members if a consortium)? (Yes/No/Not Applicable)	Other administrative requirements of the bidding documents? (Yes/No/Not applicable)	Overall decision? (Accept / Reject)
1							
2							
3							
4							
5							
6							
7							

Evaluators's name and Signature	
Evaluators's name & signature	
Evaluator's name & signature	
Date	

To be tailored to the specific project. Must be completed by the Evaluation Committee.

Contract title :	SUPPLY AND DELIVERY OF A MINIBUS	Publication Reference :	SADC/3/5/4/84
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Tender No	Name of Bidder	Economic & financial capacity? (OK/a/b/...)	Professional capacity? (OK/a/b/...)	Technical capacity? (OK/a/b/...)	Compliance with technical specifications? (OK/a/b/...)	Ancillary services as required? (OK/a/b/.../NA)	Subcontracting statement in accordance with the General Conditions? (Y/N)	Other technical requirements in tender dossier? (Yes/No/Not applicable)	Technically compliant? Y/N)	Justification/ notes:
1										
2										
3										
4										

Evaluator's name & signature (Chairman)	
Evaluator's name & signature	
Evaluator's name & signature	
Date	

PART 2 – Description of Goods

ANNEX 1

MINIMUM TECHNICAL SPECIFICATIONS

Description		Compliance of Specification Offered	Details of non Compliance if applicable
1. MOTOR VEHICLE	01		
2. Motor Vehicle Type	Minibus		
FEATURES/ Minimum Specification Required			
Type	Minibus		
Seating Capacity	14 - 18 passengers		
Engine	2.5-3.0 Litres Open speed limit (Not governed)		
Transmission	Automatic		
Steering System	Power steering, right hand, height adjustable		
Fuel	Diesel		
Tank Capacity	50 Litres and above		
Brake System	ABS, Front: Disk brakes Rear: Drum brakes, Stabilizer bar		
Security & Locking System Windows	Factory installed full alarm immobilizer with central locking		
Suspension System	Standard		
Tyre Rim size	16-18 inches		
Interior	Radio/CD player front loading Climate control aircon Front and Rear seat belts Front head restraints Floor carpeting and car mats Car jack with accessories Multi-function steering wheel Multi-function information display Chair cover: fabric/leather		

Exterior	Spare wheel Mad flaps Front fog lights		
Safety	Air bags		
Warranty	At least three (3) years or 100,000Kms manufacturer's warranty		
Service plan	At least 9 Services / 90,000km		
Colour	Silver, White, Grey, Black		
Accessories	Fire extinguishers, spare tyre, triangles, jack, wheel spanner, reflective jacket		
NB: <ul style="list-style-type: none"> • Provide minimum technical specification for all items listed above • Bidders must indicate reference to technical Brochures attached to the Technical Specification form where the technical information is to be found 			

ANNEX 1

1. List of Goods and Delivery Schedule

[The Procuring Entity shall fill in this table, with the exception of the column "Bidder's offered Delivery date" to be filled by the Bidder]

Line Item N°	Description of Goods	Quantity	Physical unit	Final (Project Site) Destination as specified in BDS	Delivery (as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date <i>[to be provided by the bidder]</i>
Lot 1	Supply and delivery of a minibus	1	No.	SADC HOUSE CBD GABORONE BOTSWANA	21 days following the date of effectiveness the Contract	28 days following the date of effectiveness the Contract	<i>[insert the number of days following the date of effectiveness the Contract]</i>

A. _____

A.

ANNEX 2. QUOTATION FORMAT

Item N°	Description	Qty	Your description and/or any deviations from Technical Specs.	Unit Price (USD)	Total price (USD)
				SUB TOTAL	
				VAT	
				TOTAL	

A. _____

STANDARD CONTRACT FOR GOODS

CONTRACT FOR *[insert the name of the contract]*

**Number [insert the number of the
contract]**

Lot Number: *[insert the number]*

BETWEEN *[insert the name]* (“the Contracting Authority”)

AND

CONTRACTOR *[insert the name]* (“the Contractor”)

DATE: *[insert the month and the year]*

A. _____

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FORM OF CONTRACT..... ERROR! BOOKMARK NOT DEFINED.

SECTION 1 – GENERAL CONDITIONS OF CONTRACT ERROR! BOOKMARK NOT DEFINED.

ANNEX II. SPECIAL CONDITIONS OF CONTRACT..... ERROR! BOOKMARK NOT DEFINED.

**ANNEX III (A) TERMS OF REFERENCE) AND (B) TECHNICAL REQUIREMENTS
(INCLUDING SCHEDULE OF REQUIREMENTS AND TECHNICAL SPECIFICATIONS)**
..... ERROR! BOOKMARK NOT DEFINED.

ANNEX IV. THE CONTRACTOR’S BID AND ORIGINAL PRICE SCHEDULES..... ERROR!
BOOKMARK NOT DEFINED.

ANNEX V. THE CONTRACTING AUTHORITY’S NOTIFICATION OF AWARD.... ERROR!
BOOKMARK NOT DEFINED.

Contract

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

THIS CONTRACT is made

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

BETWEEN

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

WHEREAS the Contracting Authority invited bids for certain Goods and ancillary services, viz., [insert brief description of Goods and Services] and has accepted a Bid by the Contractor for the supply of those Goods and Services in the sum of [insert Contract Price in words and figures, expressed in the Contract currency(ies)] (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall constitute the Contract between the Contracting Authority and the Contractor, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Form of Contract
 - (b) Section II – Special Conditions of Contract
 - (c) Section I – General Conditions of Contract
 - (d) Annex IIIA–Terms of Reference
 - (e) Section IIIB – Technical Requirements (including Schedule of Requirements and Technical Specifications)
 - (f) Section IV – The Contractor’s Bid and original Price Schedules

A. _____

(g) Section V – The Contracting Authority’s Notification of Award

(h) *[Add here any other document(s)]*

3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order of precedence as listed above.
4. In consideration of the supply, provision and installation of the Goods and related services, the Contracting shall pay the Contractor the total sum of USD -----
Excluding VAT as the Contract price.
5. In consideration of the payments to be made by the Contracting Authority to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Contracting Authority to provide the Goods and Services as disclosed in Annex IIIA and B and to remedy defects therein in conformity in all respects with the provisions of the Contract.
5. The Contracting Authority hereby covenants to pay the Contractor in consideration of the provision of the Goods and Ancillary Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

WHEREOF the parties hereto have caused this contract to be executed in accordance with the laws of *[insert the name of the Contract governing law country]* on the day, month and year indicated of the last signature below

For and on behalf of the Contracting Authority

Name: _____

Signature: _____

Date:

in the capacity of **Deputy Executive Secretary – Corporate Affairs**

For and on behalf of the Contractor

Name: _____

Signature: _____

Date: _____

in the capacity of **Managing Director**

SECTION 1 – GENERAL CONDITIONS OF CONTRACT

Table of Clauses

1.	DEFINITIONS	ERROR! BOOKMARK NOT DEFINED.
2.	CONTRACT DOCUMENTS	ERROR! BOOKMARK NOT DEFINED.
3.	FRAUD AND CORRUPTION	ERROR! BOOKMARK NOT DEFINED.
4.	INTERPRETATION	ERROR! BOOKMARK NOT DEFINED.
5.	LANGUAGE	ERROR! BOOKMARK NOT DEFINED.
6.	JOINT VENTURE, CONSORTIUM OR ASSOCIATION.....	ERROR! BOOKMARK NOT DEFINED.
7.	ELIGIBILITY	ERROR! BOOKMARK NOT DEFINED.
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14.	CONTRACT PRICE.....	ERROR! BOOKMARK NOT DEFINED.
15.	TERMS OF PAYMENT.....	ERROR! BOOKMARK NOT DEFINED.
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28. **PATENT INDEMNITY**ERROR! BOOKMARK NOT DEFINED.
29. **LIMITATION OF LIABILITY**ERROR! BOOKMARK NOT DEFINED.
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31. **FORCE MAJEURE**ERROR! BOOKMARK NOT DEFINED.
32. **CHANGE ORDERS AND CONTRACT AMENDMENTS**ERROR! BOOKMARK NOT DEFINED.
33. **EXTENSIONS OF TIME**ERROR! BOOKMARK NOT DEFINED.
34. **TERMINATION**ERROR! BOOKMARK NOT DEFINED.
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36. **EXPORT RESTRICTION**ERROR! BOOKMARK NOT DEFINED.

Section I. General Conditions of Contract

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- (a) “Contract” means the Contract entered into between the Contracting Authority and the Contractor, 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 Contractor as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (d) “Day” means calendar day.
- (e) “Completion” means the fulfillment of the Related Services by the Contractor in accordance with the terms and conditions set forth in the Contract.
- (f) “GCC” means the General Conditions of Contract.
- (g) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Contractor is required to supply to the Contracting Authority under the Contract.
- (h) “Contracting Authority’s Country” is the country specified in the Special Conditions of Contract (SCC).
- (i) “Contracting Authority” means the entity purchasing the Goods and Related Services, as specified in the SCC.
- (j) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Contractor under the Contract.
- (k) “SCC” means the Special Conditions of Contract.
- (l) “Subcontractor” means any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Contractor.
- (m) “Contractor” 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 Contracting Authority and is named as such in the Contract Agreement.
- (n) “The Project Site,” where applicable, means the place named in the SCC.
- (o) “The Project Manager”, where applicable, means the person

in charge of the day to day implementation of the contract on behalf of the Contracting Authority.

(p)

2. Contract Documents

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

3. Fraud and Corruption

It is the SADC Secretariat policy to require that Contracting Authority as well as bidders, suppliers, and contractors and their subcontractors under SADC Secretariat-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.⁷ In pursuance of this policy, the SADC Secretariat:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice”⁸ is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) “fraudulent practice”⁹ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “collusive practice”¹⁰ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice”¹¹ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

⁷ In this context, any action taken by a bidder, supplier, contractor, or a sub-contractor to influence the procurement process or contract execution for undue advantage is improper.

⁸ “another party” refers to a public official acting in relation to the procurement process or contract execution]. In this context, “public official” includes SADC Secretariat staff and employees of other organizations taking or reviewing procurement decisions.

⁹ a “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

¹⁰ “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

¹¹ a “party” refers to a participant in the procurement process or contract execution.

- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators in order to materially impede a SADC Secretariat, or a governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the SADC Secretariat or governmental or inspection and audit rights.
- (c) It will take the following measures against the bidder recommended for award who has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - (viii) will reject the bid for award;
 - (ix) will declare the bidder/the contractor, including its affiliates, ineligible, either indefinitely or for a stated period of time, to become a SADC Secretariat contractor;
 - (x) will cancel or terminate any ongoing contract with the bidder /the contractor;
 - (xi) will request a the relevant national authorities to conduct a joint investigation with SADC Secretariat to inspect or carry out audits of the bidder /the contractor’ accounting records and financial statements in connection with the contract in question for which it was found guilty of engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices;
 - (xii) will forfeit the bid or performance securities of the bidder /the contractor;
 - (xiii) will suspend any payments due to the bidder/ contractor, under the contract in question or any other contract the bidder/contractor might have with the organization, until the extent of damage caused by the its engagement in

corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the SADC Secretariat's contract are determined and recovered, and

- (xiv) will sue the bidder /contractor to recover the damages caused by its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question, if they are not fully recovered by the securities and the payments otherwise due to the bidder/contractor.

4. Interpretation

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

- 4.2 Incoterms

- (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
 - (b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the SCC and published by the International Chamber of Commerce in Paris, France.

- 4.3 Entire Agreement

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

- 4.4 Amendment

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

- 4.5 Non waiver

- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

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

5. Language

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

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

6. Joint Venture, Consortium or Association

- 6.1 If the Contractor is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Contracting Authority 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 Contracting Authority.

7. Eligibility

- 7.1 **Is so specified in the SCC**, the Contractor and its Subcontractors shall have the nationality of an eligible country. A Contractor or Subcontractor shall be deemed to have the nationality of a country if it is constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country. This restriction doesn't apply to the contractors and subcontractors personnel.

- 7.2 **Is so specified in the SCC**, all Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture,

processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

- 7.3 The Contractor has the obligation to promptly notify the Contracting Authority about any change in their or their subcontractor legal or commercial status that might affect the eligibility conditions that prevail at the time of prequalification.

8. Notices

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

9. Governing Law

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Contracting Authority’s Country, unless otherwise specified in the **SCC**.

10. Settlement of Disputes

- 10.1 The Contracting Authority and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 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 Contracting Authority or the Contractor 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 rules of procedure **specified in the SCC**.
- 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 Contracting Authority shall pay the Contractor any monies due the Contractor.

- | | |
|--|--|
| 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 GCC 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. The details of shipping and other documents to be furnished by the Contractor are specified in the SCC . |
| 13. Contractor's Responsibilities | <p>13.1 The Contractor shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.</p> <p>13.2 The Contractor shall execute the contract with due care, efficiency and diligence in accordance with the best professional practice.</p> <p>13.3 The Contractor shall, in accordance with the provisions of the contract, design, manufacture, deliver to site, erect, test and commission the supplies and carry out any other work including the remedying of any defects in the supplies. The Contractor shall also provide all necessary equipment, supervision, labour and facilities required for the implementation of tasks.</p> <p>13.4 The Contractor shall supply, without any delay, any information and documents to the Contracting Authority and the European Commission upon request, regarding the conditions in which the contract is being executed.</p> <p>13.5 The Contractor shall respect and abide all laws and regulations in force in the country where the goods are to be delivered and shall ensure that its personnel, their dependents and its local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Contractor, its employees, and their dependents of such laws and regulations.</p> <p>13.6 Should any unforeseen event, action or omission directly or indirectly hamper performance of the Contract, either partially or totally, the Contractor shall immediately and at its own initiative record it and report it to the Contracting Authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with its obligations under the contract. In such event the Contractor</p> |

shall give priority to solving the problem rather than determining liability.

- 13.7 Any records shall be kept for a 7-year period after the final payment made under the contract. In case of failure to maintain such records the Contracting Authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in art 34.

14. Contract Price

- 14.1 Prices charged by the Contractor for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Contractor in its bid, with the exception of any price adjustments authorized in the **SCC**.

15. Terms of Payment

- 15.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.
- 15.2 The Contractor's request for payment shall be made to the Contracting Authority in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all other obligations stipulated in the Contract.
- 15.3 Pre-finance payment shall be made within 30 days from the date of which the Contracting Authority registers an admissible invoice.
- 15.4 Payments shall be made promptly by the Contracting Authority, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Contractor, and after the Contracting Authority has accepted it. Any default in payment of more than 90 days from the expiry of the period laid down in this article or in the Special Conditions shall entitle the Contractor either not to perform the contract or terminate according to article 34.
- 15.5 The currencies in which payments shall be made to the Contractor under this Contract shall be those in which the bid price is expressed.
- 15.6 In the event that the Contracting Authority fails to pay the Contractor any payment by its due date or within the period set forth in the **SCC**, the Contracting Authority shall pay to the Contractor interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

15.7 The payments shall be made as follows:

- a) 40% of the total contract price after the signing of the contract, against provision of the performance guarantee and of a pre-financing guarantee for the full amount of the pre-financing payment, unless otherwise provided for in the Special Conditions. The pre-financing guarantee shall be provided to the Contracting Authority following the procedure foreseen for the performance guarantee and in accordance with the format annexed to the contract. The pre-financing guarantee must remain valid until it is released 30 days at the latest after the provisional acceptance of the goods. Where the Contractor is a public body, the obligation for a pre-financing guarantee may be waived depending on a risk assessment made;
- b) 60% of the total contract price, as payment of the balance, after receipt by the Contracting Authority of an invoice and of the application for the certificate of provisional acceptance;

15.7. Where only part of the goods have been delivered, the 60% payment due following the partial provisional acceptance shall be calculated on the value of the goods which have actually been accepted and the security shall be released accordingly.

15.8. Unless otherwise stipulated in the Special Conditions, the contract shall be at fixed prices, which shall not be revised.

15.9. The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority before the deadline indicated in the debit note, which is 45 days from the issuing of that note. Should the Contractor fail to make repayment within the above deadline, the Contracting Authority may (unless the Contractor is a public body) increase the amounts due by adding interest at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country.;

15.10. If the contract is terminated for any reason whatsoever, the guarantee securing the pre-financing may be invoked forthwith in order to repay the balance of the pre-financing still owed by the Contractor, and the guarantor shall not delay payment or raise objection for any reason whatsoever.

15.11. Prior to, or instead of, terminating the contract as provided for in article 34, the Contracting Authority may suspend payments as a precautionary measure without prior notice.

16. Taxes and Duties

- 16.1 For goods manufactured outside the Contracting Authority's Country, the Contractor shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Contracting Authority's Country.
- 16.2 For goods Manufactured within the Contracting Authority's country, the Contractor shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Contracting Authority.
- 16.3 If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in the Contracting Authority's Country, the Contracting Authority shall use its best efforts to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.

17. Performance Security

- 17.1 If required as specified in the SCC, the Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the **SCC**.
- 17.2 The proceeds of the Performance Security shall be payable to the Contracting Authority as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 17.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency of the Contract and shall be in the format stipulated by the Contracting Authority in the **SCC**, or in another format acceptable to the Contracting Authority.
- 17.4 The Performance Security shall be discharged by the Contracting Authority and returned to the Contractor not later than twenty-eight (28) days following the date of Completion of the Contractor's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

18. Copyright

- 18.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Contracting Authority by the Contractor herein shall remain vested in the Contractor, or, if they are furnished to the Contracting Authority directly or through the Contractor by any third party, including Contractors of materials, the copyright in such materials shall remain vested in such third party

19. Confidential

- 19.1 The Contracting Authority and the Contractor shall keep

Information

confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor such documents, data, and other information it receives from the Contracting Authority to the extent required for the Subcontractor to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Contractor under GCC Clause 19.

19.2 The Contracting Authority shall not use such documents, data, and other information received from the Contractor for any purposes unrelated to the contract. Similarly, the Contractor shall not use such documents, data, and other information received from the Contracting Authority for any purpose other than the performance of the Contract.

19.3 The obligation of a party under GCC Sub-Clauses 19.1 and 19.2 above, however, shall not apply to information that:

- (a) the Contracting Authority or Contractor need to share with the SADC Secretariat or other institutions participating in the financing of the Contract;
- (b) now or hereafter enters the public domain through no fault of that party;
- (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

19.4 The above provisions of GCC Clause 19 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

19.5 The provisions of GCC Clause 19 shall survive completion or termination, for whatever reason, of the Contract.

20. Subcontracting

20.1 The Contractor shall notify the Contracting Authority 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 Contractor from any of its obligations, duties, responsibilities, or liability under the

Contract.

- 20.2 The Contracting Authority shall not be held liable for any disputes between the Contractor and Subcontractor.
- 20.3 Subcontracting arrangements shall not be transferred to the Contracting Authority. The Contractor remains solely liable to the Subcontractor and vice-versa
- 20.4 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

21. Specifications and Standards

21.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Contractor 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 Contracting Authority, by giving a notice of such disclaimer to the Contracting Authority.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Contracting Authority and shall be treated in accordance with GCC Clause 32.

22. Packing and Documents

- 22.1 The Contractor shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 22.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special

requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the Contracting Authority.

- 23. Insurance** 23.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.
- 24. Transportation** 24.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 25. Inspections and Tests** 25.1 The Contractor shall at its own expense and at no cost to the Contracting Authority carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 25.2 The inspections and tests may be conducted on the premises of the Contractor or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Contracting Authority's Country as specified in the **SCC**. Subject to GCC Sub-Clause 25.3, if conducted on the premises of the Contractor or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Contracting Authority.
- 25.3 The Contracting Authority or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 25.2, provided that the Contracting Authority bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 25.4 Whenever the Contractor is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Contracting Authority. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Contracting Authority or its designated representative to attend the test and/or inspection.
- 25.5 The Contracting Authority may require the Contractor to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and

performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

- 25.6 The Contractor shall provide the Contracting Authority with a report of the results of any such test and/or inspection.
- 25.7 The Contracting Authority may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Contractor shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Contracting Authority, and shall repeat the test and/or inspection, at no cost to the Contracting Authority, upon giving a notice pursuant to GCC Sub-Clause 25.4.
- 25.8 The Contractor agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Contracting Authority or its representative, nor the issue of any report pursuant to GCC Sub-Clause 25.6, shall release the Contractor from any warranties or other obligations under the Contract.

26. Liquidated Damages

- 26.1 Except as provided under GCC Clause 31, if the Contractor 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 Contracting Authority may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the 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 **SCC**. Once the maximum is reached, the Contracting Authority may terminate the Contract pursuant to GCC Clause 34.

27. Warranty, Provisional and Final

- 27.1 The Contractor warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials,

Acceptance

unless provided otherwise in the Contract.

- 27.2 Subject to GCC Sub-Clause 21.1(b), the Contractor further warrants that the Goods shall be free from defects arising from any act or omission of the Contractor or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 27.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 27.4 The Contracting Authority shall give notice to the Contractor stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Contracting Authority shall afford all reasonable opportunity for the Contractor to inspect such defects.
- 27.5 Upon receipt of such notice, the Contractor shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Contracting Authority.
- 27.6 If having been notified, the Contractor fails to remedy the defect within the period specified in the **SCC**, the Contracting Authority may proceed to take within a reasonable period such remedial action as may be necessary, at the Contractor's risk and expense and without prejudice to any other rights which the Contracting Authority may have against the Contractor under the Contract.
- 27.7 The goods shall be taken over by the Contracting Authority when they have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned as the case may be, and a certificate of provisional acceptance has been issued or is deemed to have been issued.
- 27.8 The Contractor may apply, by notice to the Project Manager, for a certificate of provisional acceptance when supplies are ready for a provisional acceptance. The Project Manager shall within 30 days of receipt of the Contractor's application either issue the certificate of provisional acceptance to the Contractor with a copy to the Contracting Authority or reject the

application, giving his reasons and specifying the action, which, in his opinion, is required of the Contractor for the certificate to be issued. In case of partial delivery, the Contracting Authority reserves the right to give partial provisional acceptance. Immediately after provisional acceptance, the Contracting Authority may make use of all the goods delivered.

- 27.9 Upon expiry of the warranty period, or where there is more than one such period, upon expiry of the latest period, and when all defects or damage have been rectified, the Project Manager shall issue the Contractor a final acceptance certificate and a copy thereof to the Contracting Authority, stating the date on which the Contractor completed its obligations under the contract to the Project Manager's satisfaction. The final acceptance certificate shall be issued by the Project Manager within 30 days after the expiration of the warranty period or as soon as any repairs ordered under have been completed to the satisfaction of the Project Manager.
- 27.10 The contract shall not be considered to have been performed in full until the final acceptance certificate has been signed or is deemed to have been signed by the Project Manager.
- 27.11 Notwithstanding the issue of the final acceptance certificate, the Contractor and the Contracting Authority shall remain liable for the fulfillment of any obligation incurred under the contract prior to the issue of the final acceptance certificate, which remains unperformed at the time that the final acceptance certificate is issued. The nature and extent of such obligation shall be determined by reference to the provisions of the contract.

28. Patent Indemnity

- 28.1 The Contractor shall, subject to the Contracting Authority's compliance with GCC Sub-Clause 28.2, indemnify and hold harmless the Contracting Authority and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Contracting Authority may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:
- (a) the installation of the Goods by the Contractor or the use of the Goods in the country where the Site is

located; and

- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Contractor, pursuant to the Contract.

- 28.2 If any proceedings are brought or any claim is made against the Contracting Authority arising out of the matters referred to in GCC Sub-Clause 28.1, the Contracting Authority shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Contracting Authority's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 28.3 If the Contractor fails to notify the Contracting Authority within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Contracting Authority shall be free to conduct the same on its own behalf.
- 28.4 The Contracting Authority shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.
- 28.5 The Contracting Authority shall indemnify and hold harmless the Contractor and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Contracting Authority.

29. Limitation of Liability

- 29.1 Except in cases of criminal negligence or willful misconduct,
 - (a) the Contractor shall not be liable to the Contracting

Authority, 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 Contractor to pay liquidated damages to the Contracting Authority and

- (b) the aggregate liability of the Contractor to the Contracting Authority, 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 Contractor to indemnify the Contracting Authority 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 bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Contracting Authority's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 14.

31. Force Majeure

- 31.1 The Contractor 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 Contractor that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Contractor. Such events may include, but not be limited to, acts of the Contracting Authority in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 31.3 If a Force Majeure situation arises, the Contractor shall

promptly notify the Contracting Authority in writing of such condition and the cause thereof. Unless otherwise directed by the Contracting Authority in writing, the Contractor 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 Contracting Authority may at any time order the Contractor through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Contracting Authority;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Contractor.

32.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Contractor'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 Contractor for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Contractor's receipt of the Contracting Authority's change order.

32.3 Prices to be charged by the Contractor for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Contractor 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 Contractor or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Contractor shall promptly notify the Contracting Authority in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the

Contracting Authority shall evaluate the situation and may at its discretion extend the Contractor'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 GCC Clause 31, a delay by the Contractor in the performance of its Delivery and Completion obligations shall render the Contractor liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.

34. Termination

34.1 Termination by the Contracting Authority

- (a) The Contracting Authority may, at any time and with immediate effect, subject to article 34.9, terminate the contract, except as provided for under Article 34.2.
- (b) Subject to any other provisions of these General Conditions, the Contracting Authority may, by giving seven day notice to the Contractor, terminate the contract in any of the following cases where:
 - i) the Contractor is in serious breach of contract for failure to perform its contractual obligations;
 - ii) the Contractor fails to comply within a reasonable time with the notice given by the Project Manager requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely implementation of the tasks;
 - iii) the Contractor refuses or neglects to carry out any administrative orders given by the Project Manager;
 - iv) the Contractor assigns the contract or subcontracts without the authorization of the Contracting Authority;
 - v) the Contractor is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under national law or regulations;
 - vi) any organizational modification occurs involving a

- change in the legal personality, nature or control of the Contractor, unless such modification is recorded in an addendum to the contract;
- vii) any other legal disability hindering performance of the contract occurs;
 - viii) the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
 - ix) it has been established by a final judgment or a final administrative decision or by proof in possession of the Contracting Authority that the Contractor has been guilty of fraud, corruption, involvement in a criminal organization, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings or has committed an irregularity;
 - x) the Contractor, in the performance of another contract financed by the SADC or its donors has been declared to be in serious breach of contract, which has led to its early termination or the application of liquidated damages or other contractual penalties or which has been discovered following checks, audits or investigations by the Contracting Authority or the competent authorities of Member States;
 - xi) after the award of the contract, the award procedure or the performance of the contract proves to have been subject to substantial errors, irregularities or fraud;
 - xii) the award procedure or the performance of another SADC financed contract proves to have been subject to substantial errors, irregularities or fraud;
 - xiii) the Contractor fails to perform its obligations in accordance with this contract;
- (c) Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Contractor. The Contracting Authority may, thereafter, conclude any other contract with a third party, at the Contractor's own expense. The Contractor's liability for delay in completion shall immediately cease when the Contracting Authority terminates the contract without prejudice to any liability thereunder that may already have arisen.
- (d) Upon termination of the contract or when it has received

notice thereof, the Contractor shall take immediate steps to bring the implementation of the tasks to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

- (e) The Project Manager shall, as soon as possible after termination, certify the value of the supplies and all sums due to the Contractor as at the date of termination.
- (f) In the event of termination, the Project Manager shall, as soon as possible and in the presence of the Contractor or his representatives or having duly summoned them, draw up a report on the supplies delivered and the incidental siting or installation performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the Contractor and of monies owed by the Contractor to the Contracting Authority as at the date of termination of the contract.
- (g) The Contracting Authority shall not be obliged to make any further payments to the Contractor until the supplies are completed. After the supplies are completed, the Contracting Authority shall recover from the Contractor the extra costs, if any, of providing the supplies, or shall pay any balance still due to the Contractor.
- (h) If the Contracting Authority terminates the contract pursuant article 34.2, it shall, in addition to the extra costs for completion of the contract and without prejudice to its other remedies under the contract, be entitled to recover from the Contractor any loss it has suffered up to the value of the supply unless otherwise provided for in the Special Conditions.
- (i) Where the termination is not due to an act or omission of the Contractor, force majeure or other circumstances beyond the control of the Contracting Authority, the Contractor shall be entitled to claim in addition to sums owed to it for work already performed, an indemnity for loss suffered.
- (j) This contract shall be automatically terminated if it has not given rise to any payment in the two years following its signing by both parties.

34.2 Termination by the Contractor.

- (a) The Contractor may, by giving 14 days' notice to the Contracting Authority, terminate the contract if the

Contracting Authority:

- fails to pay the Contractor the amounts due under any certificate issued by the Project Manager after the expiry of the time limit stated in the contract; or
- Consistently fails to meet its obligations after repeated reminders; or
- Suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the Contractor's breach or default.

(b) Such termination shall be without prejudice to any other rights of the Contracting Authority or the Contractor acquired under the contract.

(c) In the event of such termination, the Contracting Authority shall pay the Contractor for any loss or damage the Contractor may have suffered.

35. Breach of contract

35.1. Either party commits breach of contract where it fails to perform its obligations in accordance with the provisions of the contract.

35.2. Where a breach of contract occurs, the party injured by the breach is entitled to the following remedies:

i) damages

ii) termination of the contract

35.3. Damages may be either general damages or liquidated damages.

35.4 Should the Contractor fail to perform any of its obligations in accordance with the provisions of the contract, the Contracting Authority is, without prejudice of its rights under 35.2, also entitled to the following remedies:

a) suspension of payments; and or

b) reduction or recovery of payments in proportion to the failure's extent.

35.5. Where the Contracting Authority is entitled to damages, it may deduct such damages from any sums due to the Contractor or call on the appropriate guarantee.

35.6. The Contracting Authority shall be entitled to compensation for

any damage, which comes to light after the contract is completed in accordance with the law governing the contract.

36. Administrative sanctions

- 36.1. Without prejudice to the application of other remedies laid down in the contract, a sanction of exclusion from all contracts and grants financed by the EU, may be imposed, after and adversarial procedure, upon the Contractor who, in particular
- a) is guilty of grave professional misconduct, has committed irregularities or has been found in serious breach of its contractual obligations. The duration of the exclusion shall not exceed the duration set by final judgment or final administrative decision or, in the absence thereof, five years.
 - b) is guilty of fraud, corruption, participation in criminal organization, money laundering, terrorist related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgment or final administrative decision or, in the absence thereof, ten years.
- 36.2. In the situation mentioned in article 36.1, in addition or in alternative to the sanction of exclusion, the Contractor may also be subject to financial penalties representing up to 10% of the contract price. This clause is not made to terrorize the Contractor, who is fully aware and accepts it.
- 36.3. Where the Contracting Authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the Contractor or call on the appropriate guarantee.
- 36.4. The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the Contractor.
- 36.5. The above administrative sanctions may also be imposed to persons who are members of the administrative, management or supervisory body of the Contractor, to persons having powers of representation, decision or control with regard to the Contractor, to persons jointly and severally liable for the performance of the contract and to subcontractors.

37. Assignment

- 37.1. Neither the Contracting Authority nor the Contractor shall assign, in whole or in part, their obligations under this

Contract, except with prior written consent of the other party.

**38. Export
Restriction**

- 38.1 In case the conclusion of the contract is prevented by any export restrictions attributable to the Contracting Authority, to the country of the Contracting Authority or to the use of the products/goods or systems to be supplied in particular by sanctions arising from trade regulations from a country supplying those products/goods, systems or services, the Contractor shall not be bound by its bid, always provided, however, that the Contractor can demonstrate to the satisfaction of the Contracting Authority that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the delivery of the products/goods, systems or services under the terms of the contract.
- 38.2 Notwithstanding any obligation under the contract to complete all export formalities, any export restrictions attributable to the Contracting Authority, to the country of the Contracting Authority or to the use of the products/goods, systems or services to be supplied, in particular any export restrictions arising from trade regulations from a country supplying those products/goods, systems or services, that substantially impede the Contractor from meeting its obligations under the contract shall release the Contractor from the obligation to provide deliveries or services, always provided, however, that the Contractor can demonstrate to the satisfaction of the Contracting Authority that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the delivery of the products/goods, systems or services under the terms of the contract.

SECTION II. SPECIAL CONDITIONS OF CONTRACT

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

Number of GCC being amended or supplemented	
GCC 1.1(h)	The Contracting Authority's country is: <i>Botswana</i>
GCC 1.1(j)	The Contracting Authority is: The SADC SECRETARIAT
GCC 1.1 (n)	The Project Site(s)/Final Destination(s) is/are: Contracting Authority SADC Secretariat CBD Plot 54385 City: Gaborone Country: Botswana Phone: +2673951863 Ext 1762 Fax: +2673972848/3181070
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms. If the meaning of any trade term and the rights and obligations of the parties thereunder shall not be as prescribed by Incoterms, they shall be as prescribed by: <i>[exceptional; refer to other internationally accepted trade terms]</i>
GCC 4.2 (b)	The version edition of Incoterms shall be <i>edition</i> Incoterms 2020 CIP
GCC 5.1	The language shall be: English
GCC 7.1	The Contractors and Sub-Contractors with the nationality in the following countries are ineligible: Not Applicable
GCC 7.2	The Goods and Related Services to be supplied under the Contract with the origin from the following countries are ineligible: Not Applicable

GCC 8.1	<p>The addresses are:</p> <p>Contracting Authority SADC Secretariat CBD Plot 54385 City: Gaborone Country: Botswana Phone: +2673951863 Ext 1762 Fax: +2673972848/3181070</p>
GCC 9.1	The governing law shall be the law of: Botswana
GCC 10.2	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:</p> <p><i>(b) Contracts with Contractor national of the Contracting Authority's country:</i></p> <p>In the case of a dispute between the Contracting Authority and a Contractor who is a national of the Contracting Authority's country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Contracting Authority's country.</p> <p>(a) The Parties shall use all their best efforts to settle all disputes arising out of, or in connection with, this Contract</p> <p>(b) or its interpretation amicably.</p> <p>(b) In the event that, through negotiation, the parties fail to solve a dispute arising from the conclusion, interpretation, implementation or termination of the contract, the parties shall settle the dispute by arbitration.</p> <p>(c) The arbitral tribunal shall consist of three arbitrators. Each party to the dispute shall appoint one arbitrator. The two arbitrators so appointed shall appoint the third arbitrator, who shall be the Chairperson. If within 15 days of receipt of the request for arbitration either party has not appointed an arbitrator, or if within 7 days of the appointment of the two arbitrators the third arbitrator has not been appointed, either party may request an appointing authority</p>

	<p>agreed by the parties to appoint an arbitrator.</p> <p>(d) If no appointing authority has been agreed upon by the parties, or if the appointing authority agreed upon refuses to act or fails to appoint the arbitrator within 30 days of the receipt of a party's request, either party may request the Chairman of the Zimbabwe Institute of Arbitrators to appoint a sole arbitrator.</p> <p>(e) The appointing authority shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible.</p> <p>(f) The procedure of arbitration shall be fixed by the arbitral tribunal/sole arbitrator which shall have full power to settle all questions of procedure in any case of disagreement with respect thereto.</p> <p>(g) The decisions of the arbitral tribunal/sole arbitrator shall be final and binding upon the parties/organization</p>
GCC 12.1	<p>Details of Shipping and other Documents to be furnished by the Contractor are: Invoices and Account statements.</p> <p>The above documents shall be received by the Contracting Authority after delivery of goods and if not received the contractor will be responsible for any consequent expenses.</p>
GCC 14.1	<p>The prices charged for the Goods supplied and the related Services performed <i>shall not</i>, be adjustable.</p>
GCC 15.1	<p>The Contract Price shall be.....</p>
GCC 15.6	<p>GCC 15.7—The method and conditions of payment to be made to the Contractor under this Contract shall be as follows:</p> <p>Payment of local currency portion shall be made in United States Dollars within thirty (30) days of presentation of claim supported by a certificate from the Contracting Authority declaring that the Goods have been delivered and that all other contracted Services have been performed.</p>
GCC 17.1	<p>A Performance Security shall NOT be required</p>

GCC 17.3	<p>The Performance Security shall be in the form of a Bank Guarantee with the content specified in Appendix 1 to these Special Conditions of Contracts. NOT applicable</p> <p><i>[if other for is accepted indicate the form and when it was accepted]</i></p>
GCC 17.4	<p>Discharge of the Performance Security shall take place: Within 28 days following the date of completion of the contractor's performance obligations under the contract, including any warranty obligations is Applicable (One year warrant)</p>
GCC 22.2	<p>The packing, marking and documentation within and outside the packages shall be: Handle with care, Fragile, this side up etc.</p> <p><i>Sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage.</i></p> <p><i>- Final delivery shall be done in location specified under SCC in GCC 12.1 above and the packaging should not be opened prior to formal provisional acceptance</i></p>
GCC 23.1	<p>The insurance coverage shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, insurance shall be as follows:</p> <p><i>[insert specific insurance provisions agreed upon, including coverage, currency an amount]</i></p>
GCC 24.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, responsibility for transportations shall be as follows: "The Contractor is required under the Contract to transport the Goods to a specified place of final destination within the Contracting Authority's country, defined as the Project Site, transport to such place of destination in the Contracting Authority's country, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Contractor, and related costs shall be included in the Contract Price.</p>

GCC 25.1	<p>The inspections and tests shall be:</p> <p>The Contractor shall at its own expense and at no cost to the Contracting Authority carry out all such tests and/or inspections of the Goods and Related Services. This includes installation and commissioning at the final destination, followed by provisional acceptance.</p>
GCC 25.2	<p>The Inspections and tests shall be conducted at: SADC Secretariat CBD Plot 54385 , Gaborone, Botswana</p>
GCC 26.1	<p>The liquidated damage shall be: 0.5 % per week</p>
GCC 26.1	<p>The maximum amount of liquidated damages shall be: 0.5%</p>
GCC 27.3	<p>The period of validity of the Warranty shall be: Five-years Warranty.</p> <p>For purposes of the Warranty, the place(s) of final destination(s) shall be: SADC Southern African Development Community (SADC)</p>
GCC 27.5	<p>The period for repair or replacement shall be: 7 days.</p>

**SECTION III. TECHNICAL REQUIREMENTS
(INCLUDING SCHEDULE OF REQUIREMENTS AND
TECHNICAL SPECIFICATIONS)**

A. _____

SECTION IV. THE CONTRACTOR'S BID AND ORIGINAL PRICE SCHEDULES

A. _____

SECTION V. THE CONTRACTING AUTHORITY'S NOTIFICATION OF AWARD

A. _____

Notification of Award

[Letterhead paper of the Contracting Authority]

[date]

To: *[name and address of the Contractor]*

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This is to notify you that your Bid dated *[date]* for the implementation of the Contract *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount of the equivalent of *[amount in numbers and words]* *[name of currency]*, as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted by the Contracting Authority.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Forms included in Appendixes to the Special Conditions of Contract - Forms, of the Bidding Document. *(delete the sentence if not applicable)*

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Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____