

# BIDDING DOCUMENTS

Issued on: 14 June 2023

## Procurement of Compliance Management System

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Procurement Reference No: G/OIB/RFA – 01/2023

Project: Compliance Management System

# Letter of Invitation

## Request for Procurement of a Compliance Management System

**Procurement Reference NO: G/OIB/RFA – 01/2023**

Dear Sir/Madam

1. The **Road Fund Administration** invites bidders to participate in this bid for the procurement of a Compliance Management System. More details on the services are provided in the Terms of Reference.
2. This Request for Proposal (RFP) will be advertised in newspapers and be placed on the RFA website for download.
3. A firm will be selected in accordance with the policies and procedures for public procurement in the Republic of Namibia.
4. Please inform us in writing at the following address [procurement@rfanam.com.na](mailto:procurement@rfanam.com.na) upon receipt:
  - (a) **that you received the Letter of Invitation; and**
  - (b) **whether you will submit a proposal alone or in association.**

**Yours sincerely,**



Scheifert Shigwedha

Head of Procurement Management Unit

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## PART 1 – Bidding Procedures

# Section I. Instructions to Bidders

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## Section I. Instructions to Bidders

### A. General

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|---|---|
| 1. Scope of Bid   | <p>1.1 The Purchaser indicated in the Bidding Data Sheet (BDS), issues these Bidding Documents for the supply of Goods and Related Services incidental thereto as specified in Section V, Schedule of Requirements. The name and identification number of this procurement through Open International Bidding are <b>specified in the BDS</b>. The name, identification, and number of lots are <b>provided in the BDS</b>.</p> <p>1.2 Throughout these Bidding Documents:</p> <ul style="list-style-type: none"> <li>(a) the term “in writing” means communicated in written form (e.g. by mail, fax,) with proof of receipt;</li> <li>(b) if the context so requires, “singular” means “plural” and vice versa; and</li> <li>(c) “day” means calendar day.</li> </ul> |
| 2. Source of Funds  | <p>2.1 Unless otherwise stated in the <b>BDS</b>, this procurement shall be financed by the Public Entity’s own budgetary allocation.</p>   |
| 3. Public Entities Related to Bidding Documents and to Application for Review | <p>3.1 The public entities related to these bidding documents are the Public Entity, acting as procurement entity (Purchaser), the Procurement Policy Unit, in charge of issuing standard bidding documents and responsible for any amendment these may require, the Central Procurement Board in charge of vetting Bidding document, receiving and evaluation of bids in respect of major contracts and the Review Panel, set up under the Public Procurement Act, 2015 (hereinafter referred to as the Act.)</p>  |
| 4. Fraud and Corruption   | <p>4.1 It is the policy of the Government of the Republic of Namibia to require Public Entities, as well as bidders, suppliers, and contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants, service providers and suppliers, observe the highest standard of</p>  |

ethics during the procurement and execution of contracts.<sup>1</sup> In pursuance of this policy, the Government of the Republic of Namibia:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>2</sup>;
- (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 obligation;<sup>3</sup>
- (iii) “collusive practice” is an arrangement between two or more parties<sup>4</sup> 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<sup>5</sup> or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
  - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Purchaser’s investigation into allegations of a

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

<sup>2</sup> “Another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes Purchaser’s staff and employees of other organizations taking or reviewing procurement decisions.

<sup>3</sup> “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.

<sup>4</sup> “Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, noncompetitive levels.

<sup>5</sup> “Party” refers to a participant in the procurement process or contract execution.

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 Purchaser's inspection and audit rights provided for under sub-clause 4.2 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; and
  - (c) will sanction a firm or an individual, at any time, in accordance with prevailing legislations, including by publicly declaring such firm or individual ineligible, for a stated period of time: (i) to be awarded a public contract; and (ii) to be a nominated<sup>b</sup> sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a public contract.
- 4.2 In further pursuance of this policy, Bidders shall permit the Purchaser to inspect any accounts and records and other documents relating to the Bid submission and contract performance, and to have them audited by auditors appointed by the Purchaser.
- 4.3 Furthermore, bidders shall be aware of the provision in Clauses 3.1 and 35.1 (a) of the General Conditions of Contract.
- 4.4 Bidders, suppliers and public officials shall also be aware of the provisions stated in section 67 and 68 of the Public Procurement Act, 2015 which can be consulted on the website of the Procurement Policy Unit (PPU) :

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<sup>b</sup> A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which either has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that are accounted for in the evaluation of the bidder's pre-qualification application or the bid; or (ii) appointed by the Purchaser.

[www.mof.gov.na/procurement-policy-unit](http://www.mof.gov.na/procurement-policy-unit)

**5. Eligible Bidders**

5.1 (a) Subject to ITB 5.4, A Bidder, and all parties constituting the Bidder, may have the nationality of any country. 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.

(b) A Bidder may be a natural person, private entity, government-owned entity (subject to ITB 5.5) or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). In the case of a JV:

(i) all parties to the JV shall be jointly and severally liable; and

(ii) a JV shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.

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

(a) have controlling shareholders in common; or

(b) receive or have received any direct or indirect subsidy from any of them; or

(c) have the same legal representative for purposes of this Bid; or

(d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the

Purchaser regarding this bidding process; or

- (e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which it is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one bid; or
- (f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods and services that are the subject of the bid.

- 5.3 (a) A Bidder that is under a declaration of ineligibility by the Government of Namibia in accordance with applicable laws at the date of the deadline for bid submission or thereafter, shall be disqualified.

(b) Bids from suppliers appearing on the ineligibility lists of African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group and World Bank Group shall be rejected.

Links for checking the ineligibility lists are available on the Procurement Policy Unit's website:  
[www.mof.gov.na/procurement-policy-unit](http://www.mof.gov.na/procurement-policy-unit)

- 5.4 A firm shall be excluded if by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Namibia prohibits any import of goods or contracting of Works or services from a country where it is based or any payment to persons or entities in that country.
- 5.5 Government-owned enterprises in the Republic of Namibia shall be eligible only if they can establish that they:
- (i) are legally and financially autonomous;
  - (ii) operate under commercial law, and



(iii) are not a dependent agency of the Purchaser.

5.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.

**6. Eligible Goods and Related Services**

6.1 All the Goods and Related Services to be supplied under the Contract may have their origin in any country subject to ITB 5.3 and 5.4.

6.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, industrial plants and “related services” which include services such as insurance, installation, training, and initial maintenance.

6.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

## **B. Contents of Bidding Documents**

**7. Sections of Bidding Documents**

7.1 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 9.

### **PART 1 Bidding Procedures**

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

## PART 2 Supply Requirements

- Section V. Schedule of Requirements

## PART 3 Contract

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

7.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Documents.

7.3 The Purchaser is not responsible for the completeness of the Bidding Documents and their addendum, if they were not obtained directly from the Purchaser.

7.4 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.

8. Clarification of Bidding Documents 8.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Purchaser in writing at the Purchaser's address **specified in the BDS**. The Purchaser will respond within three (3) working days, in writing to any request for clarification, provided that such request is received no later than the number of days, **specified in the BDS**, prior to the deadline set for submission of bids. The Purchaser 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 Purchaser deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 9 and ITB Sub-Clause 25.2.

9. Amendment of Bidding Documents 9.1 At any time prior to the deadline for submission of bids, the Purchaser may amend the Bidding Documents by issuing addendum.

9.2 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 Purchaser.

- 9.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 25.2

### C. Preparation of Bids

- |                                  |  |
|----------------------------------|--|
| 10. Cost of Bidding              | 10.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.   |
| 11. Language of the Bid          | 11.1 The Bid, as well as all correspondences and documents relating to the bid exchanged by the Bidder and the Purchaser, shall be written in English. 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 in English, in which case, for purposes of interpretation of the Bid, such translation shall govern.  |
| 12. Documents Comprising the Bid | <p>11.1 12.1 The Bid shall comprise the following:</p> <ul style="list-style-type: none"> <li>(a) the Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 13, 15, and 16;</li> <li>(b) the Bid Security or Bid-Securing Declaration, in accordance with ITB Clause 22, if required;</li> <li>(c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 23.2; <b>as specified in the BDS.</b></li> <li>(d) documentary evidence in accordance with ITB Clause 17 establishing the Bidder's eligibility to bid;</li> <li>(e) documentary evidence in accordance with ITB Clause 18, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;</li> <li>(f) documentary evidence in accordance with ITB Clauses 19 and 31, that the Goods and Related Services conform to the Bidding Documents;</li> </ul> |

- (g) documentary evidence in accordance with ITB Clause 20 establishing the Bidder's qualifications to perform the contract if its bid is accepted,
- (h) the following documentary evidence is required from all bidders:
  - 1. a valid company Registration Certificate;
  - 2. a valid good Standing Tax Certificate;
  - 3. a valid good Standing Social Security Certificate;
  - 4. a valid Affirmative Action Compliance Certificate, proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998;
  - 5. An undertaking on the part of the Bidder that the salaries and wages payable to its personnel in respect of this proposal are compliant to the relevant laws, Remuneration Order, and Award, where applicable and that it will abide to sub-clause 4.6 of the General conditions of Contract if it is awarded the contract or part thereof.

Certified copies of the above documents are required, bidders not registered in Namibia must submit the equivalent of these documents as issued in their country of origin.

## 12 Exclusive Preference to Local Suppliers

The applications of exclusive preferences to local suppliers will be completed after the above evaluation phases. Only bidders who have passed will be considered at this stage following Sections 70(1) and 72 of the Public Procurement Act, Act No. 15 of 2015, and No. 3 of 2022 as Amended together with the Code of Good Practice of the said act.

Categories of Bidders	Margin of Preference	Documentary Evidence
Manufacturer	2%	<ul style="list-style-type: none"> <li>• Certificate of registration from a registering authority</li> <li>• Declaration by the bidder that the manufactured goods meet local content as determined in Annexure ^ as per the cost structure for Value Added Calculation in Annexure 1, and as certified by an Accountant.</li> </ul>
Micro, Small and Medium Enterprise	1%	<ul style="list-style-type: none"> <li>• SME registration certificate</li> <li>• Declaration indicating the percentage of Namibian MSME ownership.</li> </ul>
Women owned enterprise	1%	<ul style="list-style-type: none"> <li>• IDs of all shareholders</li> <li>• Founding statement/company registration</li> <li>• indicating ownership structure/shareholder certificate</li> <li>• Declaration indicating the percentage.</li> <li>• Of Namibian female ownership.</li> </ul>
Youth owned enterprise	2%	<ul style="list-style-type: none"> <li>• IDs of all shareholders</li> <li>• Founding statement / company registration</li> <li>• Indicating ownership structure/shareholder certificate</li> <li>• Declaration indicating the percentage.</li> <li>• Of Namibian youth ownership</li> </ul>
Previously Disadvantaged Person owned enterprise	2%	<ul style="list-style-type: none"> <li>• IDs of all shareholders</li> <li>• Founding statement/company registration indicating ownership structure/shareholder certificates -</li> <li>• Declaration indicating the percentage of Namibian PDPs ownership</li> </ul>
Suppliers providing environmental protection	1%	<ul style="list-style-type: none"> <li>• Declaration and proof that the bidder meets the requirements set out in the bidding document</li> </ul>
Suppliers providing employment to Namibian	1%	<ul style="list-style-type: none"> <li>• Declaration that bidder employs 50% or more Namibian citizens</li> </ul>
<b>Total</b>	<b>10%</b>	

(a) any other document required in the BDS.

- |   |  |
|---|--|
| 13. Bid Submission Form and Price Schedules | <p>13.1 The Bidder shall submit the Bid Submission Form using the form furnished in Section IV, Bidding Forms. This form must be completed without any alteration to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.</p> <p>13.2 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</p>  |
| 14. Alternative Bids                        | <p>14.1 Unless otherwise specified in the BDS, alternative bids shall not be considered.</p>   |
| 15. Bid Prices and Discounts                | <p>15.1 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.</p> <p>15.2 All lots and items must be listed and priced separately in the Price Schedules.</p> <p>15.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discount offered.</p> <p>15.4 The Bidder shall quote any unconditional discount and indicate the method for their application in the Bid Submission Form.</p> <p>15.5 The terms EXW, CIP, CIF and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, <b>as specified in the BDS.</b></p> <p>15.6 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through the carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible country. Prices shall be entered in the following manner:</p> <p style="margin-left: 40px;">(a) For Goods offered from within Namibia :</p> <p style="margin-left: 80px;">(i) the price of the goods quoted EXW (ex-works, ex-</p> |

factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties already paid or payable on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex-factory, or on the previously imported goods of foreign origin quoted ex-warehouse, ex-showroom, or off-the-shelf;

- (ii) VAT payable on the Goods if the Contract is awarded to the Bidder; and
- (iii) the total price for the item.

(b) For Goods offered from outside Namibia :

- (i) the price of the goods quoted CIF (named port of destination), or CIP (named place of destination), in Namibia, **as specified in the BDS;**
- (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), **if specified in the BDS;**
- (iii) the total price for the item.

(c) For Related Services whenever such Related Services are specified in the Schedule of Requirements:

- (i) the local currency cost component of each item comprising the Related Services; and
- (ii) the foreign currency cost component of each item comprising the Related Services,

inclusive of custom duties and VAT, payable on the Related Services, if the Contract is awarded to the Bidder.

15.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account in respect of changes in production cost, **unless otherwise specified in the BDS.** A Bid submitted with an adjustable price quotation in this respect shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 31. 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.

15.8 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 15.4 provided the bids for all lots are submitted and opened at the same time.

- |  |      |   |
|--|------|---|
| 16. Currencies of Bid  | 16.1 | Bidders shall quote only in Namibian dollars as specified in the BDS.   |
| 17. Documents Establishing the Eligibility of the Bidder                     | 17.1 | To establish their eligibility in accordance with ITB Clause 5, Bidders shall complete the Bid Submission Form, included in Section IV: Bidding Forms.  |
| 18. Documents Establishing the Eligibility of the Goods and Related Services | 18.1 | To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 6, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV: Bidding Forms.   |
| 19. Documents Establishing the Conformity of the Goods and Related Services  | 19.1 | To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section V, Schedule of Requirements.   |
|  | 19.2 | 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. |
|  | 19.3 | 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 Purchaser.

- 19.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser 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 Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.

20. Documents  
Establishing  
the  
Qualifications  
of the  
Bidder

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

- (a) 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 Namibia;
- (b) if **required in the BDS**, in case of a Bidder not doing business within Namibia, the Bidder is or will be (if awarded the contract) represented by an Agent in Namibia 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) the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

21. Period of Validity of Bids
- 21.1 Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the Purchaser. A bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.
- 21.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 22, 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 21.3.
- 21.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) 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.
22. Bid Security
- 22.1 The Bidder shall either furnish as part of its bid, a Bid Security or subscribe to a Bid Securing Declaration in the Bid Submission Form **as specified in the BDS**.
- 22.2 The Bid Securing Declaration shall be in the form of a signed subscription in the Bid Submission Form.
- 22.3 The Bid Security shall be in the amount or percentage **specified in the BDS** and denominated in Namibian dollars or a freely convertible currency with a counter-guarantee, and shall:
- (a) be in the form of a bank guarantee from a reputable overseas bank, or
  - (b) be issued by a commercial bank operating in Namibia.
  - (c) be substantially in accordance with the forms of Bid Security included in Section IV, Bidding Forms, or other form approved by the Purchaser prior to bid submission;
  - (d) be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause

22.6 are invoked;

- (e) be submitted in its original form; copies will not be accepted;
- (f) remain valid for a period of 30 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Clause 21.2;

22.4 Any bid not accompanied by an enforceable and substantially compliant Bid Security or not containing a subscription to a Bid Securing Declaration in the Bid Submission Form, if required, in accordance with ITB 22.1, shall be rejected by the Purchaser as nonresponsive.

22.5 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 45.

22.6 The Bid Security shall 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 21.2; or
- (b) if a Bidder refuses to accept a correction of an error appearing on the face of the Bid; or
- (c) if the successful Bidder fails to: sign the Contract in accordance with ITB 44; or furnish a performance security in accordance with ITB 45;

22.7 The Bid Security or Bid- Securing Declaration of a Joint Venture (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.

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

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid

Form, except as provided in ITB 20.2;

- (b) if a Bidder refuses to accept a correction of an error appearing on the face of the Bid; or
- (c) if the successful Bidder fails to: sign the Contract in accordance with ITB 44; or furnish a performance security in accordance with ITB 45.

the bidder may be disqualified by the Review Panel to be awarded a contract by any Public Entity for a period of time.

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| 23.Format and Signing of Bid | <p>23.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 12 and clearly mark it "ORIGINAL." In addition, the Bidder shall submit copies of the bid, in the number <b>specified in the BDS</b> and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.</p> <p>23.2 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.</p> <p>23.3 Any interlineation, erasure, or overwriting shall be valid only if it is signed or initialed by the person signing the Bid.</p> |
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#### D. Submission and Opening of Bids

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| 24.Submission, Sealing and Marking of Bids | <p>24.1 Bidders may always submit their bids by mail or by hand. When so <b>specified in the BDS</b>, bidders shall have the option of submitting their bids electronically.</p> <ul style="list-style-type: none"> <li>(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 14, 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 24.2 and 24.3.</li> <li>(b) Bidders submitting bids electronically shall follow the electronic bid submission procedures <b>specified in the BDS</b>.</li> </ul> |
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24.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Purchaser in accordance with ITB Sub-Clause 25.1;
- (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 28.1.

24.3 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the bid.

**25. Deadline  
for  
Submission  
of Bids**

25.1 Bids must be received by the Purchaser at the address and not later than the date and time **specified in the BDS**.

25.2 The Purchaser may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 9, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

**26. Late Bids**

26.1 The Purchaser shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 25. Any bid received by the Purchaser after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

**27. Withdrawal,  
Substitution  
, and  
Modification  
of Bids**

27.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 24, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 23.2, (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 23 and 24 (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 Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 25.

27.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 27.1 shall be returned unopened to the Bidders.

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

## 28. Bid Opening

28.1 The Purchaser shall conduct the bid opening in the presence of the Bidders' representatives who choose to attend 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 24.1 shall be as **specified in the BDS**.

28.2 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. 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.

28.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder; the Bid Price(s), including any

discounts and alternative bids and indicating whether there is a modification; the presence of a bid security or the subscription with respect to the Bid Securing Declaration in the Bid Submission Form, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation. No bid shall be rejected at bid opening except for late bids, in accordance with ITB 26.1.

- 28.4 The Purchaser shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, 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, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a bidder's signature on the record shall not invalidate the contents and the effect of the record. A copy of the record shall be distributed, upon request, to all Bidders who submitted bids in time; and posted on line when electronic bidding is permitted.

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

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| 29. Confidentiality       | <p>29.1 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.</p> <p>29.2 Any effort by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions may result in the rejection of its Bid.</p> <p>29.3 Notwithstanding ITB Sub-Clause 29.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.</p> |
| 30. Clarification of Bids | <p>30.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Purchaser 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 Purchaser shall</p>   |

not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the Evaluation of the bids, in accordance with ITB Clause 32.

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| <b>31. Responsive<br/>ness of<br/>Bids</b>                | <p>31.1 The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself.</p> <p>31.2 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:</p> <ul style="list-style-type: none"> <li>(a) affects in a substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or</li> <li>(b) limits in a substantial way, inconsistent with the Bidding Documents, the Purchaser's rights or the Bidder's obligations under the Contract; or</li> <li>(c) if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.</li> </ul> <p>31.3 If a bid is not substantially responsive to the Bidding Documents, it shall be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.</p> |
| <b>32. Nonconformities,<br/>Errors, and<br/>Omissions</b> | <p>32.1 Provided that a Bid is substantially responsive, the Purchaser may waive any non-conformities or omissions in the Bid that do not constitute a material deviation.</p> <p>32.2 Provided that a bid is substantially responsive, the Purchaser may request the Bidder to submit the necessary information or documentation, within a reasonable period of time, or to rectify nonmaterial nonconformities or omissions in the bid relating 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.</p>   |



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

- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

**33. Preliminary  
Examination  
of Bids**

33.1 The Purchaser shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 12 have been provided, and to determine the completeness of each document submitted.

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

- (a) Bid Submission Form, in accordance with ITB Sub-Clause 13.1;
- (b) Price Schedules, in accordance with ITB Sub-Clause 13.2;
- (c) Bid Security or Bid Securing Declaration, in accordance with ITB Clause 22, if applicable.

**34. Examination  
of Terms  
and  
Conditions;  
Technical**

34.1 The Purchaser 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.

**Evaluation** 34.2 The Purchaser shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 19, to confirm that all requirements specified in Section V, Schedule of Requirements of the Bidding Documents have been met without any material deviation or reservation.

34.3 If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Bid is not substantially responsive in accordance with ITB Clause 31, it shall reject the Bid.

**35.Margin of Preference** 35.1 Margin of preference shall not be a factor in bid evaluation, unless otherwise **specified in the BDS**.

**36.Evaluation of Bids** 36.1 The Purchaser 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 Purchaser shall use only the factors, methodologies and criteria defined in ITB Clause 37. No other criteria or methodology shall be permitted.

36.3 To evaluate a Bid, the Purchaser shall consider the following:

- (a) evaluation to be done for Items or Lots, as **specified in the BDS**; and the Bid Price as quoted in accordance with clause 15;
- (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 32.3;
- (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 15.4;
- (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 36 if applicable.

36.4 (a) The Purchaser's evaluation of a bid will take into account:

- (i) in the case of Goods offered from within Namibia,

all taxes but excluding VAT payable on the Goods if the Contract is awarded to the Bidder;

- (ii) in the case of Goods offered from outside Namibia, customs duties applicable in and payable on the Goods if the Contract is awarded to the Bidder; and
- (iii) transport and other costs for the goods to reach its final destination.

(b) The Purchaser's evaluation of a bid will **not** take into account any allowance for price adjustment during the period of performance of the Contract, if provided in the Bid.

36.5 The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 15. 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 Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations is specified in Section III, Evaluation and Qualification Criteria.

### 37. Comparison of Bids

37.1 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 36.

### 38. Post-qualification of the Bidder

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

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 20.

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 Purchaser shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

38.4 Notwithstanding anything stated above, the Purchaser reserves the right to assess the Bidder's capabilities and capacity to execute the Contract satisfactorily before deciding on award.

39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids	39.1 The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.
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## F. Award of Contract

40. Award Criteria	40.1 The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
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41. Purchaser's Right to Vary Quantities at Time of Award	41.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V, Schedule of Requirements, provided this does not exceed the percentages <b>specified in the BDS</b> , and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents.
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42. Notification of Award	42.1 Prior to the expiration of the period of bid validity, the Purchaser shall notify the selected bidder of the proposed award and accordingly notify unsuccessful bidders. Subject to any application for review, the Purchaser shall notify the selected Bidder, in writing, by a Letter of Acceptance for award of contract. The Letter of Acceptance shall specify the sum that the Purchaser will pay the Supplier in consideration of the execution and completion of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). Within seven days from the issue of
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Letter of Acceptance, the Purchaser shall publish on the Public Procurement Policy Unit [www.mof.gov.na/procurement-policy-unit](http://www.mof.gov.na/procurement-policy-unit), and the Purchaser's website, the results of the Bidding Process identifying the bid and lot numbers and the following information:

(i) name of the successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded; and

(ii) an executive summary of the Bid Evaluation Report

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

#### 43. Signing of Contract

43.1 Promptly after issue of letter of acceptance, the Purchaser shall send the successful Bidder the Agreement and the Special Conditions of Contract.

43.2 Within thirty (30) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Purchaser.

43.3 Notwithstanding ITB 44.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Purchaser, to Namibia, 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 Purchaser 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.

#### 44. Performance Security

44.1 Within thirty (30) days of the receipt of letter of Acceptance from the Purchaser, 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 VIII Contract forms, or another Form acceptable to the Purchaser. The Purchaser 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 22.5.

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

45. Debriefing      45.1 The Purchaser shall promptly attend to all debriefing for the contract made in writing and within 30 days from the date of the publication of the award or date the unsuccessful bidders are informed about the award.

## Section II. Bidding Data Sheet (BDS)

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

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

ITB Clause Reference	A. General
ITB 1.1	The Purchaser is: <b>Road Fund Administration</b>
ITB 1.1	<p>The name and identification number of the Procurement are: <b>Compliance Management System - G/OIB/RFA – 01/2023</b></p> <p>The number, identification and names of the lots comprising this Procurement are: N/A</p> <p>The invitation for Bids has been issued through an <b>Open International Bidding</b> procedure.</p>
ITB 1.1	The name of the Project is: <b>Compliance Management System</b>
ITB 2.1	<p><i>[Purchaser to insert financing arrangements if from special fund or co-financing etc...]</i></p> <p>The Funding Agency is: <u>Road Fund Administration (the purchaser)</u></p>
ITB 3.1	<p>(a) The address to file application for review is:</p> <p><b>The Review Panel Private Bag 13295 Windhoek Namibia</b></p>
ITB 5.3	<p>A list of firms debarred from participating in Public Procurement in Namibia is available at <a href="http://www.mof.gov.na/procurement-policy-unit">http://www.mof.gov.na/procurement-policy-unit</a></p> <p>A list of firms debarred by World Bank is available at <a href="http://www.worldbank.org/debarr">http://www.worldbank.org/debarr</a></p>

	B. Contents of Bidding Documents
ITB 8.1	<p>For <u>Clarification of bid purposes</u> only, the Purchaser's address is:</p> <p>Attention: <i>Procurement</i></p> <p>21 Feld Street, Ausspannplatz</p> <p>Private Bag 13372</p> <p>Windhoek, Namibia</p> <p>Tel: +264 61 433 3000</p> <p>Fax: +264 61 433 3070</p> <p>E-mail: <a href="mailto:procurement@rfanam.com.na">procurement@rfanam.com.na</a></p> <p>Kindly note that we have scheduled <b>an online bid clarification meeting</b> to be held on Thursday, 13<sup>th</sup> July 2023 at 11H00 am local time, via MS Teams using the link below: <a href="#">Click here to join the meeting</a></p> <p>Meeting ID: 399 609 431 388</p> <p>Passcode: CpVbkT</p>
ITB 8.1	Request for Clarification should reach the Purchaser not later than Friday, 28 <sup>th</sup> July 2023 at 12H00 local time.
	C. Preparation of Bids
ITB 12.1 (c)	<p>Authorization shall consist of written confirmation and shall be attached to the bid. It may include a delegation of power by resolution of the Board of a company or from the CEO, himself holding power from the Board or from a Director being a shareholder of a company or through a Power of Attorney.</p> <p>The name and position held by each person signing the authorization must be typed or printed below the signature.</p> <p>In the case of Bids submitted by an existing or intended JV an undertaking signed by all parties</p> <p>(i) stating that all parties shall be jointly and severally liable, if so required in accordance with ITB 5.1, and</p>



	<p>(ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.”</p> <p><i>Note: The power of Attorney or other written authorization to sign may be for a determined period or limited to a specific purpose.</i></p>
ITB 12.1 (i)	<p>The Bidder shall submit the following additional documents in its bid:</p> <ol style="list-style-type: none"> <li>1. a valid company Registration Certificate;</li> <li>2. a valid good Standing Tax Certificate;</li> <li>3. a valid good Standing Social Security Certificate;</li> <li>4. a valid Affirmative Action Compliance Certificate, proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998;</li> <li>5. An undertaking on the part of the Bidder that the salaries and wages payable to its personnel in respect of this proposal are compliant to the relevant laws, Remuneration Order, and Award, where applicable and that it will abide to sub-clause 4.6 of the General conditions of Contract if it is awarded the contract or part thereof.</li> </ol> <p>Certified copies of the above documents are required, bidders not registered in Namibia must submit the equivalent of these documents as issued in their country of origin.</p>
ITB 14.1	<u>Alternative Bids shall not be considered.</u>
ITB 15.5	The Incoterms edition is: <b>Incoterms 2010.</b>
ITB 15.6 (b) (i) , (ii)	For Goods offered from outside Namibia, the Bidder shall quote prices using the following Incoterms: The scope of Incoterms is limited to matters relating to the rights and obligations of the parties to the contract of sale with respect to the delivery of goods sold, but excluding “intangibles” like computer software.
ITB 15.7	The prices quoted by the Bidder: <b>shall be adjustable subject to ITB 16.3 below.</b>

	Refer to GCC 15.2, the Bidder to indicate the base value of the relevant indices.
ITB 15.8	Prices quoted for each lot shall correspond at least to ____ % of the items specified for each lot.  Prices quoted for each item of a lot shall correspond at least to ____ % of the quantities specified for this item of a lot.
ITB 16.3	Bidders shall quote only in Namibian dollars on the basis of <sup>6</sup> either:  <i>Prices subject to adjustment to the fluctuation in rate of exchange.</i>  Adjustment shall be made upward or downward with respect to fluctuation of exchange rates between the base rate used for the preparation of the bid and that prevailing at the time of delivery of goods.  If no base rate is indicated by the bidder the prices shall be considered as not adjustable.
ITB 19.3	Period of time the Goods are expected to be functioning (for the purpose of spare parts): <b>bidder to advise if goods are required relative to the system (software)</b>
ITB 20.1 (a)	Manufacturer's authorization is <b>required where applicable</b>
ITB 20.1 (b)	After sales service is <u>required</u>
ITB 21.1	The bid validity period shall be <b>180 days</b> from date of closing.
ITB 22.1	The Bidder shall subscribe to a Bid Securing Declaration provided in this bid document.
ITB 22.3	The amount or percentage of the Bid Security shall be: N/A
ITB 22.8	If a bid security is not required and the Bidder incurs any of the actions prescribed in subparagraphs (a) to (c) of this provision, the Bidder may be declared ineligible to be awarded contracts by the Government of Namibia for a period of time (not exceeding 5 years) to be determined by the Review Panel.

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<sup>6</sup> Delete as appropriate

ITB 23.1	In addition to the original of the bid, the number of copies is: <i>1 copy</i>
	<b>D. Submission and Opening of Bids</b>
ITB 24.1	Bidders shall not have the option of submitting their bids electronically.
ITB 24.1 (b)	<p>For bid submission purposes, the Purchaser's address is:</p> <p>Road Fund Administration  21 Feld Street, Ausspannplatz  Private Bag 13372  Windhoek, Namibia  Tel: +264 61 433 3000  Fax: +264 61 433 3070  E-mail: <a href="mailto:procurement@rfanam.com.na">procurement@rfanam.com.na</a></p> <p>The deadline for the submission of bids is:</p> <p>Date: Friday, 11<sup>th</sup> August 2023</p> <p>Time: By no later than 11h00am local time</p>
ITB 24.2 (c)	<p>The bid opening shall take place at:</p> <p>Bids will be opened immediately after the 11h00 bid closing time of the day 11 August 2023 the following address.</p> <p>Road Fund Administration  21 Feld Street, Ausspannplatz</p>
ITB 25.1	<p>For bid submission purposes, the Purchaser's address is:</p> <p>Attention: <i>Procurement Management Unit</i></p>

	<p>Road Fund Administration</p> <p>21 Feld Street, Ausspannplatz</p> <p>Date: <b>11 August 2023</b></p> <p>Time: <b>By</b> no later than 11h00am local time</p>
	<b>E. Evaluation and Comparison of Bids</b>
ITB 35.1	A margin of preference shall be applicable to local Domestic Suppliers as indicated in Section III.
ITB 36.3(a)	<p>Evaluation will be done for</p> <p><i>“Bids will be evaluated for each item and the Contract will comprise the item(s) awarded to the successful Bidder”.</i></p>
ITB 36.3(d)	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria:</p> <ul style="list-style-type: none"> <li>(a) deviation in Delivery schedule:</li> <li>(b) deviation in payment schedule:</li> <li>(c) the cost of major replacement components, mandatory spare parts, and service:</li> <li>(d) the availability in Namibia of spare parts and after-sales services for the equipment offered in the bid</li> <li>(e) the projected operating and maintenance costs during the life of the equipment</li> <li>(f) the performance and productivity of the equipment offered.</li> </ul>

ITB 36.6	Bidders " <i>shall not</i> " be allowed to quote separate prices for one or more lots.
	<b>F. Award of Contract</b>
ITB 41.1	The maximum percentage by which quantities may be increased or decreased is: <i>not applicable</i>

## Section III. Evaluation and Qualification Criteria

*This Section complements the Instructions to Bidders. It contains the criteria that the Purchaser may use to evaluate a bid and determine whether a Bidder has the required qualifications. No other criteria but the one indicated here shall be used during evaluation.*

### Contents

1. Evaluation Criteria (ITB 36.3 (d))
2. Multiple Contracts (ITB 36.6)
3. Post qualification Requirements (ITB 38.2)
4. Margin of Preference (ITB 35.1)

## 1. Evaluation Criteria (ITB 36.3 (d))

The Purchaser's evaluation of a bid may take into account, in addition to the Bid Price quoted in accordance with ITB Clause 15.6, one or more of the following factors as specified in ITB Sub-Clause 36.3(d) and in BDS referring to ITB 36.3(d), using the following criteria and methodologies.

Technical Evaluation	
Completeness, neatness, and logical flow of the proposal	5
<p>System ability to perform the following requirements.</p> <ul style="list-style-type: none"> <li>• Create user profiles.</li> <li>• Ability to identify the risks of non-compliance of relevant compliant obligations.</li> <li>• Ability to identify risk owners of non-compliance and consequences— department heads.</li> <li>• Ability to identify the mitigating controls that should be in place as per the relevant laws, regulations, and policies.</li> <li>• Allows for a Residual Risk Rating - A factor of assessed impact versus the control efficiency.</li> <li>• Ability to import and export compliance proofs submitted by the departments.</li> <li>• Ability to link compliance proofs received with relevant compliance requirements.</li> <li>• Ability to identify the tasks that needs to be done/complied with in order for the relevant department to be compliant.</li> <li>• Alerts to compliance violation according to the risk rating.</li> <li>• Alerts on due dates of compliance proofs to be submitted, tasks to be completed and compliance of due dates with regards to laws and regulations.</li> </ul>	30

<ul style="list-style-type: none"> <li>• Identify high-risk actions and ensure risk management.</li> <li>• Customization or amendments of system in terms of compliance needs.</li> <li>• Security features that ensure confidentiality of system and limited access for users.</li> <li>• Keep electronic files, notes, and copies of supporting documentation.</li> <li>• Search engine to filter matters.</li> <li>• Archiving of files User friendly and accessible from different locations</li> </ul>	
<p>Relevant years of experience on projects of similar nature, size and complexity. Provide detailed descriptions of work done.</p> <ul style="list-style-type: none"> <li>• 1 years or less – 10%</li> <li>• 2 years – 30%</li> <li>• 3 – 5 years – 50%</li> <li>• 6 years or more 70 – 100%</li> </ul>	11
Demo – Presentation of the Solution	5
<p>Implementation methodology and training approach to be used to complete the project scope and to produce the deliverables.</p> <ul style="list-style-type: none"> <li>• Quality assurance in the proposed approach</li> <li>• Delivery timeframe/milestones</li> </ul>	10
<p>Three (3) reference letters on similar works must be submitted.</p> <ul style="list-style-type: none"> <li>• No reference – 0</li> <li>• 1 reference - 20%</li> <li>• 2 reference - 60%</li> <li>• 3 reference - 100%</li> </ul>	10
<b>TOTAL</b>	<b>70</b>



### Financial Proposal

The Financial Proposals of technically responsive bids will be opened, in the presence of at least three members of the RFA's Bid Evaluation Committee. The Financial Proposals will be checked and adjusted for arithmetic errors. The RFA will award each Financial Proposal evaluated, a Price Score, calculated in accordance with the following formula:

$$Ps = (PL / PN) \times 30$$

where:

PS = Price Score awarded to the Financial Proposal under consideration

PL = The Proposal Price of the lowest Financial Proposal opened.

PN = The Proposal Price of the Financial Proposal under consideration

### **Combining the Technical and Financial / Price Scores (Proposal Index):**

The Technical and Financial scores for each proposal evaluated shall be combined to achieve a final score (Proposal Result) for each proposal, in accordance with the following formula:

$$Pr = (TS + PS)/100$$

where:

Pr = The Proposal Result for the proposal under consideration

TS = The Technical Score achieved by the proposal under consideration

PS = The Price Score achieved by the proposal under consideration

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

*The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in Section V, Delivery Schedule. No credit will be given to deliveries before the earliest date, and bids offering delivery after the final date shall be treated as nonresponsive. Within this acceptable period, an adjustment, as specified in BDS Sub-Clause 36.3(d), will be added, for evaluation purposes only, to the bid price of bids offering deliveries later than the “Earliest Delivery Date” specified in Section V, Delivery Schedule.*

- (b) Deviation in payment schedule.

*(i) Bidders shall state their bid price for the payment schedule outlined in the SCC. Bids shall be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer for such alternative payment schedule. The Purchaser may consider the alternative payment schedule and the reduced bid price offered by the Bidder selected on the basis of the base price for the payment schedule outlined in the SCC.*

- (c) Cost of major replacement components, mandatory spare parts, and service.

*(i) The bidder shall submit a list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the BDS Sub-Clause 19.3. An adjustment equal to the total cost of these items, at the unit prices quoted in each bid, shall be added to the bid price, for evaluation purposes only.*

- (d) Availability in Namibia of spare parts and after sales services for equipment offered in the bid.

An adjustment equal to the cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in BDS Sub-Clause 36.3(d), if quoted separately, shall be added to the bid price, for evaluation purposes only.

- (e) Projected operating and maintenance costs.

An adjustment to take into account the operating and maintenance costs of the Goods will be added to the bid price, for evaluation purposes only, if

specified in BDS Sub-Clause 36.3(d). The adjustment will be evaluated in accordance with the methodology specified in the BDS Sub-Clause 36.3(d).

- (f) Performance and productivity of the equipment.

An adjustment to take into account the productivity of the goods offered in the bid will be added to the bid price for evaluation purposes only, if so specified in BDS Sub-Clause 36.3(d). The adjustment will be evaluated based on the cost per unit of the actual productivity of goods offered in the bid with respect to minimum required values, using the methodology specified in BDS Sub-Clause 36.3(d).

- (g) Specific additional criteria

*Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in BDS Sub-Clause 36.3(d)]*

- (a) The Bidder shall furnish documentary evidence to demonstrate that the Goods it offers meet the usage requirement: *provided by the manufacturer as applicable.*

#### 4. Margin of preference (ITB 35.1)

The applicable margins of preference are:

11.2 12.1 The Bid shall comprise the following:

- (a) the Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 13, 15, and 16;
- (b) the Bid Security or Bid-Securing Declaration, in accordance with ITB Clause 22, if required;
- (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 23.2; **as specified in the BDS.**
- (d) documentary evidence in accordance with ITB Clause 17 establishing the Bidder's eligibility to bid;
- (e) documentary evidence in accordance with ITB Clause 18, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
- (f) documentary evidence in accordance with ITB Clauses 19 and 31, that

the Goods and Related Services conform to the Bidding Documents;

- (g) documentary evidence in accordance with ITB Clause 20 establishing the Bidder's qualifications to perform the contract if its bid is accepted,

**(h) the following documentary evidence is required from all bidders:**

6. a valid company Registration Certificate;
7. a valid good Standing Tax Certificate;
8. a valid good Standing Social Security Certificate;
9. a valid Affirmative Action Compliance Certificate, proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998;
10. An undertaking on the part of the Bidder that the salaries and wages payable to its personnel in respect of this proposal are compliant to the relevant laws, Remuneration Order, and Award, where applicable and that it will abide to sub-clause 4.6 of the General conditions of Contract if it is awarded the contract or part thereof.

Certified copies of the above documents are required, bidders not registered in Namibia must submit the equivalent of these documents as issued in their country of origin.

### 13 Exclusive Preference to Local Suppliers

The applications of exclusive preferences to local suppliers will be completed after the above evaluation phases. Only bidders who have passed will be considered at this stage following Sections 70(1) and 72 of the Public Procurement Act, Act No. 15 of 2015, and No. 3 of 2022 as Amended together with the Code of Good Practice of the said act.

Categories of Bidders	Margin of Preference	Documentary Evidence

Manufacturer	2%	<ul style="list-style-type: none"> <li>• Certificate of registration from a registering authority</li> <li>• Declaration by the bidder that the manufactured goods meet local content as determined in Annexure ^ as per the cost structure for Value Added Calculation in Annexure 1, and as certified by an Accountant.</li> </ul>
Micro, Small and Medium Enterprise	1%	<ul style="list-style-type: none"> <li>• SME registration certificate</li> <li>• Declaration indicating the percentage of Namibian MSME ownership.</li> </ul>
Women owned enterprise	1%	<ul style="list-style-type: none"> <li>• IDs of all shareholders</li> <li>• Founding statement/company registration</li> <li>• indicating ownership structure/shareholder certificate</li> <li>• Declaration indicating the percentage.</li> <li>• Of Namibian female ownership.</li> </ul>
Youth owned enterprise	2%	<ul style="list-style-type: none"> <li>• IDs of all shareholders</li> <li>• Founding statement / company registration</li> <li>• Indicating ownership structure/shareholder certificate</li> <li>• Declaration indicating the percentage.</li> <li>• Of Namibian youth ownership</li> </ul>
Previously Disadvantaged Person owned enterprise	2%	<ul style="list-style-type: none"> <li>• IDs of all shareholders</li> <li>• Founding statement/company registration indicating ownership structure/shareholder certificates -</li> <li>• Declaration indicating the percentage of Namibian PDPs ownership</li> </ul>
Suppliers providing environmental protection	1%	<ul style="list-style-type: none"> <li>• Declaration and proof that the bidder meets the requirements set out in the bidding document</li> </ul>
Suppliers providing employment to Namibian	1%	<ul style="list-style-type: none"> <li>• Declaration that bidder employs 50% or more Namibian citizens</li> </ul>
<b>Total</b>	<b>10%</b>	

## Section IV. Bidding Forms

### Table of Forms

Bidder Information Form .....
Joint Venture Partner Information Form .....
Bid Submission Form .....
Bid Security (Bank Guarantee).....
Bid Securing Declaration.....
Manufacturer's Authorization .....
Price Schedule : Goods Manufactured outside Namibia to be imported .....
Price Schedule: Goods Manufactured outside Namibia already imported .....
Price Schedule : Goods Manufactured in Namibia.....
Price and Completion Schedule - Related Services .....
Cost Structure for Value Added Calculation per Product.....

## Bidder Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. 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]*  
Procurement No.: *[insert reference number of bidding process]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Bidder's Legal Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each party: <i>[insert legal name of each party in JV]</i>
3. Bidder's actual or intended Country of Registration: <i>[insert actual or intended Country of Registration]</i>
4. Bidder's Year of Registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Legal Address in Country of Registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative  Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>

7. Attached are copies of original documents of: *[check the box(es) of the attached original documents]*

- ☐ Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITB Sub-Clauses 5.1 and 5.2.
- ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB Sub-Clause 5.1.
- ☐ In case of government owned entity from Namibia, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 5.5.



## Joint Venture Partner Information Form

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

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

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

1. Bidder's Legal Name: <i>[insert Bidder's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>
4. JV's Party Year of Registration: <i>[insert JV's Part year of registration]</i>
5. JV's Party Legal Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i>
6. JV's Party Authorized Representative Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>
7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 2, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.  <input type="checkbox"/> In case of government owned entity from Namibia, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 5.5.

## 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: \_\_\_\_\_

Procurement Ref. No.: \_\_\_\_\_

To: Road Fund Administration, No. 21 Feld Street, Windhoek Namibia

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 Addendum];*
- (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 21.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 25.1, 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 undertake to obtain a Performance Security in accordance with ITB Clause 45 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 5.2;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractor or supplier for any part of the contract—have not been declared ineligible by an international financing agency such as the World Bank, African Development Bank or any other international agency or under the Laws of Namibia or official regulations in accordance with ITB Sub-Clause 5.3;
- (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/ is payable and the amount and currency of each such commission or gratuity]*

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

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

- (k) We hereby confirm that we have read and understood the content of the Bid Securing Declaration attached herewith and subscribe fully to the terms and conditions contained therein, if required. We understand that non-compliance to the conditions mentioned may lead to disqualification.
- (l) 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.
- (m) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

Signed:\_\_\_\_\_ *[insert signature of person whose name and capacity are shown]*

In the capacity of \_\_\_\_\_ *[insert legal capacity of person signing the Bid Submission Form]*

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

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

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

*[This form is to be deleted if Bid Security is not applicable.]*

**Appendix to Bid Submission  
Form**

**BID SECURING DECLARATION**  
(Section 45 of Act)  
(Regulation 37(1)(b) and 37(5))

Date: .....

Procurement Ref No.: .....

To: .....

I/We\* understand that in terms of section 45 of the Act a public entity must include in the bidding document the requirement for a declaration as an alternative form of bid security.

I/We\* accept that under section 45 of the Act, I/we\* may be suspended or disqualified in the event of

- (a) a modification or withdrawal of a bid after the deadline for submission of bids during the period of validity;
- (b) refusal by a bidder to accept a correction of an error appearing on the face of a bid;
- (c) failure to sign a procurement contract in accordance with the terms and conditions set forth in the bidding document, should I/We\* be successful bidder; or
- (d) failure to provide security for the performance of the procurement contract if required to do so by the bidding document.

I/We\* understand this bid securing declaration ceases to be valid if I am/We are\* not the successful Bidder.

Signed: .....  
*[insert signature of person whose name and capacity are shown]*

Capacity of:  
*[indicate legal capacity of person(s) signing the Bid Securing Declaration]*

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

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

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
*[insert 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.]



## Republic Of Namibia

### Ministry of Labour, Industrial Relations and Employment Creation

Written undertaking in terms of section 138 of the Labour Act, 2015 and section 50(2)(D) of the Public Procurement Act, 2015

#### 1. EMPLOYERS DETAILS

Company Trade Name:.....

Registration Number :.....

Vat Number: .....

Industry/Sector: .....

Place of Business:.....

Physical Address:.....

Tell No.:.....

Fax No.:.....

Email Address:.....

Postal Address:.....

Full name of Owner/Accounting Officer:.....

.....

Email Address:.....

## 2. PROCUREMENT DETAILS

Procurement Reference No.:.....

Procurement Description: .....

.....

.....

Anticipated Contract Duration: .....

Location where work will be done, good/services will be delivered: .....

.....

## 3. UNDERTAKING

I .....*[insert full name]*, owner/representative.

of .....*[insert full name of company]*

hereby undertake in writing that my company will at all relevant times comply fully with the relevant provisions of the Labour Act and the Terms and Conditions of Collective Agreements as applicable.

I am fully aware that failure to abide to such shall lead to the action as stipulated in section 138 of the labour Act, 2007, which include but not limited to the cancellation of the contract/licence/grant/permit or concession.

Signature: .....

Date: .....

Seal:.....

*Please take note:*

1. *A labour inspector may conduct unannounced inspections to assess the level of compliance.*
2. *This undertaking must be displayed at the workplace where it will be readily accessible and visible by the employees rendering service(s) in relations to the goods and services being procured under this contract.*



## Manufacturer's Authorization

*[The Bidder shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Bidder shall include it in its bid, if so indicated in the **BDS**.]*

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

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

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

To: *[insert complete name of Purchaser]*

### WHEREAS

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

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

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

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

Title: *[insert title]*

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

## 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 Purchaser in the Schedule of Requirements.]*

## Price Schedule : Compliance Management System Implementation

Bidder's name and address: ..... .....			Prices to be in Namibian dollars					Date: _____ — Procurement Ref. No: _____	
1	2	3	4	5	6	7	8	9	10
Line Item No.	Description of Goods and related services	Country of Origin	Delivery	Quantity and physical unit				Unit price CIF/CIP [ <i>insert place of destination</i> ] (col 6+7+8)	CIF/CIP Price per line item (Col. 5x9)
1	Compliance Management System			1					
2	Project Management Expertise			1					
3	Implementation, Customization and Quality Assurance			1					
4	End-users Training (10 - users, including Admin)			1					
5	Data Migration			1					

6	Annual Support and Maintenance			1					
7	Annual License Fee			1					

## Cost Structure for Value Added Calculation per Product

COST STRUCTURE FOR VALUE ADDED CALCULATION PER PRODUCT		
	N\$	N\$
<b>Raw Materials, Accessories &amp; Components</b>		
• Imported (CIF)	.....	.....
• Local (VAT & Excise Duty Fee)	.....	.....
<b>Labour Cost</b>		
• Direct Labour	.....	.....
• Clerical Wages	.....	.....
• Salaries to Management	.....	.....
<b>Utilities</b>		
• Electricity	.....	.....
• Water	.....	.....
• Telephone	.....	.....
Depreciation	.....	.....
Interest on Loans	.....	.....
Rent	.....	.....
<b>Other (please specify)</b>		
• .....	.....	.....
• .....	.....	.....
• .....	.....	.....
<b>TOTAL COST</b>		

$$\text{Local Value Added} = \frac{\text{Total Cost} - \text{Cost of imported inputs}}{\text{Total Cost}} \times 100$$

- The cost structure should be certified by a Certified Accountant

## PART 2 – Supply Requirements

# Section V. Schedule of Requirements

## Contents

1. List of Goods and Delivery Schedule .....
2. List of Related Services and Completion Schedule .....
3. Technical Specifications.....
4. Drawings.....
5. Inspections and Tests.....



## Notes for Preparing the Schedule of Requirements

The Schedule of Requirements shall be included in the bidding documents by the Purchaser, and shall cover, at a minimum, a description of the goods and services to be supplied and the delivery schedule.

The objective of the Schedule of Requirements is to provide sufficient information to enable bidders to prepare their bids efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section IV. In addition, the Schedule of Requirements, together with the Price Schedule, should serve as a basis in the event of quantity variation at the time of award of contract pursuant to ITB Clause 41

The date or period for delivery should be carefully specified, taking into account (a) the implications of delivery terms stipulated in the Instructions to Bidders pursuant to the *Incoterms* rules (i.e., EXW, or CIF, CIP, FOB, FCA terms—that “delivery” takes place when goods are delivered **to the carriers**), and (b) the date prescribed herein from which the Purchaser’s delivery obligations start (i.e., notice of award, contract signature, opening or confirmation of the letter of credit)

## 1. List of Goods and Delivery Schedule

Line Item No.	Description of Goods	Quantity	Physical unit	Final Destination (Project Site) as specified in BDS	Delivery (as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date [ <i>to be provided by the bidder</i> ]
1	Compliance Management System	1	1	RFA	September 2023	November 2023	
2	Project Management Expertise			RFA			
3	Implementation, Customization and Quality Assurance	1	1	RFA	September 2023	November 2023	
4	End-users Training	1	1	RFA	September 2023	November 2023	
5	Data Migration	1	1	RFA	September 2023	November 2023	
6	Annual Support and Maintenance	1	1	RFA	September 2023	November 2023	
7	Annual License Fee	1	1	RFA	September 2023	November 2023	

## 2. List of Related Services and Completion Schedule

*[This table shall be filled in by the Purchaser. The Required Completion Dates should be realistic, and consistent with the required Goods Delivery Dates (as per Incoterms)]*

Description of Service	Quantity <sup>1</sup>	Physical Unit	Place where Services shall be performed	Final Completion Date(s) of Services
Compliance Management System	1	1	RFA	November 2023
Project Management Expertise	1	1	RFA	November 2023
Implementation, Customization and Quality Assurance	1	1	RFA	November 2023
End-users Training	1	1	RFA	November 2023
Data Migration	1	1	RFA	November 2023
Annual Support and Maintenance	1	1	RFA	November 2023

### 3. Technical Specifications

The Road Fund Administration (RFA) invites bidders specialized in the Implementation of **Compliance Management System (CMS)** to submit their proposals for the services advertised. The Consultant shall provide full information on their qualifications and experience, demonstrating that they are qualified and experienced in providing similar services.

The CMS will serve as an automated and collective method of managing and tracking compliance activities in one place hassle free and assigning a risk matrix to the identified activity. The CMS should assist the RFA in creating its statutory universe in terms of its legislative requirements. This should then be used as the compliance requirements for assessing, documenting, monitoring, and auditing all core functions from both a strategic and operations perspective.

The CMS should Centralize and automate all work processes relevant to the management of regulatory and organizational compliance requirements to have a complete overview of the RFA business compliance in a single view. Further, the CMS should protect the RFA from the risk of non-compliance, enhance corporate integrity, document roles and responsibilities, and provide regulators with solid evidence that regulatory obligations are met.

Provision of Compliance Management System.

You are hereby invited to submit technical and financial proposals for a Compliance Management System for the RFA.

**1. The purpose of this assignment is to:**

- a) Improve Corporate Performance by standardizing and automating compliance management processes.
- b) Identify emerging risks and opportunities by linking data from multiple sources into custom dashboards.
- c) Comply with laws, rules, and regulations by demonstrating to regulators, and key stakeholders with a single integrated tool.
- d) Generate relevant compliance reports.
- e) Automated Compliance Management processes.

**2. Apply Project Management Expertise**

- a) Participate in the project initiation phase of defining the project goals, objectives, scope, and plan.
- b) This will also involve defining standards, procedures, implementation strategy etc. Follow a Project Methodology if possible.
- c) Tracking and reporting on progress, deliverables and ensuring frequent quality reporting.

**3. Implementation, Customization and Quality Assurance**

Oversee the implementation phase through active project management and quality assurance, which includes but will not be limited to the following activities:

- a) Workflow, and process review
- b) Automate Compliance Management Software to meet RFA requirements.
- c) Ensuring accuracy and completeness of project documentation.
- d) Ensuring deliverables are completed.
- e) Implement and ensure access controls.

**4. End-users Training**

- a) Develop a training plan.
- b) Provide training to relevant stakeholders.
- c) User Acceptance Testing

## 5. Deliverables

- a) Fully functional Compliance Management System
- b) Project Management
- c) Signed-off project plan.
- d) Develop and sign –off a detailed Implementation Plan with key Milestones and deliverables.
- e) Regular meetings on the project progress
- f) Training
- g) Detailed user training
- h) Supervisor Training
- i) Support and Maintenance
- j) Annual License Fee

## 5. Data Migration

- a) Data Migration Plan, which will include data quality assessment.

# THE SCOPE OF SERVICES

The bidder for the Compliance Management System for the RFA.

## 1. REQUIRMENTS FOR COMPLIANCE MANAGEMENT SYSTEM

### (a) USER PROFILES

- The system must be able to create user profiles.
- Profiles are to link to the Active Directory

### (b) COMPATABILITY

- Windows Environment
- iOS Environment
- Microsoft Edge, Google Chrome, Safari
- On-premises solution (should be accessible via the cloud)
- Ability to integrate with other applications or systems, i.e., Oracle ERP

### (c) ACCESSABILITY

- Desktop, and Laptops
- Tablets and Mobile phones

(d) SYSTEM FUNCTIONS:

i. APPLICABLE LAW

- Identify the relevant laws and regulations that are applicable to the organization.
- Identify the compliance obligations derived from the applicable laws and regulations with which the organization should comply with.
- Detect regulatory changes in terms of any legislation or amendments and update the system accordingly with the said regulatory changes.
- Ensure internal policies and procedures are in line with the relevant legislation.
- Access to a Compliance Library to have easy access to all legislation and policies.

ii. REPORTING

- User friendly reporting.
- Reports for different periods for board and auditing purposes based on compliance status.
- Reports for complete compliance register as well as a summary based on filters selected.
- The system should enable forecasting, reporting and business intelligence functions, with customized reports for cross-referencing and integration with other databases.

iii. FUNCTIONALITY

- Ability to identify the risks of non-compliance of relevant compliant obligations.
- Ability to identify risk owners of non-compliance and consequences—department heads.
- Ability to identify the mitigating controls that should be in place as per the relevant laws, regulations, and policies.
- Allows for a Residual Risk Rating - A factor of assessed impact versus the control efficiency.
- Ability to import and export compliance proofs submitted by the departments.
- Ability to link compliance proofs received with relevant compliance requirements.

- Ability to identify the tasks that need to be done/complied with for the relevant department to be compliant.
- Alerts to compliance violation according to the risk rating.
- Alerts on due dates of compliance proofs to be submitted, tasks to be completed and compliance of due dates with regards to laws and regulations.
- Identify high-risk actions and ensure risk management.
- Customization or amendments of system in terms of compliance needs.
- Security features that ensure confidentiality of system and limited access for users.
- Keep electronic files, notes, and copies of supporting documentation.
- Search engine to filter matters.
- Archiving of files
- 

#### iv. USER REQUESTS

- Creating compliance activities
- Assigning compliance activities
- Tracking compliance activities

### **(e) USER FRIENDLY AND ACCESSIBLE FROM DIFFERENT LOCATIONS**

- The system should be simple and user-friendly. It should thus be adapted in a manner to suit users.

## **2. TECHNICAL REQUIRMENTS FOR COMPLIANCE MANAGEMENT SYSTEM**

- a. The system should be on premises, and with license subscriptions. Easy implementation and automatic updates to allow for improved efficiency.
- b. Trained personnel should be able to amend the system accordingly should the need arise.



### 3. PROJECT REQUIRMENTS FOR COMPLIANCE MANAGEMENT SYSTEM

#### (a) Apply Project Management Expertise

- i. Participate in the project initiation phase of defining the project goals, objectives, scope, and plan.
- ii. This will also involve defining standards, procedures, implementation strategy etc. Follow a Project Methodology if possible.
- iii. Tracking and reporting on progress, deliverables and ensuring frequent quality reporting.

#### (b) Implementation, Customization and Quality Assurance

Oversee the implementation phase through active project management and quality assurance, which includes but will not be limited to the following activities:

- i. Workflow, and process review
- ii. Customize the Compliance Management Software to meet RFA requirements.
- iii. Ensuring accuracy and completeness of project documentation.
- iv. Ensuring deliverables are completed.
- v. Implement and ensure access controls.

#### (c) End-users Training

- i. Develop a training plan.
- ii. Provide training to relevant stakeholders.
- iii. User Acceptance Testing

#### (d) Deliverables

##### a. Project Management

- i. Signed-off project plan.

- ii. Develop and sign –off a detailed Implementation Plan with key Milestones and deliverables.
  - iii. Regular meetings on the project progress
- b. Training
  - i. Detailed user training
  - ii. Supervisor Training
- c. Data Migration
  - i. Data Migration Plan, which will include data quality assessment.

## Experience of the Consultant

The Consultant should have the following minimum experience in performing post-implementation reviews.

Qualifications and Experience	
Team Lead	<ul style="list-style-type: none"> <li>• Project Management Qualification.</li> <li>• Compliance Specialist Qualification.</li> <li>• 10 Years' experience in the implementation in Compliance Management Systems</li> </ul>
Team Members	<ul style="list-style-type: none"> <li>• Project Management Qualification.</li> <li>• Compliance Specialist Qualification.</li> <li>• 3-5 years' experience in the implementation in Compliance Management Systems</li> </ul>
References:	<ul style="list-style-type: none"> <li>• Experience in similar work successful implementations.</li> </ul>

## PART 3 - Contract

# Section VI. General Conditions of Contract

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## Section VI. General Conditions of Contract

1. Definitions
  - 1.1 The following words and expressions shall have the meanings hereby assigned to them:
    - (a) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
    - (b) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
    - (c) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions 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 Purchaser under the Contract.
    - (h) “Purchaser” means the entity purchasing the Goods and Related Services, **as specified in the SCC.**
    - (i) “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.
    - (j) “SCC” means the Special Conditions of Contract.
    - (k) “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.

(l) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.

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

## 2. Contract Documents

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

## 3. Fraud and Corruption

3.1 If the Purchaser 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 Purchaser 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” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>7</sup>;

(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

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<sup>7</sup> “Another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes Public Entity’s staff and employees of other organizations taking or reviewing procurement decisions.

to avoid an obligation<sup>8</sup>;

- (iii) “collusive practice” is an arrangement between two or more parties<sup>9</sup> designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party<sup>10</sup>;
- (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 a Public Entity’s 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 Public Entity’s inspection and audit rights provided for under Clause 11 [Inspections and Audits by the Public Entity].

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.

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<sup>8</sup> “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.

<sup>9</sup> “Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

<sup>10</sup> “Party” refers to a participant in the procurement process or contract execution.



4. Interpretation
- 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Incoterms
- (a) Unless inconsistent with any provision of the Contract the meaning of any trade term and the rights and obligations of parties hereunder 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 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 Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.
- 4.4 Amendment
- No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.
- 4.5 Non-waiver
- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and

the extent to which it is being waived.

#### 4.6 Severability

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

### 5. Language

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

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

### 6. Joint Venture, Consortium or Association

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

### 7. Eligibility

7.1 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.

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|----------------------------|---|
| 8. Notices                 | 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address <b>specified in the SCC</b> . The term “in writing” means communicated in written form with proof of receipt.  |
|                            | 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.   |
| 9. Governing Law           | 9.1 The Contract shall be governed by and interpreted in accordance with the laws of Namibia.   |
| 10. Settlement of Disputes | 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.   |
|                            | 10.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure <b>specified in the SCC</b> . |
|                            | 10.3 Notwithstanding any reference to arbitration herein, <ul style="list-style-type: none"><li>(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and</li><li>(b) the Purchaser shall pay the Supplier any money due the Supplier.</li></ul>   |
| 11. Inspections and Audit  | 11.1 The Supplier shall permit, and shall cause its Subcontractors and consultants to permit, the Public Entity and/or persons appointed by the Public Entity 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 Public Entity if requested by the Public Entity. 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 Public Entity's inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination.

- |                                 |      |  |
|---------------------------------|------|--|
| 12. Scope of Supply             | 12.1 | The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.   |
| 13. 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 <b>specified in the SCC</b> . |
| 14. 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.   |
| 15. 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 <b>price adjustments authorized in the SCC</b> .   |
| 16. Terms of Payment            | 16.1 | The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the <b>SCC</b> .  |
|                                 | 16.2 | The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.   |
|                                 | 16.3 | Payments shall be made promptly by the Purchaser, but in no case later than thirty (30) days after submission of an invoice or request for payment by the Supplier, and after  |

the Purchaser has accepted it.

16.4 Bidders will be paid in fixed Namibian dollars or Namibian dollars adjusted to the fluctuation in the rate exchange at the time of delivery, as specified in the SCC.

16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period **set forth in the SCC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate **shown in the SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

**17. Taxes and Duties**

17.1 For goods manufactured outside Namibia, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Namibia.

17.2 For goods Manufactured within Namibia, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Namibia, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

**18. Performance Security**

18.1 If required **as specified in the SCC**, the Supplier shall, within thirty (30) 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 Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18.3 The Performance Security, if required, shall be denominated in Namibian dollars, and shall be in the form of a bank guarantee issued by a local commercial bank, or in the case of the bank guarantee being issued by a foreign bank, the bidder must provide a public entity with a counter-guarantee from a commercial bank from

Namibia.

- 18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than thirty (30) 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.**

## 19. Copyright

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

## 20. Confidential Information

- 20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser 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 Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.

- 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 Purchaser or Supplier need to share with 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.

**21.**  
**Subcontracting**

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

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

**22. Specifications  
and Standards**

**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 V, 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 Purchaser, by giving a notice of such disclaimer to

the Purchaser.

- (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 Purchaser and shall be treated in accordance with GCC Clause 33.

### 23. Packing and Documents

- 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 Purchaser.

### 24. 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**.

### 25. Transportation

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

### 26. Inspections and Tests

- 26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Goods/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 Namibia **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 Purchaser.
- 26.3 The Purchaser 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 Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling 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 Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 26.5 The Purchaser 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 Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser 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 Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, 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 Purchaser 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.

## 27. 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 Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage **specified in the 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 Purchaser may terminate the Contract pursuant to GCC Clause 35.

## 28. 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 Namibia.

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 Purchaser 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 Purchaser 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 Purchaser.

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

## 29. Patent Indemnity

29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser 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 Purchaser 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 Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser'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 Purchaser within thirty (30) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.

29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

29.5 The Purchaser 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 Purchaser.

### 30. Limitation of Liability

30.1 Except in cases of criminal negligence or willful misconduct,

- (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages

to the Purchaser and

- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement

**31. Change in  
Laws and  
Regulations**

- 31.1 Unless otherwise specified in the Contract, if after the date of 30 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 Namibia (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.

**32. 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 Purchaser 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 Purchaser in writing of such condition

and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

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

33.1 The Purchaser 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 Purchaser.
- (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 Purchaser'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.

### **34. Extensions of**

34.1 If at any time during performance of the Contract, the

**Time**

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 Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

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.

**35. Termination****35.1 Termination for Default**

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
  - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34;
  - (ii) if the Supplier fails to perform any other obligation under the Contract; or
  - (iii) if the Supplier, in the judgement of the Purchaser 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 Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser 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 Purchaser for any additional costs for such similar

Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### 35.2 Termination for Insolvency.

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

### 35.3 Termination for Convenience.

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within thirty (30) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
  - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

## 36. Assignment

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

## 37. Export Restriction

- 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to Namibia, or to the use of the products/goods, systems or services to be supplied,



which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.

## Section VII. 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.

GCC 1.1(h)	The Purchaser is: <i>Road Fund Administration (RFA)</i>
GCC 1.1 (m)	The Project Site(s)/Final Destination(s) is/are: <i>Compliance Management System, RFA Namibia</i>
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms 2010.
GCC 4.2 (b)	The version edition of Incoterms shall be Incoterms 2010.
GCC 8.1	For <u>notices</u> , the Purchaser's address shall be:  <i>Attention: Ali Ipinge – Chief Executive Officer</i>  <i>Street: 21 Feld Street, Windhoek Namibia</i>  <i>Telephone: +264 61 433 3000</i>
GCC 10.2	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:</p> <p><i>The bidding documents should contain one clause to be retained in the event of a Contract with a foreign Supplier and one clause to be retained in the event of a Contract with a Supplier who is a national of Namibia. At the time of finalizing the Contract, the respective applicable clause should be retained in the Contract. The following explanatory note should therefore be inserted as a header to GCC 10.2 in the bidding document.</i></p> <p>“Clause 10.2 (a) shall be retained in the case of a Contract with a foreign Supplier, and Clause 10.2 (b) in the case of a Contract with a national of Namibia.”</p> <p><b>(a) Contract with foreign Supplier:</b></p> <p><i>For contracts entered into with foreign suppliers, International commercial arbitration may have practical advantages over other dispute settlement methods. The World Bank should not be named as arbitrator, nor should</i></p>

*it be asked to name an arbitrator. Among the rules to govern the arbitration proceedings, the Purchaser may wish to consider the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules of 1976, the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC), the Rules of the London Court of International Arbitration or the Rules of Arbitration Institute of the Stockholm Chamber of Commerce.*

***If the Purchaser chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted:***

GCC 10.2 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

***If the Purchaser chooses the Rules of ICC, the following sample clause should be inserted:***

GCC 10.2 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.

***If the Purchaser chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted:***

GCC 10.2 (a)—Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.

***If the Purchaser chooses the Rules of the London Court of International Arbitration, the following clause should be inserted:***

GCC 10.2 (a)—Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under the Rules of the

	<p>London Court of International Arbitration, which rules are deemed to be incorporated by reference to this clause.</p> <p><b>(b) <i>Contracts with Supplier national of Namibia:</i></b></p> <p>In the case of a dispute between the Purchaser and a Supplier who is a national of Namibia, the dispute shall be referred to adjudication or arbitration in accordance with the laws of Namibia.</p>
GCC 13.1	<p>Details of Shipping and other Documents to be furnished by Suppliers are:</p> <p><b>(a) <i>For Goods supplied from overseas on CIF/CIP terms the (Purchaser as consignee):</i></b></p> <p>Upon shipment, the Supplier shall notify the Purchaser and the insurance company, in writing, the full details of the shipment including Contract number, description of the Goods, quantity, date and place of shipment, mode of transportation, and estimated date of arrival at place of destination. In the event of Goods sent by airfreight, the Supplier shall notify the Purchaser a minimum of forty-eight (48) hours ahead of dispatch, the name of the carrier, the flight number, the expected time of arrival, and the airway-bill number. The Supplier shall fax and then send by courier the following documents to the Purchaser, with a copy to the insurance company:</p> <ul style="list-style-type: none"> <li>(i) three originals and two copies of the Supplier's invoice, showing Purchaser as <i>Road Fund Administration (Namibia)</i> the Procurement Reference number, Goods' description, quantity, unit price and total amount. Invoices must be signed in original, stamped, or sealed with the company stamp/seal;</li> <li>(ii) one original and two copies of the negotiable, clean, on-board through bill of lading marked "freight prepaid" and showing Purchaser as <i>Road Fund Administration (Namibia)</i> and Notify Party as stated in the Contract, with delivery through to final destination as per the Schedule of Requirements and two copies of non-negotiable bill of lading, or air waybill marked "freight prepaid" and showing delivery through to final destination as per the Schedule of Requirements;</li> <li>(iii) four copies of the packing list identifying contents of each</li> </ul>

	<p>package;</p> <ul style="list-style-type: none"> <li>(iv) copy of the Insurance Certificate, showing the Purchaser as the beneficiary;</li> <li>(v) one original of the manufacturer's or Supplier's Warranty Certificate covering all items supplied;</li> <li>(vi) one original of the Supplier's Certificate of Origin covering all items supplied;</li> <li>(vii) original copy of the Certificate of Inspection furnished to Supplier by the nominated inspection agency and six copies (where inspection is required);</li> <li>(viii) any other procurement-specific documents required for delivery/payment purposes.</li> </ul> <p>The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p> <p><b><i>(b) For Goods from local suppliers (already imported on the basis of delivery to warehouse-DDP):</i></b></p> <p>Upon or before delivery of the Goods, the Supplier shall notify the Purchaser in writing and deliver the following documents to the Purchaser:</p> <ul style="list-style-type: none"> <li>(i) one original and two copies of the Supplier's invoice, showing Purchaser, the Contract number, Goods' description, quantity, unit price, and total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal;</li> <li>(ii) two copies of the packing list identifying contents of each package;</li> <li>(iii) one original of the manufacturer's or Supplier's Warranty certificate covering all items supplied;</li> <li>(iv) one original of the Supplier's Certificate of Origin covering all items supplied;</li> <li>(v) original copy of the Certificate of Inspection furnished to Supplier by the nominated inspection agency and six copies (where inspection is required)</li> </ul>
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	<p>(vi) other procurement-specific documents required for delivery/payment purposes.</p> <p><b>(c) For goods from local manufacturers:</b></p> <p>(i) one original and two copies of the Supplier's invoice, showing Purchaser, the Procurement Reference number, Goods' description, quantity, unit price, and total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal;</p> <p>(ii) two copies of the packing list identifying contents of each package;</p> <p>(iii) original copy of the Certificate of Inspection furnished to manufacture by the nominated inspection agency and two copies (where inspection is required), and</p> <p>(iv) other procurement-specific documents required for delivery/payment purposes.</p>
<b>GCC 15.1</b>	<p>The prices charged for the Goods supplied and the related Services performed <i>may</i> be adjustable to fluctuation in the rate of exchange.</p> <p>If prices are adjustable, the method described in the Price Adjustment Formula as attachment to these SCC shall be used.</p>
<b>GCC 16.1</b>	<p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p><b>(a) Payment for Goods supplied from overseas supplier on CIP/CIF basis ( the purchaser as consignee):</b></p> <p>(i) <b>On Acceptance:</b> The Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of an invoice (showing Purchaser's name; the Procurement Reference number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser.</p> <p><b>(b) Payment for Goods and Services supplied from local suppliers (goods already imported) on the basis of DDP:</b></p> <p>Payment for Goods and Services supplied from local suppliers shall be made in Namibian dollars, as follows:</p>

	<p>(i) <b>On Acceptance:</b> The Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of an invoice (showing Purchaser's name; the Procurement Reference number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser.</p> <p><b>(c) Payment for goods from local Manufacturer:</b></p> <p>Payment for Goods and Services supplied from local manufacturers shall be made in Namibian dollars as follows:</p> <p>(i) <b>On Acceptance:</b> The Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of an invoice (showing Purchaser's name; the Procurement Reference number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser.</p>
GCC 16.4	Suppliers shall be paid in Namibian dollars only. The prices <i>may</i> be adjustable to fluctuation in the rate of exchange.
GCC 16.5	<p>Interest shall be payable immediately after the due date for payment.</p> <p>The interest rate shall be the legal rate.</p>
GCC 18.1	A Performance Security " <i>shall not</i> " be required.
GCC 18.4	Discharge of the Performance Security shall take place: <i>N/A</i>
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: <i>[insert in detail the type of packing required, the markings in the packing and all documentation required]</i>
GCC 24.1	The insurance coverage shall be as specified in the Incoterms.
GCC 25.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, responsibility for transportations shall be as follows: <b>The Supplier is required under the Contract to transport the Goods to a specified place of final destination within Namibia, defined as the Project Site. Transport to such place of destination in Namibia, including insurance and storage,</b></p>

	as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price”; or any other agreed upon trade terms.
GCC 26.1	The inspections and tests shall be: must meet specifications and deliverables set out in TOR
GCC 26.2	The Inspections and tests shall be conducted at: <i>Windhoek, Namibia</i>
GCC 27.1	The liquidated damages shall be: <i>around 1 % of the contract price]</i> per week
GCC 27.1	The maximum amount of liquidated damages shall be: 4 %
GCC 28.3	The period of validity of the Warranty shall be: 365 days  For purposes of the Warranty, the place(s) of final destination(s) shall be:  <i>Windhoek, Namibia</i>
GCC 28.5	The period for repair or replacement shall be: 7 – 14 days.



## Attachment: Price Adjustment Formula

If in accordance with GCC 15.1, prices shall be adjustable, the following method shall be used to calculate the price adjustment:

- 15.2 Prices payable to the Supplier, as stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components in accordance with the formula:

$$P_1 = P_0 \left[ a + \frac{bL_1}{L_0} + \frac{cM_1}{M_0} \right] - P_0$$

$$a+b+c = 1$$

in which:

- $P_1$  = adjustment amount payable to the Supplier.
- $P_0$  = Contract Price (base price).
- $a$  = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent.
- $b$  = estimated percentage of labor component in the Contract Price.
- $c$  = estimated percentage of material component in the Contract Price.
- $L_0, L_1$  = labor indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.
- $M_0, M_1$  = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

The coefficients  $a$ ,  $b$ , and  $c$  as specified by the Purchaser are as follows:

$a = [\text{insert value of coefficient}]$

$b = [\text{insert value of coefficient}]$

$c = [\text{insert value of coefficient}]$

The Bidder shall indicate the source of the indices and the base date indices in its bid.

Base date = thirty (30) days prior to the deadline for submission of the bids.

Date of adjustment =  $[\text{insert number of weeks}]$  weeks prior to date of shipment (representing the mid-point of the period of manufacture).

The above price adjustment formula shall be invoked by either party subject to the following further conditions:

- (a) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely responsible. The Purchaser will, however, be entitled to any decrease in the prices of the Goods and Services subject to adjustment.
- (b) If the currency in which the Contract Price  $P_0$  is expressed is different from the currency of origin of the labor and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (c) No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.

## Section VIII. Contract Forms

### Table of Forms

1. Contract Agreement.....
2. Performance Security.....

# 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 Purchaser]*, a *[insert description of type of legal entity, for example, an agency of the Ministry of .... of the Government of { Namibia }, or company incorporated under the laws of {Namibia} ]* and having its principal place of business at *[insert address of Purchaser ]* (hereinafter called “the Purchaser”), and
- (2) *[insert name of Supplier]*, a company 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 Purchaser invited bids for certain Goods and related 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 Namibian Dollars]* (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 Purchaser 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) Technical Requirements (including Schedule of Requirements and Technical Specifications)
  - (e) The Supplier’s Bid and original Price Schedules

- (f) The Purchaser's Notification of Award
  - (g) *[Add here any other document(s)]*
3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
  4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
  5. The Purchaser 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 Namibia on the day, month and year indicated above.

For and on behalf of the Purchaser

Signed: *[insert signature]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[ insert identification of official witness]*