



EXAMINATIONS COUNCIL OF ZAMBIA

BIDDING DOCUMENT ISSUED ON: 4TH NOVEMBER, 2024

TENDER FOR SUPPLY AND DELIVERY OF A FORKLIFT.

BD NO. ECZ/G/ECZ005/PSU/2024

PROCURING ENTITY:

EXAMINATIONS COUNCIL OF ZAMBIA

Haile Selassie Avenue

P.O Box 50432

Longacres

Lusaka, Zambia

Tel: 260 -211- 254896/253799

Fax: 260 -211- 253690/253799

NOVEMBER 2024

CONTENTS

<u>Section II. Instructions to Bidders</u>	03
<u>Section III. Bid Data Sheet</u>	25
<u>Section IV. Schedule of Requirements</u>	37
<u>Section V. General Conditions of Contract</u>	39
<u>Table of Clauses</u>	40
<u>General Conditions of Contract</u>	40
<u>Section VI. Special Conditions of Contract</u>	57
<u>Table of Clauses</u>	57
<u>Section VII Sample Forms</u>	
<u>Notes on the Sample Forms</u>	
1. <u>Bid Submission Form and Price Schedules</u>	
2. <u>Bid Declaration Form</u>	
3. <u>Price Schedule for Goods Offered from Abroad</u>	
4. <u>Price Schedule for Domestic Goods Offered from within the Purchaser’s Country</u>	
5. <u>Contract Form</u>	
6. <u>Performance Security Form</u>	
8. <u>Manufacturer’s Authorization Form</u>	

INSTRUCTION TO BIDDERS

Table of Contents

A.	General.....	5
1.	Scope of Bid	5
2.	Source of Funds	5
3.	Fraud and Corruption	5
4.	Eligible Bidders	7
5.	Eligible Goods and Related Services	8
B.	Contents of Bidding Documents.....	8
6.	Sections of Bidding Documents	8
7.	Clarification of Bidding Documents	9
8.	Amendment of Bidding Documents	9
C.	Preparation of Bids.....	9
9.	Cost of Bidding	9
10.	Language of Bid.....	9
11.	Documents Comprising the Bid.....	10
12.	Bid Submission Form and Price Schedules.....	10
13.	Alternative Bids	10
14.	Bid Prices and Discounts.....	10
15.	Currencies of Bid	13
16.	Documents Establishing the Eligibility of the Bidder	13
17.	Documents Establishing the Eligibility of the Goods and Related Services.....	13
18.	Documents Establishing the Conformity of the Goods and Related Services	13
19.	Documents Establishing the Qualifications of the Bidder	14
20.	Period of Validity of Bids	14
21.	Bid Security and Bid-Securing Declaration	14
22.	Format and Signing of Bid	16
D.	Submission and Opening of Bids	16
23.	Submission, Sealing and Marking of Bids	16
24.	Deadline for Submission of Bids	17
25.	Late Bids.....	17
26.	Withdrawal, Substitution, and Modification of Bids	17
27.	Bid Opening.....	18
E.	Evaluation and Comparison of Bids	18
28.	Confidentiality	19
29.	Clarification of Bids.....	19
30.	Responsiveness of Bids	19
31.	Non-conformities, Errors, and Omissions	20
32.	Preliminary Examination of Bids	20
33.	Examination of Terms and Conditions; Technical Evaluation.....	20
34.	Conversion to Single Currency.....	21
35.	Domestic Preference	21

36.	Evaluation of Bids.....	21
37.	Comparison of Bids	22
38.	Postqualification of the Bidder	22
39.	Purchaser’s Right to Accept Any Bid, and to Reject Any or All Bids	22
F.	Award of Contract.....	22
40.	Award Criteria	22
41.	Purchaser’s Right to Vary Quantities at Time of Award	23
42.	Notification of Award	23
43.	Signing of Contract	24
44.	Performance Security	24

Section I. Instructions to Bidders

General

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 this Open International Bidding (OIB) procurement are specified in the BDS. The name, and identification, are provided in the BDS.

1.2 Throughout these Bidding Documents:

- (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt;
- (b) if the context so requires, “singular” means “plural” and vice versa;
- (c) “day” means calendar day;
- (d) the term “Contract Manager” refers to the officer, body or institution appointed under Section 57 of the Public Procurement Act of 2008;
- (e) “Government” refers to the Government of the Republic of Zambia, any Procuring Entity or the relevant approvals authority as defined in the Public Procurement Act of 2008; and
- (f) “ZPPA” refers to the Zambia Public Procurement Authority.

Source of Funds

2.1 The Procuring Entity specified in the BDS has applied for or received financing (hereinafter called “funds”) toward the cost of the project or programme named in the BDS. The Procuring Entity intends to apply a portion of the funds to eligible payments under the contract for which these Bidding Documents are issued.

2.2 Payments by the Procuring Entity will be made only at the request of the Contract Manager named in the BDS.

Fraud and Corruption

3.1 It is Government’s policy to require that Procuring Entities (including any beneficiaries of the funds), as well as bidders, suppliers, and contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants, service providers and suppliers under Government-financed contracts, observe the

highest standard of ethics during the procurement and execution of such contracts.¹ In pursuance of this policy, Government:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “fraudulent practice” 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 obligation²;
 - (iii) “collusive practice” is an arrangement between two or more parties³ designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party⁴;
 - (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an 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

¹In this context, any action taken by a bidder, supplier, contractor, or any of its personnel, agents, subcontractors, sub-consultants, service providers, suppliers and/or their employees to influence the procurement process or contract execution for undue advantage is improper.

²“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.

³“Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non-competitive levels.

⁴“Party” refers to a participant in the procurement process or contract execution.

matters relevant to the investigation or from pursuing the investigation; or

(bb) acts intended to materially impede the exercise of an inspection and audit rights provided for under sub-clause 3.2 below.

(b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;

(c) will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Procuring Entity or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the Procuring Entity having taken timely and appropriate action to address such practices when they occur; and

(d) will sanction a firm or an individual, at any time, in accordance with prevailing sanctions procedures, including suspending or barring a bidder or supplier in accordance with Section *ninety-seven* of the Public Procurement Act of 2020 and in accordance with regulations 232 and 238 of the Public Procurement Regulations of 2022. A bidder or supplier aggrieved by such a decision may appeal in accordance with Section *hundred* of the Public Procurement Act of 2020.

3.2 In further pursuance of this policy, Bidders shall permit inspection of any accounts and records and other documents relating to the Bid submission and contract performance, and to have them audited by auditors appointed by Government.

3.3 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 35.1 (a) (iii) of the General Conditions of Contract.

Eligible Bidders

4.1 A Bidder, and all parties constituting the Bidder, may have the nationality of any country, subject to the restrictions specified in Section V, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services.

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

- (a) are associated with a firm which has 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 goods to be purchased under these Bidding Documents; 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;

4.3-4.4 A firm that has been sanctioned by ZPPA in accordance with the above ITB Clause 3.1 (d), shall be ineligible to be awarded a Government-financed contract, or benefit from a Government-financed contract, financially or otherwise, during such period of time as ZPPA shall determine. The list of debarred firms is available at the electronic address specified in the BDS.

4.5 A statutory corporation or body or company in which Government has a majority or controlling interest shall be eligible only if they meet the provisions of Section 89 of the Public Procurement Act of 2020. To establish eligibility, the government-owned enterprise or institution should provide all relevant documents (including its charter) sufficient to demonstrate that it meets the provisions of Section 92 of the Public Procurement Act of 2020.

4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

Eligible Goods and Related Services

- 5.1 All the Goods and Related Services to be supplied under the Contract and financed by Government may have their origin in any country in accordance with Section V, Eligible Countries.
- 5.2 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.
- 5.3 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.

Contents of Bidding Documents

Sections of Bidding Documents

- 6.1 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 8.

PART 1 Bidding Procedures

- Section I. Instructions to Bidders (ITB)
- Section II. Bidding Data Sheet (BDS)

- Section IV. Bidding Forms

PART 2 Supply Requirements

- Section VI. Schedule of Requirements

PART 3 Contract

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

	6.2	The Invitation for Bids issued by the Procuring Entity is not part of the Bidding Documents.
	6.3	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.
	6.4	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.
Clarification of Bidding Documents	7.1	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. 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 8 and ITB Sub-Clause 24.2.
Amendment of Bidding Documents	8.1	At any time prior to the deadline for submission of bids, the Procuring Entity may amend the Bidding Documents by issuing addendum.
	8.2	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.
	8.3	To give prospective 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 24.2 Preparation of Bids
Cost of Bidding	9.1	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.
Language of Bid	10.1	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 specified 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 language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.

**Documents
Comprising the Bid**

11.1 The Bid shall comprise the following:

- (a) Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;
- (b) Bid Security or Bid-Securing Declaration, in accordance with ITB Clause 21, if required;
- (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 22;
- (d) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;
- (e) documentary evidence in accordance with ITB Clause 17, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
- (f) documentary evidence in accordance with ITB Clauses 18 and 30, that the Goods and Related Services conform to the Bidding Documents;
- (g) documentary evidence in accordance with ITB Clause 19 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and
- (h)** any other document required in the BDS.

**Bid Submission
Form and Price
Schedules**

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

12.2 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

Alternative Bids

13.1 Unless otherwise specified in the BDS, alternative bids shall not be considered.

**Bid Prices and
Discounts**

14.1 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.

14.2 All lots and items must be listed and priced separately in the Price Schedules.

14.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discounts offered.

14.4 The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form.

14.5 The terms EXW, CIP, 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.

14.6 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 Zambia:

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 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 Zambia, to be imported:

- (i) the price of the Goods, quoted CIP named place of destination, in Zambia, 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 Zambia, 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 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).
- 14.7 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 30. 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.
- 14.8 If so indicated in ITB Sub-Clause 1.1, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the BDS, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. 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 14.4 provided the bids for all lots are submitted and opened at the same time.

- Currencies of Bid**
- 15.1 The Bidder shall quote in Zambian Kwacha the portion of the bid price that corresponds to expenditures incurred in Zambian Kwacha, unless otherwise specified in the BDS.
- 15.2 The Bidder may express the bid price in the currency of any country in accordance with Section V, Eligible countries. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three currencies in addition to Zambian Kwacha.
- Documents Establishing the Eligibility of the Bidder**
- 16.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the Bid Submission Form, included in Section IV, Bidding Forms.
- Documents Establishing the Eligibility of the Goods and Related Services**
- 17.1 To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.
- Documents Establishing the Conformity of the Goods and Related Services**
- 18.1 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.
- 18.2 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.
- 18.3 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.
- 18.4 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 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.

**Documents
Establishing
the
Qualifications
of
the Bidder**

19.1 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 Zambia;
- (b) that, if required in the BDS, in case of a Bidder not doing business within Zambia, the Bidder is or will be (if awarded the contract) represented by an Agent in Zambia 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.

**Period of Validity
of Bids**

20.1 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.

20.2 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 21, 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 20.3.

20.3 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.

Bid Security

21.1 The Bidder shall furnish as part of its bid, a Bid Security or a Bid-Securing Declaration, if required, as specified in the BDS.

- 21.2 The Bid Security shall be in the amount specified in the BDS and denominated in *Zambian Kwacha* or a freely convertible currency, 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, or a bond issued by a surety;
 - (b) be issued by a reputable institution selected by the bidder and located in any eligible country. If the institution issuing the bond is located outside *Zambia*, it shall have a correspondent financial institution located in *Zambia* to make it enforceable.
 - (c) be substantially in accordance with one of the forms 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 21.5 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 20.2;
- 21.3 If a Bid Security or a Bid- Securing Declaration is required in accordance with ITB Sub-Clause 21.1, any bid not accompanied by a substantially responsive Bid Security or Bid Securing Declaration in accordance with ITB Sub-Clause 21.1, shall be rejected by the Procuring Entity as non-responsive.
- 21.4 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 44.
- 21.5 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 20.2; or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB Clause 43;

- (ii) furnish a Performance Security in accordance with ITB Clause 44.

21.6 The Bid Security or Bid- Securing Declaration 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 or Bid-Securing Declaration 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.

- 21.7 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 ITB20.2, or
 - (b) if the successful Bidder fails to: sign the Contract in accordance with ITB 43; or furnish a performance security in accordance with ITB 44;

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

Format and Signing of Bid

22.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 11 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.

22.2 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.

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

Submission and Opening of Bids

Submission, Sealing and Marking of Bids

23.1 Bidders may always submit their bids by mail or by hand. When so specified in the BDS, bidders shall have the 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 13, 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 23.2 and 23.3.

- (b) Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the BDS.

- 23.2 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 24.1;
 - (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 27.1.
- 23.3 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.
- Deadline for Submission of Bids**
- 24.1 Bids must be received by the Procuring Entity at the address and no later than the date and time specified in the BDS.
- 24.2 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 8, 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.
- Late Bids**
- 25.1 The Procuring Entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 24. 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.
- Withdrawal, Substitution, and Modification of Bids**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 23, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 22.2, (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 22 and 23 (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 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 26.1 shall be returned unopened to the Bidders.
- 26.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of

Bid Opening

the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

- 27.1 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 23.1, shall be as specified in the BDS.
- 27.2 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.
- 27.3 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 25.1.
- 27.4 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.

Evaluation and Comparison of Bids

- Confidentiality**
- 28.1 Information relating to the examination, evaluation, comparison, and post 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.
- 28.2 Any effort by a Bidder to influence the Procuring Entity in the examination, evaluation, comparison, and post qualification of the bids or contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB Sub-Clause 28.2, 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.
- Clarification of Bids**
- 29.1 To assist in the examination, evaluation, comparison and post-qualification 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 31.
- Responsiveness of Bids**
- 30.1 The Procuring Entity's determination of a bid's responsiveness is to be based on the contents of the bid itself.
- 30.2 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.
- 30.3 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.

- Nonconformities, Errors, and Omissions**
- 31.1 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.
- 31.2 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.
- 31.3 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.
- 31.4 If the Bidder that submitted the best-evaluated Bid does not accept the correction of errors, its Bid shall be rejected.
- Preliminary Examination of Bids**
- 32.1 The Procuring Entity shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 11 have been provided, and to determine the completeness of each document submitted.
- 32.2 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 12.1;
 - (b) Price Schedules, in accordance with ITB Sub-Clause 12.2;
 - (c) Bid Security or Bid Securing Declaration, in accordance with ITB Clause 21, if applicable.
- Examination of Terms and Conditions;**
- 33.1 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.

- Technical Evaluation**
- 33.2 The Procuring Entity shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 18, 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.
- 33.3 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 30, it shall reject the Bid.
- Conversion to Single Currency**
- 34.1 For evaluation and comparison purposes, the Procuring Entity shall convert all bid prices expressed in amounts in various currencies into an amount in a single currency specified in the BDS, using the selling exchange rates established by the source and on the date specified in the BDS.
- Domestic Preference**
- 35.1 Domestic preference shall not be a factor in bid evaluation, unless otherwise specified in the BDS.
- Evaluation of Bids**
- 36.1 The Procuring Entity shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.
- 36.2 To evaluate a Bid, the Procuring Entity shall only use all the factors, methodologies and criteria defined in ITB Clause 36. No other criteria or methodology shall be permitted.
- 36.3 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 31.3;
 - (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 14.4;
 - (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;
 - (e) Adjustments due to the application of a margin of preference, in accordance with ITB Clause 35 if applicable.
- 36.4 The Procuring Entity's evaluation of a bid will exclude and not take into account:
- (a) In the case of Goods manufactured in Zambia, 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 Zambia, 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.

36.5 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 14. 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 36.3 (d).

36.6 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 best-evaluated lot combinations is specified in Section III, Evaluation and Qualification Criteria.

Comparison of Bids 37.1 The Procuring Entity shall compare all substantially responsive bids to determine the best-evaluated bid, in accordance with ITB Clause 36.

Post qualification of the Bidder 38.1 The Procuring Entity shall determine to its satisfaction whether the Bidder that is selected as having submitted the best-evaluated and substantially responsive bid is qualified to perform the Contract satisfactorily.

38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 19.

38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Procuring Entity shall proceed to the next best-evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

Procuring Entity's Right to Accept Any Bid, and to Reject Any or All Bids 39.1 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.

Award of Contract

Award Criteria 40.1 The Procuring Entity shall award the Contract to the Bidder whose offer has been determined to be the best-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.

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

41.1 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.

**Notification
Award**

of

42.1 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.

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

42.3 The Procuring Entity shall publish in all applicable physical and online publications the results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful bidders may request in writing to the Procuring Entity for a debriefing seeking explanations on the grounds on which their bids were not selected. The Procuring Entity shall promptly respond in writing to any unsuccessful Bidder who, after Publication of contract award, requests a debriefing.

42.4 Upon the successful Bidder's furnishing of the signed Contract Form and performance security pursuant to ITB Clause 44, the Procuring Entity will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Clause 21.4.

- Signing of Contract**
- 43.1 Promptly after notification, the Procuring Entity shall send the successful Bidder the Agreement and the Special Conditions of Contract.
 - 43.2 Within twenty-eight (28) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Procuring Entity.
 - 43.3 Notwithstanding ITB 43.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Procuring Entity, to the Republic of Zambia, 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, however, that the Bidder can demonstrate to the satisfaction of the Procuring Entity 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.
- Performance Security**
- 44.1 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 21.4.
 - 44.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security or execution of the Bid-Securing Declaration. In that event the Procuring Entity may award the Contract to the next best-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.

ITB Clause Reference	A. GENERAL
ITB 1.1	Name of Procuring Entity: Examinations Council of Zambia (ECZ)
ITB 1.1	Bidding Document No. ECZ/G/ECZ005/PSU/2024 Name of Contract: Tender for the supply and delivery of a forklift.
ITB 2.1	Source of Funds: Government of the Republic of Zambia
ITB 2.1	Name of the Project is: Procurement of a Forklift.
ITB 4.3-4.4	Lists of debarred firms are available at http://www.ppa.org.zm
	B. CONTENT OF THE BIDDING DOCUMENTS
ITB 7.1	For Clarification of bid purposes: Online via the e-GP System The deadline for clarifications shall be 26TH November, 2024 (7 days) before tender closing.
	C. PREPARATION OF BID
ITB 10.1	The Language of the bid is: English
ITB 11.1	The bid shall comprise the following PRELIMINARY EVALUATION <ol style="list-style-type: none"> 1. <i>Bid Securing declaration in line with the sample form included in the Bidding forms (ITB 21.1). (for a period of 3 years from the date of tender closing)</i> 2. <i>PACRA Certificate of Company Registration/ Incorporation</i> 3. <i>PACRA Printout (Printed 2024) Showing Names of Shareholders for Verification of Citizenship</i> 4. <i>Valid ZRA Tax Clearance Certificate</i> 5. <i>Letter of Manufacturer's Authorization on the Manufacturer's letterhead</i> 6. <i>Valid National Pension Scheme Authority (NAPSA) Company Certificate.</i> 7. <i>Power of Attorney from the Company's Director. The person given the Power of Attorney shall be the signatory to the documents pertaining to this tender. The signatory of the Bid SHALL NOT sign the Power of Attorney. The Name, Position, and Specimen signature of the person given the Power of Attorney MUST be provided. (Bidders may use any format)</i>

8. *Signed bidders Bid submission form on the bidder's letterhead. Bidders shall fill in the Bid submission form according to the instruction(s) provided on the sample bid submission Form. 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 (ITB 12.1 & 32.2).*
9. *Bid validity of at least ninety (90) days*
10. *Litigation Status from bidder's Legal Personnel /Adviser. The purchaser shall determine the risks highlighted in the litigation status and shall reserve the right to either accept or reject the bid.*

TECHNICAL EVALUATION

11. *Compliance to the technical requirements as indicated in the schedule of requirements*
12. *Documentary Evidence of having supplied similar goods by submitting: Copies of contract (s), copies of Purchase Order (s), and or Reference Letters showing the performance of the Bidders from at least 2 clients.*

COMMERCIAL EVALUATION

13. *Payment terms of 30 days after successful delivery and acceptance of goods*
14. *Delivery period of 6 to 8 weeks days from date of receipt of purchase order*

FINANCIAL EVALUATION

15. *Signed price schedule*

The financial evaluation for this tender shall include price reasonableness analysis in line with Clause 12(2 &4) of the Public Procurement Act No. 8 of 2020.

THE BIDDER MUST SHOW PROOF IN ACCORDANCE WITH ITB CLAUSE 17 THAT THE GOODS TO BE SUPPLIED BY THE BIDDER ARE OF ELIGIBLE ORIGIN. THE BIDDER SHALL STATE IN THEIR PRICE SCHEDULE/QUOTATION /SUBMISSION THE ORIGIN OF THE GOODS (WHERE THEY WILL BUY GOODS FROM IF NOT MANUFACTURED LOCALLY).

ITB 14.7	The Unit price quoted for and on which the contract shall be signed shall not be adjustable during the performance of the contract, it shall remain fixed. The maximum term for a framework agreement shall be three (3) years and, for agreements exceeding one year, a value-for-money assessment shall be undertaken to determine whether the terms designated in the framework agreement remain competitive.
ITB 14.8	The Examinations Council of Zambia will pay the supplier the cost comprising the unit bid price provided by the supplier in its bid document and indicated in the Price Schedule.

	The total to be paid for any particular order under this contract shall be determined by the quantities delivered multiplied by the unit cost agreed (in the contract).
ITB 15.1	Currencies of Bid: Zambian Kwacha
ITB 20.1	Bid validity period: 90 days from the date of opening of bids. Bidders are required to clearly indicate the Bid Validity Period in their bid.
ITB 21.1	For this contract, suppliers shall sign and submit a Bid-Securing Declaration statement that once their bid is deposited or submitted it will not be withdrawn until the contract is signed with the successful bidder. The bid declaration statement should be signed by the person duly authorized by the bidder. Please Note A sample of the Bid Securing Declaration to be completed is included in the Bidding forms. Bidders are requested to use the sample of the Bid Securing Declaration provided together with this document. Alternative Bid Securing Declaration Form shall not be accepted and shall render the bid non-responsive.
ITB21.7	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 Procuring Entity for a period of 3 Years
ITB 22.1	In addition to the Original bid, the number of copies of the bid shall be: N/A
D. SUBMISSION AND OPENING OF BIDS	
ITB 23.1	Bidders Shall submit the bids online via the e-GP system. Bids submitted off the system shall be REJECTED .
ITB 23.2(c)	The inner and outer envelopes shall bear the following additional identification mark. N/A
ITB 24.1	The Procuring Entity’s address for bid submission is: Online via the e-GP System The Deadline for bid submission is: Date: 3rd December,2024 Time: AM 10:00 hours system time
ITB 27.1	The bid opening shall take place: online via the e-GP System Date: 3rd December,2024 Time: AM 10:00 hours system time
E. EVALUATION AND COMPARISON OF BIDS	
ITB 34.1	Bid prices shall be quoted in Zambian Kwacha
F. AWARD OF CONTRACTS	
ITB 36.3	The evaluation will be done for Items and the Bid Price as quoted
ITB 37.1	The Procuring Entity shall compare all substantially responsive bids to determine the best-evaluated bid, in accordance with ITB clause 36

ITB 38.1-3	<p>The Procuring entity shall conduct a post –qualification of the bidder to verify the following:</p> <ul style="list-style-type: none"> • <i>The bidder’s or manufacturer’s physical work premises</i> • <i>The submitted evidence of having the capacity to supply the quoted goods shall be part of the evaluation process.</i> • <i>Financial capacity by verifying Stamped bank statements for at least three (3) months</i>
1TB 41.1	<p>The maximum percentage by which the quantity may be increased or decreased from the quantity stated in the schedule of requirement shall not be more than: N/A</p>

Section IV. Bidding Forms

Table of Forms

Bid Submission Form.....	30
Price Schedule Forms.....	34
Bid-Securing Declaration.....	29

Bid Submission Form

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

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

OIB No.: [insert number of bidding process]

Invitation for Bid No.: [insert No of IFB]

Alternative No.: [insert identification No if this is a Bid for an alternative]

To: [insert complete name of Procuring Entity]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: _____ [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods and Related Services _____ [insert a brief description of the Goods and Related Services];
- (c) The total price of our Bid, excluding any discounts offered in item (d) below, is: _____ [insert the total bid price in words and figures, indicating the various amounts and the respective currencies];
- (d) The discounts offered and the methodology for their application are:

Discounts. If our bid is accepted, the following discounts shall apply. _____ [Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies.]

Methodology of Application of the Discounts. The discounts shall be applied using the following method: _____ [Specify in detail the method that shall be used to apply the discounts];
- (e) Our bid shall be valid for the period of time specified in ITB Sub-Clause 20.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 24.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with ITB Clause 44 and GCC Clause 18 for the due performance of the Contract;
- (g) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries _____ [insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a JV, and the nationality each subcontractor and supplier]
- (h) We have no conflict of interest in accordance with ITB Sub-Clause 4.2;

- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by ZPPA or any other international agency’s official regulations, in accordance with ITB Sub-Clause 4.3;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: [insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]

Name of Recipient	Address	Reason	Amount
Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If none has been paid or is to be paid, indicate “none.”)

- (k) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (l) We understand that you are not bound to accept the best-evaluated bid or any other bid that you may receive.

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

Duly authorized to sign the bid for and on behalf of: _____ [insert complete name of Bidder]
 Dated on _____ day of _____, _____ [insert date of signing]

Price Schedule 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 List of Goods and Related Services specified by the Procuring Entity in the Schedule of Requirements.]

Price Schedule: Goods Manufactured Outside Zambia, to be Imported

(Group C bids, goods to be imported)							Date: _____	
							OIB No: _____	
Currencies in accordance with ITB Sub- Clause 15							Alternative No: _____	
							Page N° _____ of _____	
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[inser place of destination] in accordance with ITB 14.6(b)(i)	CIP Price per line item (Col. 5x6)	Price per line item for inland transportation and other services required in Zambia to convey the Goods to their final destination specified in BDS	Total Price per Line item (Col. 7+8)
[insert number of the item]	[insert name of good]	[insert country of origin of the Good]	[insert quoted Delivery Date]	[insert number of units to be supplied and name of the physical unit]	[insert unit price CIP per unit]	[insert total CIP price per line item]	[insert the corresponding price per line item]	[insert total price of the line item]
							Total Price	

Name of Bidder [insert complete name of Bidder]

Signature of Bidder [signature of person signing the Bid]

Date [Insert Date]

Price Schedule: Goods Manufactured in Zambia

Zambia		(Group A and B bids)		Date: _____		OIB No: _____		Alternative No: _____	
_____		Currencies in accordance with ITB Sub-Clause 15		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. 4×5)	Price per line item for inland transportation and other services required in Zambia to convey the Goods to their final destination	Cost of local labor, raw materials and components from within origin in Zambia % of Col. 5	Sales and other taxes payable per line item if Contract is awarded (in accordance with ITB 14.6(a)(ii))	Total Price per line item (Col. 6+7)
[insert number of the item]	[insert name of Good]	[insert quoted Delivery Date]	[insert number of units to be supplied and name of the physical unit]	[insert EXW unit price]	[insert total EXW price per line item]	[insert the corresponding price per line item]	[Insert cost of local labor, raw material and components from within the Purchase's country as a % of the EXW price per line item]	[insert sales and other taxes payable per line item if Contract is awarded]	[insert total price per item]
								Total Price	

Name of Bidder [insert complete name of Bidder]

Signature of Bidder [signature of person signing the Bid]

Date [insert date]

Bid-Securing Declaration

[The Bidder shall fill in this Form in accordance with the instructions indicated.]

Date: [date (as day, month and year)]

Bid No.: [number of bidding process]

Alternative No.: [identification No if this is a Bid for an alternative]

To: [complete name of Procuring Entity]

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Procuring Entity for the period of time of [3 years] starting on [date of tender of closing], if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid during the period of bid validity specified in the Form of Bid;
or
- (b) having been notified of the acceptance of our Bid by the Procuring Entity during the period of bid validity, (i) fail or refuse to execute the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, in accordance with the ITB.

We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Signed: [signature of person whose name and capacity are shown] In the capacity of [legal capacity of person signing the Bid Securing Declaration]

Name: [complete name of person signing the Bid Securing Declaration]

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

Dated on _____ day of _____, _____ [date of signing]
Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, the Bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]

SECTION IV SCHEDULE OF REQUIREMENTS

FORKLIFT TECHNICAL REQUIREMENTS

DESCRIPTION	SPECIFICATIONS	Quantity required
ENGINE	<ul style="list-style-type: none"> • Diesel • Four cylinders • 50 to 60 horsepower • Fuel tank capacity 70 to 80 litres • Hydraulic tank capacity 50 to 70 litres • Hydraulic Transmission • Rated engine speed 2500 to 3000 rpm 	1
DIMENSIONS	<ul style="list-style-type: none"> • Overall length (including fork) 3600 to 3800 mm • Overall Width 1000 mm to 1200 mm • Overall height (mast lowered) 2000 to 2250 mm • Overall height (mast raised) 4000 to 4300 mm • Overall height to overhead guard 2000 to 2200 mm • Lifting height 3000 to 3300 mm • Turning radius 2400 to 2800 mm • Wheel base 1600 to 1750 mm • Tyre size front 28x9-15 • Tyre size rear 6.50-10 • Tyre type (solid rubber, pneumatic, pneumatic-shaped cushion) 	
PERFORMANCE	<ul style="list-style-type: none"> • Lifting capacity 2500 kg • Total weight 3500 to 4000 kg • Maximum driving speed 15 to 20 km/h • Maximum lifting speed 350 to 375 mm/s • Tilt Angle forward 6 degrees • Tilt Angle Backwards 12 degrees 	
STANDARD EQUIPMENTS	<ul style="list-style-type: none"> • Dual brake system • Full hydraulic power steering • LED or other Headlights • LED or other Rear combination lights • Adjustable tilt steering column • Polycarbonate roof 	
SAFETY FEATURES	<ul style="list-style-type: none"> • Stability System: • Operator Protection: • Warning Systems: • Emergency Stop 	
AFTER SALES SERVICE	<ul style="list-style-type: none"> • Availability of service and replacement parts • Provision of servicing and repair maintenance 	
TRAINING	<ul style="list-style-type: none"> • Provision of training of at least 10 people 	

PART 3 - CONTRACT

SECTION V. GENERAL CONDITIONS OF CONTRACT

Table of Clauses

1.	Definition.....	37
2.	Contract Documents.....	38
3.	Fraud and Corruption.....	38
4.	Interpretation.....	39
5.	Language.....	40
6.	Joint Venture, Consortium or Association.....	40
7.	Eligibility.....	41
8.	Notices.....	41
9.	Governing Law.....	41
10.	Settlement of Disputes.....	41
11.	Inspections and Audit by the Bank.....	41
12.	Scope of Supply.....	42
13.	Delivery and Documents.....	42
14.	Supplier's Responsibilities.....	42
15.	Contract Price.....	42
16.	Terms of Payment.....	42
17.	Taxes and Duties.....	43
18.	Performance Security.....	43
19.	Copyright.....	43
20.	Confidential Information.....	43
21.	Subcontracting.....	44
22.	Specifications and Standards.....	45
23.	Packing and Documents.....	45
24.	Insurance.....	45
25.	Transportation.....	46
26.	Inspections and Tests.....	46
27.	Liquidated Damages.....	47
28.	Warranty.....	47
29.	Patent Indemnity.....	48
30.	Limitation of Liability.....	49
31.	Change in Laws and Regulations.....	49
32.	Force Majeure.....	50
33.	Change Orders and Contract Amendments.....	50
34.	Extensions of Time.....	51
35.	Termination.....	51
36.	Assignment.....	52
37.	Export Restriction.....	54

Section VI. General Conditions of Contract

Definitions

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

- (a) “Contract” means the Contract Agreement entered into between the Procuring Entity and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (b) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
- (c) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions 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 Supplier 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 Supplier is required to supply to the Procuring Entity under the Contract.
- (h) “Government” means the Government of the Republic of Zambia or any other Government agency duly mandated to carry out specialized functions of Government.
- (i) “Procuring Entity” 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 Supplier 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 Supplier.
- (m) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.

(n) “The Project Site,” where applicable, means the place named in the SCC.

Contract Documents

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

Fraud and Corruption

3.1 If the Procuring Entity determines that the Supplier and/or any of its personnel, or its agents, or its Subcontractors, consultants, service providers, suppliers, and/or their employees has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving 14 days notice to the Supplier, terminate the Supplier's employment under the Contract and cancel the contract, and the provisions of Clause 35 shall apply as if such expulsion had been made under Sub-Clause 35.1.

(a) For the purposes of this Sub-Clause:

- (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
- (ii) “fraudulent practice” 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 obligation⁵;
- (iii) “collusive practice” is an arrangement between two or more parties⁶ designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly,

⁵ “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.

⁶ “Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non-competitive levels.

any party or the property of the party to influence improperly the actions of a party⁷;

- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an 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 inspection and audit rights provided for under Clause 11 [Inspections and Audits by the Government].

3.2 Should any employee of the Supplier be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the purchase of the Goods, then that employee shall be removed.

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 Procuring Entity and the Supplier and supersedes all communications, negotiations, and agreements (whether written or oral) of the parties with respect thereto made prior to the date of the Contract.

⁷“Party” refers to a participant in the procurement process or contract execution.

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 Nonwaiver

- (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.

Language

5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Procuring Entity, 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 Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

Joint Venture, Consortium or Association

6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring Entity 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 Procuring Entity.

Eligibility	7.1	The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
	7.2	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.
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.
Governing Law	9.1	The Contract shall be governed by and interpreted in accordance with the laws of the Republic of Zambia, unless otherwise specified in the SCC.
Settlement of Disputes	10.1	The Procuring Entity and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
	10.2	If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
	10.3	Notwithstanding any reference to arbitration herein, <ul style="list-style-type: none"> (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and (b) the Procuring Entity shall pay the Supplier any monies due the Supplier.
Inspections and Audit by Government	11.1	The Supplier shall permit, and shall cause its Subcontractors and consultants to permit, the Government and/or persons appointed by the Government to inspect the Supplier’s offices and all

accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Government if requested by the Government. The Supplier's and its Subcontractors and consultants 'attention is drawn to Clause 3 [Fraud and Corruption], which provides, inter alia, that acts intended to materially impede the exercise of the inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to Zambia Public Procurement Authority's prevailing sanctions procedures).

- | | | |
|------------------------------------|------|---|
| Scope of Supply | 12.1 | The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements. |
| Delivery and Documents | 13.1 | Subject to GCC Sub-Clause 33.1, 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 Supplier are specified in the SCC. |
| Supplier's Responsibilities | 14.1 | The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13. |
| Contract Price | 15.1 | Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC. |
| Terms of Payment | 16.1 | The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC. |
| | 16.2 | The Supplier's request for payment shall be made to the Procuring Entity in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract. |
| | 16.3 | Payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Procuring Entity has accepted it. |
| | 16.4 | The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed. |

Taxes and Duties

- 17.1 For goods manufactured outside Zambia, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Zambia.
- 17.2 For goods Manufactured within Zambia, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Procuring Entity.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Zambia, the Procuring Entity shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

Performance Security

- 18.1 If required as specified in the SCC, the Supplier 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.
- 18.2 The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Procuring Entity; and shall be in one of the format stipulated by the Procuring Entity in the SCC, or in another format acceptable to the Procuring Entity.
- 18.4 The Performance Security shall be discharged by the Procuring Entity and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

Copyright

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Procuring Entity by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Procuring Entity directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party

Confidential Information

- 20.1 The Procuring Entity and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such

information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Procuring Entity to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The Procuring Entity shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the performance of the Contract.

20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:

- (a) the Procuring Entity or Supplier need to share with Government 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.

20.4 The above provisions of GCC Clause 20 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.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

Subcontracting

21.1 The Supplier shall notify the Procuring Entity in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

Specifications and Standards

and 22.1 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 Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Procuring Entity.
- (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 Procuring Entity and shall be treated in accordance with GCC Clause 33.

Packing Documents

- and 23.1** The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing 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.
- 23.2 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 Procuring Entity.

Insurance

- 24.1 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.

Transportation

25.1 Unless otherwise specified in the SCC, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

Inspections and Tests

26.1 The Supplier shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods and Related Services as are specified in the SCC.

26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in Zambia as specified in the SCC. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier 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 Procuring Entity.

26.3 The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Procuring Entity 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.

26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test and/or inspection.

26.5 The Procuring Entity may require the Supplier 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 Supplier'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 Supplier'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.

26.6 The Supplier shall provide the Procuring Entity with a report of the results of any such test and/or inspection.

26.7 The Procuring Entity 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 Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations

necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Sub-Clause 26.4.

26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

Liquidated Damages

27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Procuring Entity 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 Procuring Entity may terminate the Contract pursuant to GCC Clause 35.

Warranty

28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 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.

28.4 The Procuring Entity shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Procuring Entity shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Procuring Entity.

28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the SCC, the Procuring Entity may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract.

Patent Indemnity

29.1 The Supplier shall, subject to the Procuring Entity's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Procuring Entity 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 Procuring Entity 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 Supplier 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 Supplier, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause 29.1, the Procuring Entity shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.

29.4 The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such

proceedings or claims, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

29.5 The Procuring Entity shall indemnify and hold harmless the Supplier 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 Supplier 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 Procuring Entity.

**Limitation
of Liability**

- of 30.1 Except in cases of criminal negligence or willful misconduct,
- (a) the Supplier shall not be liable to the Procuring Entity, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Entity and
 - (b) the aggregate liability of the Supplier to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Procuring Entity with respect to patent infringement

**Change in Laws
and Regulations**

31.1 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 in Zambia 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 Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

Force Majeure

- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

Change Orders and Contract Amendments

- 33.1 The Procuring Entity may at any time order the Supplier 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 Procuring Entity;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Supplier.
- 33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier’s performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier’s receipt of the Procuring Entity’s change order.
- 33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall

not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 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.

Extensions of Time

34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

Termination

35.1 Termination for Default

- (a) The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
 - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCC Clause 34;
 - (ii) if the Supplier fails to perform any other obligation under the Contract; or
 - (iii) if the Supplier, in the judgment of the Procuring Entity has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency.

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

35.3 Termination for Convenience.

- (a) The Procuring Entity, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may elect:
 - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

Assignment

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

SECTION VI. 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.

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

GCC Clause	Description
GCC 1.1(i)	The Procuring Entity is: <i>Examinations Council of Zambia</i>
GCC 1.1 (n)	The Project Site(s)/Final Destination(s) is/are: Examinations Council of Zambia, Haile Selassie Avenue, Longacres P.O Box 50432, Lusaka, Zambia ZIP Code 10101 Telephones: +260 211 254896/253799 Fax: +260 211 253690/253799 Website: www.exams-council.org.zm
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Inco terms.
GCC 5.1	The language shall be: English

GCC 8.1	<p>For notices, the Procuring Entity’s address shall be:</p> <p>The Executive Director, Attention: the Manager- Procurement Examinations Council of Zambia, Haile Selassie Avenue, Long acres P.O Box 50432, Lusaka, Zambia ZIP Code 10101 Telephones: +260 211 254896 Fax: +260 211 253690/253799 Website: www.exams-council.org.zm</p>
GCC 9.1	The governing law shall be the laws of: The Republic of Zambia
GCC 10.2	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:</p> <p style="text-align: center;">(b) Contracts with Zambian Supplier:</p> <p>In the case of a dispute between the Procuring Entity and a Zambian Supplier, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Republic of Zambia.</p>
GCC 15.1	<p>QUOTATION AND PRICES.</p> <p>The quoted unit price shall remain fixed during the contract period.</p>
GCC16.1	<p>GCC16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <ol style="list-style-type: none"> 1) <u>Payment for Goods provided shall be:</u> Payment for Goods and Services supplied under this tender and or contract shall be made in Zambian Kwacha, 30 Days after complete delivery, acceptance of goods, and submission of a fully signed invoice. The supplier will be required to provide a delivery note for the delivery made. 2) <u>Delivery Period</u> The delivery period shall be 8 weeks from receipt of the purchase order.
GCC26.1	The ECZ shall carry out inspections at the supplier’s premises as part of the evaluation process to determine the capacity of the bidder.

GCC26.2	The Inspections and tests shall be conducted at: The Supplier's Premises for items within the country (Ex-stock) and the Manufacturer's premises before shipping for items outside the country.
GCC 35.1	<p>Termination /Cancellation of Contract/Purchase order</p> <p>The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:</p> <ol style="list-style-type: none"> 1) If the Supplier fails to deliver any or all of the Goods within the period specified in the Contract/Purchase Order unless the delay is caused by the Procuring Entity. 2) If the Supplier, in the judgment of the Procuring Entity, has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract/Purchase Order. 3) If the Supplier becomes bankrupt or otherwise insolvent.

Table of Forms

1. Contract Agreement.....	64
----------------------------	----

1. Contract Agreement

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

THIS CONTRACT AGREEMENT is made

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

BETWEEN

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

WHEREAS the Procuring Entity invited bids for certain Goods and ancillary services, viz., [insert brief description of Goods and Services] and has accepted a Bid by the Supplier 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 Agreement 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 Procuring Entity and the Supplier, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Agreement
 - (b) Special Conditions of Contract
 - (c) General Conditions of Contract
 - (d) The Supplier’s Bid and original Price Schedules
 - (e) The Procuring Entity’s Notification of Award
 - (f) [Minutes of any meeting between ECZ and the Service Provider.]
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 listed above.
4. In consideration of the payments to be made by the Procuring Entity to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Procuring Entity to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

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

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of [insert the name of the Contract governing law country] on the day, month and year indicated above.

For and on behalf of the Procuring Entity

Signed: [insert signature]
[insert full name]
in the capacity of [insert title or other appropriate designation]
in the presence of [insert name & title of official witness]

For and on behalf of the Supplier

Signed: [insert signature of authorized representative(s) of the Supplier]
[insert full name]
in the capacity of [insert title or other appropriate designation]
in the presence of [insert name]