

EAST AFRICAN COMMUNITY



BIDDING DOCUMENT

PROCUREMENT OF GOODS

Subject of Procurement: SUPPLY OF ONLINE CONFERENCE ROOM SYSTEM AND SMART BOARD AT EAC HEADQUARTERS AND PARTNER STATES UNDER THE EAC REGIONAL NETWORK OF PUBLIC HEALTH REFERENCE LABORATORIES FOR COMMUNICABLE DISEASES (MOBILE LAB) PROJECT 2021

Reference Number: PSS/GDS/20-21/013

Date of Issue: 27th April 2021

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Invitation To Bid (ITB)

INTERNATIONAL COMPETITIVE BIDDING

1. The Government of the Federal Republic of Germany acting through KfW Development Bank (KfW), Frankfurt, has extended grant no. 2015 68 229 to the East African Community (EAC), Arusha, Tanzania for the Regional Network of Public Health Laboratories for Communicable Diseases. This project concerns the establishment of such network. The Contracting Authority intends to apply a portion of the funds to eligible payments under the contract(s) for which these Bidding Documents are issued.
2. The East African Community (EAC) now invites sealed bids from eligible bidders for the **Supply of Online Conference Room System and Smart Board at EAC Headquarters and EAC Partner States under the EAC Regional Network of Public Health Reference Laboratories for Communicable Diseases (mobile lab) Project 2021**. The procurement procedure will be conducted in accordance with EAC Procurement Guidelines and KfW's "Guidelines for Procurement of Goods, Works and associated Services".
Item Description: Unified Communication SmartBoard conference system
Quantity. 10
3. Bids shall be submitted for all items and will be evaluated and awarded for all items together. Bidding will be conducted through the International Competitive Bidding as specified in the instructions to bidders, and is open to all eligible bidders. Besides delivery, the supply includes installation, training and corrective maintenance during 2 years as specified item by item in the tender documents.
4. Eligible bidders are manufacturers or suppliers from any country. Interested eligible bidders may obtain a complete set of Bidding Documents in the form of a PDF file, free of cost, by downloading or request a complete set by sending an email to any of the following addresses:

East African Community, Secretariat

Mr. Ponventra Anjimbi

EAC Close, Afrika Mashariki Road

Arusha, Tanzania

Email: panjimbi@eachq.org and gochido@eachq.org and eacprocurement@eachq.org

Phone: +255 27 2162100

The bids must be accompanied by a Bid Security of:

- €2970 or equivalent in USD

5. Bids must be delivered to the address below **to reach NOT later than 11.00a.m East Africa Time on 14th June 2021**

EAST AFRICAN COMMUNITY SECRETARIAT

**The Secretary, General
East African Community Headquarters
EAC Close, off Barabara ya Afrika Mashariki
P. O. Box 1096
Arusha, TANZANIA**

**Telephone Number: +255 27 2162100 OR +255 27 2504253/8;
Fax Number: +255 27 2162190 OR +255 27 2504255**

Bids will be opened in the presence of Bidders or their representative, who choose to attend, on the same day at 11:30 a.m. at the same address above.

6. The EAC reserves the right to accept or reject one or all the tenders without assigning any reason thereof. Award of contract(s) will be subject to approval by the EAC and no objection by KfW.

PART 1 – Bidding Procedures

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Section I. Instructions to Bidders

Definitions

Definitions

- (a) “BD” means the Bidding Documents to be prepared by the Contracting Authority for the selection of Contractor, based on the EAC Standard Template.
- (b) “Bidder” means company or joint venture/ consortium invited to submit technical and financial proposal for this contract.
- (c) “Contracting Authority” means the procuring entity with which the selected Provider signs the Contract for the Goods.
- (d) “Contractor” means any Authority or person that may provide or provides the Services to the Client under the Contract.
- (e) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that are the General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (f) “Bid Data Sheet (BDS)” means such part of the Instructions to Bidders used to reflect specific country and assignment conditions.
- (g) “Day” means calendar day.
- (h) “Evaluation Committee” it is a panel of experts appointed by the Contracting Authority and assigned to evaluate the bids.
- (i) “Instructions to Bidders” (Section 2 of the BD) means the document which provides shortlisted Bidders with all information needed to prepare their Proposals.
- (j) “LOI” (Section 1 of the BD) means the Letter of Invitation being sent by the Contracting Authority to the shortlisted Bidders.
- (k) “Proposal” means the Technical Proposal and the Financial Proposal.
- (l) “Services” means the consulting services or the work to be performed by the Contractor pursuant to the Contract.
- (m) “Subcontractor” means any person or Authority with whom the Bidder or Contractors intends to subcontracts any part of the Services.
- (n) “Technical Specifications” means the document included in the BD as Section VI which provides the minimum technical characteristics and the quantities of goods and related services needed by the Contracting Authority from the Contractor.

A. General

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

2. Fraud and Corruption

2.1 It is the East African Community policy to require that EAC Staff as well as bidders, suppliers, and contractors and their subcontractors under EAC financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.¹ In pursuance of this policy, the EAC :

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice”² is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) “fraudulent practice”³ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “collusive practice”⁴ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice”⁵ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators in order to materially impede an EAC or a governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the

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

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

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

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

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

investigation or from pursuing the investigation,
or

(bb) acts intended to materially impede the exercise of the EAC or governmental or inspection and audit rights.

- (b) It will take the following measures against the bidder recommended for award who has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (i) will reject the bid for award;
 - (ii) will declare the bidder/the contractor, including its affiliates, ineligible, either indefinitely or for a stated period of time, to become an EAC contractor;
 - (iii) will cancel or terminate any ongoing contract with the bidder /the contractor;
 - (iv) will request a the relevant national authorities to conduct a joint investigation with EAC to inspect or carry out audits of the bidder /the contractor' accounting records and financial statements in connection with the contract in question for which it was found guilty of engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices;
 - (v) will forfeit the bid or performance securities of the bidder /the contractor;
 - (vi) will suspend any payments due to the bidder/contractor, under the contract in question or any other contract the bidder/contractor might have with the organization, until the extent of damage caused by their engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for EAC's contracts are determined and recovered, and
 - (vii) will sue the bidder /contractor to recover the damages caused by its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question, if they are not fully recovered by the securities and the payments otherwise due to the bidder/contractor.

- 3. Eligible Bidders**
- 3.1 Pursuant the paragraph 3.2 to 3.4 of this Clause, participation in tender and in award of contracts shall be open on equal terms to:
- (a) Natural persons, companies or firms, or associations or public or semi -public agencies.
 - (b) Cooperative societies and other legal persons governed by public or private law.
 - (c) Joint ventures, consortium or association of firms.
- 3.2 Bidders shall not be eligible for the award of contracts where:
- (a) They are bankrupt;
 - (b) Payments to them have been suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with their national laws in the total or partial loss of the right to administer and dispose of their property;
 - (c) Legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property;
 - (d) They have been convicted, by a final judgment, of any crime or offence concerning their professional conduct;
 - (e) They are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender;
 - (f) They have been de-barred by EAC pursuant to the provisions of the EAC Procurement Manual 2011.
- 3.3 When International Restricted Bidding or limited bidding is employed, and the invitation to bid was sent to shortlisted Bidders, only shortlisted Bidders indicated in **the Bidding Data Sheet** are allowed to participate in this bidding process. If a Bidders is shortlisted as Joint Venture or Consortium, the composition of Joint Venture or Consortium can be changed with prior approval of the Contracting Authority and only if (i) is supported by solid and objective arguments, (ii) does not alter the competition, (iii) is not generating a conflict, and (iv) is not invalidating the criteria and conditions in place when the joint venture or consortium was prequalified.
- 3.4 A Bidder shall not have a conflict of interest. All bidders found to have conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in this bidding process, if they:

- (a) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the Contracting Authority to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the general services to be purchased under these Bidding Documents. Affiliates are the group of companies, firms, associations, etc. where the Bidder or any of the major shareholders owns a minimum of twenty percent (20%) of shares of the share capital. For the same purpose, major shareholder is any legal or physical person who owns no less than twenty percent (20%) of the shares of the Bidder; or
- (b) submit more than one bid in this bidding process, except for alternative offers permitted under ITB Clause 13. However, this does not limit the participation of subcontractors in more than one bid; or
- (c) they have controlling partners in common; or
- (d) they receive or have received any direct or indirect subsidy from any of them; or
- (e) they have the same legal representative for purposes of this bid; or
- (f) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, or influence the decisions of the Contracting Authority regarding this bidding process; or
- (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Contracting Authority as project manager, supervisor, assessor, monitor, evaluator, auditor or any others similar assignment for the contract.

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

4. Eligible Goods and Related Services

4.1 Unless otherwise stated **in the BDS**, EAC does not restrict the Goods and Related Services to be supplied under the Contract and on the basis of their origin.

- 4.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, installation, training, and initial maintenance.
- 4.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

B. Contents of Bidding Documents

5. Sections of Bidding Documents

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

PART 1 Bidding Procedures

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

PART 2 Supply Requirements

- Section VI. Schedule of Requirements

PART 3 Contract

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

- 5.2 The Invitation for Bids issued by the Contracting Authority is not part of the Bidding Documents.
- 5.3 The Contracting Authority is not responsible for the completeness of the Bidding Documents and their addendum, if they were not obtained directly from the Contracting Authority.
- 5.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents may result in the rejection of the bid.

- 6. Clarification of Bidding Documents**
- 6.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Contracting Authority in writing at the Contracting Authority's address **specified in the BDS**. The Contracting Authority will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of bids. The Contracting Authority 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 Contracting Authority deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 7 and ITB Sub-Clause 23.2.
- 7. Amendment of Bidding Documents**
- 7.1 At any time prior to the deadline for submission of bids, the Contracting Authority may amend the Bidding Documents by issuing addendum.
- 7.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the Contracting Authority.
- 7.3 To give shortlisted Bidders reasonable time in which to take an addendum into account in preparing their bids, the Contracting Authority may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 23.2

C. Preparation of Bids

- 8. Cost of Bidding**
- 8.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Contracting Authority shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 9. Language of Bid**
- 9.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Contracting Authority, shall be written in the language indicated in the **BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the official language of the bidding process, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 10. Documents Comprising the Bid**
- 10.1 The Bid shall comprise the following:
- (a) Bid Submission Form, Technical Offer Form and the applicable Price Schedules, in accordance with ITB Clauses 11, 13, and 14;

- (b) Bid Security, in accordance with ITB Clause 20, if required;
- (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 21;
- (d) documentary evidence in accordance with ITB Clause 15 establishing the Bidder's eligibility to bid;
- (e) documentary evidence in accordance with ITB Clause 16, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
- (f) documentary evidence in accordance with ITB Clauses 17 and 29, that the Goods and Related Services conform to the Bidding Documents;
- (g) documentary evidence in accordance with ITB Clause 18 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and
- (h) any other document **required in the BDS**.

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

- 11.1 The Bidder shall submit the Bid Submission Form using the form furnished in Section IV, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 11.2 The Bidder shall submit the Technical Offer Form using the form furnished in Section IV, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 11.3 The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section IV, Bidding Forms

12. Alternative Bids

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

13. Bid Prices and Discounts

- 13.1 The prices and discounts quoted by the Bidder in the Bid Submission Form and in the Price Schedules shall conform to the requirements specified below.
- 13.2 All lots and items must be listed and priced separately in the Price Schedules.

- 13.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discounts offered.
 - 13.4 The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form.
 - 13.5 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, as specified in the **BDS**.
 - 13.6 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of bids by the Contracting Authority. This shall not in any way limit the Contracting Authority's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible country. Prices shall be entered in the manner as specified in the **BDS**.
 - 13.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the **BDS**. A Bid submitted with an adjustable price quotation shall be treated as non responsive and shall be rejected, pursuant to ITB Clause 29. However, if in accordance with the **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
 - 13.8 If so indicated in ITB Sub-Clause 1.3, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Bidders wishing to offer any price reduction (discount) for the award of more than one Contract shall specify the applicable price reduction in accordance with ITB Sub-Clause 13.4 provided the bids for all lots are submitted and opened at the same time.
- 14. Currencies of Bid**
- 14.1 The Bidder shall quote in either EURO or US Dollars. Bids expressed in any other currency will be automatically rejected.
 - 14.2 The bidders shall bear all the associated cost and risk deriving from currency exchange from US Dollars or EURO into their normal currency of trade.

- 15. Documents Establishing the Eligibility of the Bidder** 15.1 To establish their eligibility in accordance with ITB Clause 3, Bidders shall complete the Bid Submission Form, included in Section IV, Bidding Forms.
- 16. Documents Establishing the Eligibility of the Goods and Related Services** 16.1 To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 4, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.
- 17. Documents Establishing the Conformity of the Goods and Related Services**
- 17.1 To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VI, Schedule of Requirements.
- 17.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.
- 17.3 The Bidder shall also furnish a list giving full particulars, including 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 Contracting Authority.
- 17.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Contracting Authority 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 Contracting Authority's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.
- 18. Documents Establishing the Qualifications of the Bidder** 18.1 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the Contracting Authority's satisfaction:

- (a) that, if **required in the BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Contracting Authority's Country;
- (a) that, if **required in the BDS**, in case of a Bidder not doing business within the Contracting Authority's Country, the Bidder is or will be (if awarded the contract) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
- (b) that the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

19. Period of Validity of Bids

- 19.1 Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the Contracting Authority. A bid valid for a shorter period shall be rejected by the Contracting Authority as non-responsive.
- 19.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Contracting Authority may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 20, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB Sub-Clause 19.3.
- 19.3 In the case of fixed price contracts, if the award is delayed by a period exceeding 30 days beyond the expiry of the initial bid validity, the Contract price shall be adjusted as specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.

20. Bid Security

- 20.1 The Bidder shall furnish as part of its bid, a Bid Security, if required, as **specified in the BDS**.
- 20.2 The Bid Security shall be in the amount specified in the **BDS** and denominated in US Dollars or EURO, and shall:

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

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

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

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

the Contracting Authority may, **if provided for in the BDS**, declare the Bidder disqualified to be awarded a contract by the EAC for a period of time **as stated in the BDS**.

21. Format and Signing of Bid

21.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 10 and clearly mark it “ORIGINAL.” In addition, the Bidder shall submit copies of the bid, in the number specified in the **BDS** and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

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

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

D. Submission and Opening of Bids

22. Submission, Sealing and Marking of Bids

22.1 Bidders may always submit their bids by mail or by hand. When so specified in the **BDS**, bidders shall have the option of submitting their bids electronically.

- (a) Bidders submitting bids by mail or by hand, shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB Clause 12, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB sub-Clauses 22.2 and 22.3.

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

22.2 The inner and outer envelopes shall:

- (a) Bear the name and address of the Bidder;
- (b) be addressed to the Contracting Authority in accordance with ITB Sub-Clause 23.1;
- (c) bear the specific identification of this bidding process indicated in ITB 1.1 and any additional identification marks as **specified in the BDS**; and
- (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB Sub-Clause 26.1.

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

23. Deadline for Submission of Bids

23.1 Bids must be received by the Contracting Authority at the address and no later than the date and time **specified in the BDS**.

23.2 The Contracting Authority may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 7, in which case all rights and obligations of the Contracting Authority and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

24. Late Bids

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

25. Withdrawal, Substitution, and Modification of Bids

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

- (a) submitted in accordance with ITB Clauses 21 and 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked

“WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;”
and

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

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

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

26. Bid Opening

26.1 The Contracting Authority shall conduct the bid opening in public at the address, date and time **specified in the BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB Sub-Clause 22.1, shall be as **specified in the BDS**.

26.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only envelopes that are opened and read out at Bid opening shall be considered further.

26.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the Bid Prices, including any discounts and alternative offers; the presence of a Bid Security or Bid-Securing Declaration, if required; and any other details as the Contracting Authority may consider appropriate. Only discounts and alternative offers read

out at Bid opening shall be considered for evaluation. No Bid shall be rejected at Bid opening except for late bids, in accordance with ITB Sub-Clause 24.1.

- 26.4 The Contracting Authority shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, including any discounts, and alternative offers if they were permitted; and the presence or absence of a Bid Security or Bid-Securing Declaration, if one was required. The Bidders' representatives who are present shall be requested to sign the attendance sheet. A copy of the record shall be distributed to all Bidders who submitted bids in time, and posted online when electronic bidding is permitted.

E. Evaluation and Comparison of Bids

- 27. Confidentiality**
- 27.1 Information relating to the examination, evaluation, comparison, and qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the Contract Award.
- 27.2 Any effort by a Bidder to influence the Contracting Authority in the examination, evaluation, and comparison, of the bids or contract award decisions may result in the rejection of its Bid.
- 27.3 Notwithstanding ITB Sub-Clause 27.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Contracting Authority on any matter related to the bidding process, it should do so in writing.
- 28. Clarification of Bids**
- 28.1 To assist in the examination, evaluation, and comparison of the bids, the Contracting Authority 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 Contracting Authority shall not be considered. The Contracting Authority'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 Contracting Authority in the evaluation of the bids, in accordance with ITB Clause 30.
- 29. Responsiveness of Bids**
- 29.1 The Contracting Authority's determination of a bid's responsiveness is to be based on the contents of the bid itself.
- 29.2 A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents

without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
- (b) limits in any substantial way, inconsistent with the Bidding Documents, the Contracting Authority's rights or the Bidder's obligations under the Contract; or
- (c) if rectified would unfairly affect the competitive position of other bidders presenting substantially responsive bids.

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

30. Nonconformities, Errors, and Omissions

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

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

30.3 Provided that the Bid is substantially responsive, the Contracting Authority 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 Contracting Authority there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed

in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

- 30.4 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected.
- 31. Preliminary Examination of Bids**
- 31.1 The Contracting Authority shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 10 have been provided, and to determine the completeness of each document submitted.
- 31.2 The Contracting Authority shall confirm that the following documents and information have been provided in the Bid. If any of these documents or information is missing, the offer shall be rejected.
- (a) Bid Submission Form, in accordance with ITB Sub-Clause 11.1;
 - (b) Technical Offer Form, in accordance with ITB Sub-Clause 11.2;
 - (c) Price Schedules, in accordance with ITB Sub-Clause 11.3;
 - (d) Bid Security, in accordance with ITB Clause 20, if applicable.
- 32. Examination of Terms and Conditions; Technical Evaluation**
- 32.1 The Contracting Authority shall examine the Bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.
- 32.2 The Contracting Authority shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 17, to confirm that all requirements specified in Section VI, Schedule of Requirements of the Bidding Documents have been met without any material deviation or reservation.
- 32.3 If, after the examination of the terms and conditions and the technical evaluation, the Contracting Authority determines that the Bid is not substantially responsive in accordance with ITB Clause 29, it shall reject the Bid.
- 33. Evaluation of Bids**
- 33.1 The Contracting Authority shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.

- 33.2 To evaluate a Bid, the Contracting Authority shall only use all the factors, methodologies and criteria defined in this ITB. No other criteria or methodology shall be permitted.
- 33.3 To evaluate a Bid, the Contracting Authority shall consider the following:
- (a) evaluation will be done for Items or Lots, as **specified in the BDS**; and the Bid Price as quoted in accordance with clause 14;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 30.3;
 - (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 13.4; and
 - (d) adjustments due to the application of the evaluation criteria **specified in the BDS** from amongst those set out in Section III, Evaluation and Qualification Criteria.
- 33.4 The Contracting Authority's evaluation of a bid will exclude and not take into account:
- (a) In the case of Goods manufactured in the Contracting Authority's Country, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;
 - (b) in the case of Goods manufactured outside the Contracting Authority's Country, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder;
 - (c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.
- 33.5 The Contracting Authority's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 13. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors, methodologies and criteria to be used shall be as specified in ITB 33.3 (d).

- 33.6 If so **specified in the BDS**, the Contracting Authority shall grant a margin of preference in the evaluation of bids offering General Services and Related Goods manufactured in the EAC region, when compared to bids offering General Services and Related Goods works manufactured elsewhere. The margin of preference shall be calculated as a fifteen percent (15%) discount to the evaluated total price. To qualify for the regional preference, the bids shall offer Goods and Related Services of at least fifty percent (50%) in contract value of EAC origin.
- 33.7 If so **specified in the BDS**, these Bidding Documents shall allow Bidders to quote separate prices for one or more lots, and shall allow the Contracting Authority to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations, is specified in Section III, Evaluation and Qualification Criteria.
- 34. Comparison of Bids** 34.1 The Contracting Authority shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 33.
- 35. Contracting Authority's Right to Accept Any Bid, and to Reject Any or All Bids** 35.1 The Contracting Authority reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.
- F. Award of Contract**
- 36. Award Criteria** 36.1 The Contracting Authority shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily against the qualification criteria specified in Section III, Evaluation and Qualification Criteria. .
- 37. Contracting Authority's Right to Vary Quantities at Time of Award** 37.1 At the time the Contract is awarded, the Contracting Authority reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VI, Schedule of Requirements, provided this does not exceed the percentages **specified in the BDS**, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents.

38. Notification of Award

- 38.1 Prior to the expiration of the period of bid validity, the Contracting Authority shall notify the successful Bidder, in writing, that its Bid has been accepted.
- 38.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 38.3 The Contracting Authority shall publish a Contract Award Notice on the EAC website the results of the evaluation, and notify in writing both the successful and unsuccessful bidder. After publication of the Contract Award Notice, within maximum 14. calendar days unsuccessful bidders may appeal in writing to the Contracting Authority against the decision in accordance with the relevant clauses of EAC Financial Rules and Regulations, (2012) **specified in the BDS.**
- 38.4 In case of an appeal, the Contracting Authority may suspend the signature of the contract with the successful bidder until a appeal procedures are completed and a final decision it's taken by the EAC. All bidders will be informed in writing about the suspension of the award of the contract and might be requested to extend the validity of their offers in accordance with ITB Clause 19.
- 38.5 Upon the successful Bidder's furnishing of the signed Contract Form and performance security pursuant to ITB Clause 40, the Contracting Authority will promptly discharge the bid security of each unsuccessful Bidder, pursuant to ITB Clause 20.4.

39. Signing of Contract

- 39.1 Promptly after notification, the Contracting Authority shall send the successful Bidder the Agreement and the Special Conditions of Contract.
- 39.2 Within 14 days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Contracting Authority.
- 39.3 Notwithstanding ITB 39.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Contracting Authority, to the country of the Contracting Authority, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Bidder shall not be bound by its bid, always provided, always provided, however, that the Bidder can demonstrate to the satisfaction of the Contracting Authority that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

40. Performance Security

- 40.1 Within 14 days of the receipt of notification of award from the Contracting Authority, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section IX Contract forms, or another Form acceptable to the Contracting Authority. The Contracting Authority shall promptly notify the name of the winning Bidder to each unsuccessful Bidder and discharge the Bid Securities of the unsuccessful bidders pursuant to ITB Sub-Clause 20.4.
- 40.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Contracting Authority may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Contracting Authority to be qualified to perform the Contract satisfactorily.

Section II. Bidding Data Sheet (BDS)

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

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

ITB Clause Reference	A. General
ITB 1.1	The Contracting Authority is: East African Community (EAC)
No reference	The Contracting Authority, EAC, has received financing (hereinafter called “funds”) from the Kreditanstalt für Wiederaufbau (hereinafter called “KfW”), towards the cost of the Regional Network of Public Health Laboratories for Communicable Diseases, KfW No. 2015 68 229. The Contracting Authority intends to apply a portion of the funds to eligible payments under the contract(s) for which these Bidding Documents are issued.
ITB 1.1	The name and identification number of the Contract is: Supply of Online Conference Room System and Smart Board at EAC Headquarters and Partner States under the EAC Regional Network of Public Health Reference Laboratories for Communicable Diseases (Mobile Laboratory) Project 2021
ITB 1.2	The procurement method is: International Competitive Bidding The procurement Guidelines edition is: EAC Financial Rules and Regulations [2012], clause <i>Regulation 61</i> KfW Guidelines for Procurement of Goods, Works and Associated Services in Financial Cooperation with Partner Countries (https://www.kfw-entwicklungsbank.de/Download-Center/PDF-Dokumente-Richtlinien/Vergabe-E.pdf) also apply.
ITB 1.3	Bids shall be submitted for all items. The following restrictions shall apply: <i>None</i>

ITB 2

In addition to ITB 2 the policy of KfW regarding fraud and corruption has to be observed as contained in the KfW Guidelines for Procurement of Goods, Works and Associated Services in Financial Cooperation with Partner Countries (<https://www.kfw-entwicklungsbank.de/Download-Center/PDF-Dokumente-Richtlinien/Vergabe-E.pdf>).

By signing the Declaration of Undertaking (see Section IV), the bidder attests compliance with these requirements. In case of doubt, when tendering the bidder in question shall furnish proof to the satisfaction of the contracting agency and KfW.

ITB 3.2

In addition to ITB 3.2 and according to the KfW Guidelines for Procurement of Goods, Works and Associated Services in Financial Cooperation with Partner Countries bidders shall not be eligible for the award of contracts, if any of the following reasons for exclusion apply:

- Sanctions or embargoes issued by the Security Council of the United Nations, the EU or the German Government preclude the participation of a bidder;
- The bidder is excluded from the tendering process with legal effect of the country of the contracting agency on grounds of criminal offences, especially fraud, corruption or other economic crimes;
- The bidder is a state-controlled company in the partner country that is not legally or economically independent, or that is not subject to commercial law, or that is a public authority dependent on the contracting agency or the project executing agency or the recipient of the loan/financing amount;
- The bidder or individual members of the bidder's staff or a subcontractor has economic links or family ties with personnel of the contracting agency who are involved in preparing the tender documents, awarding the contract or supervising the execution of the contract, insofar as the conflict of interests could not be resolved to KfW's satisfaction in advance of the contract award and execution phase;
- The bidder is or was involved as a consultant in the preparation or implementation of the project. The same applies to an enterprise or an individual that is closely connected to the bidder under a company group or a similar business link, or to several enterprises or individuals associated correspondingly. (exception: In *BOT* projects or turnkey projects a participation of future suppliers or manufacturers may even be desirable);
- The bidder or individual members of the bidder's staff or a subcontractor are or were during the last 12 months prior to publication of the invitation to tender indirectly or directly linked to the project in question through employment as a staff member or advisor to the contracting agency, and are not or were not able in this connection to influence the award of the contract for services, or the bidder is not or was not otherwise able to influence the award of the contract for services.

By signing the Declaration of Undertaking (see Section IV), the bidder attests that none of these reasons for exclusion or conflicts of interest apply. In case of doubt, when tendering the bidder in question shall furnish proof to the satisfaction of the contracting agency and KfW.

ITB 3.3	A list of shortlisted firms invited to bid is the following: <i>Not applicable</i>
ITB 3.5	A list of firms debarred from participating in EAC financed projects is available at https://www.eac.int/opportunities/procurement-procedures .
ITB 4.1	Goods and related services originating from the following countries are not eligible for EAC financed contracts: <i>Not applicable</i>
B. Contents of Bidding Documents	
ITB 6.1	<p>For <u>Clarification of bid purposes</u> only, the Contracting Authority's address is:</p> <p style="padding-left: 40px;">East African Community, Mr. Ponventra Anjimbi EAC Close, Afrika Mashariki Road Arusha, Tanzania Email: panjimbi@eachq.org and gochido@eachq.org and acharles@eachq.org and dmurenzi@eachq.org and eacprocurement@eachq.org Mobile: +255 755 365255 Phone: +255 27 2162100</p> <p>The Contracting Authority will issue clarifications, if required, no later than fourteen (14) days prior to the deadline for submission of bids.</p>
ITB 6.1 and ITB 7.2	Clarifications and addenda will also be posted on the EAC website https://www.eac.int/opportunities
C. Preparation of Bids	
ITB 9	The official language of the bidding process is: English
ITB 10.1 (h)	<p>The Bidder shall submit the following additional documents / items in its bid:</p> <p>Bidder Information Form with documents listed in the form (see Section IV)</p> <p>If applicable, Bidder's JV Information Form with documents listed in the form (see Section IV)</p> <p>Experience form, with attachments as applicable (see Section IV)</p> <p>Financial Situation and Performance Form with documents listed in the form (see Section IV)</p>

	<p>Declaration of Undertaking, as per format (see Section IV)</p> <p>In case maintenance services are offered: The name of the firm(s)/agent(s) in East Africa responsible for carrying out maintenance (head office and any further locations in East Africa with short description of maintenance facilities /staff.</p> <p>Samples requested for certain consumables as per Part VI, Schedule of requirements. If for reasons beyond control of the bidder a sample / samples cannot be provided, he should document the characteristics.</p>
ITB 12.1	Alternative Bids shall not be considered.
ITB 13.5	The Incoterms edition is: Incoterms 2020
ITB 13.6	<p>Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of bids by the Contracting Authority. This shall not in any way limit the Contracting Authority's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through any carriers. Similarly, the Bidder may obtain insurance services from any country.</p> <p>Prices shall be entered in the following manner:</p> <ul style="list-style-type: none"> (a) the price of the Goods, quoted DDP named place of destination. The Places of Destination are: DDP at EAC, EAC Close, Afrika Mashariki Road, Arusha, Tanzania (b) for Related Services, other than inland transportation and other services required to convey the Goods to their destination, whenever such Related Services are specified in the Schedule of Requirements: the price of each item comprising the Related Services at EAC, Arusha or final project site at participating reference laboratories in each EAC country as detailed in Part VI-Schedule of Requirements – technical specifications.
ITB 13.7	The prices quoted by the Bidder shall not be adjustable. If prices shall be adjustable, the methodology is specified in Section III Evaluation and Qualification Criteria.
ITB 14	The Bidder shall quote in EURO or US Dollars. The bidders shall bear all the associated cost and risk deriving from currency exchange from EURO or US Dollars into their normal currency of trade.

ITB 17.3	Period of time the Goods are expected to be functioning (for the purpose of spare parts): five years
ITB 18.1 (a)	Manufacturer's authorization/channel partner/reseller is: required for equipment with a unit price over 5,000 USD
ITB 18.1 (b)	After sales service is: required for equipment for which the Bill of Quantities specifies maintenance requirements. This does not imply that the bidder has to arrange for stocking of spare parts, as long as availability of spare parts is assured (e.g., through dealers in East Africa).
ITB 19.1	The bid validity period shall be 120 days .
ITB 20.1	Bid shall include a Bid Security (issued by bank) in the form specified in Section IV Bidding Forms.
ITB 20.2	The amount of the Bid Security shall be: - €2,970 or equivalent in USD
ITB 20.2 (b)	The eligible countries are: All countries
ITB 20.7	<i>Not applicable</i>
ITB 21.1	In addition to the original of the bid, the number of copies is: Three
D. Submission and Opening of Bids	
ITB 22.1	Bidders shall not have the option of submitting their bids electronically.
ITB 22.2 (c)	The inner and outer envelopes shall bear the following additional identification marks: Lot(s) for which the tender is submitted.
ITB 23.1	<p>The Secretary General East African Community - Secretariat EAC headquarters EAC Close, Afrika Mashariki Road Arusha, Tanzania Email: eacprocurement@eachq.org</p> <p>The deadline for the submission of bids is: Date: 14th June 2021 Time: 11:00 a.m. East African Time</p>

ITB 26.1	<p>The bid opening shall take place at:</p> <p>East African Community Secretariat EAC headquarters EAC Close, Afrika Mashariki Road Arusha, Tanzania Email: eacprocurement@eachq.org and eac@eachq.org Date: 14th June 2021 Time: 11:30 a.m. East Africa Time</p>
	E. Evaluation and Comparison of Bids
ITB 31.2	<p>In addition to the documents listed, the Contracting Authority shall confirm that the following documents and information have also been provided in the Bid. If any of these documents or information is missing, the offer may be rejected.</p> <p>(e) Declaration of Undertaking, duly signed</p>
ITB 32.2	<p>For technical evaluation, each item will be judged as fully responsive, substantially responsive (meaning with some acceptable deviation) or non-responsive (meaning with an unacceptable deviation or absent).</p>
ITB 33.3(a)	<p>Bids will be evaluated for all items together. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. An item not listed in the Price Schedule shall be assumed to be not included in the bid, and provided that the bid is substantially responsive, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison.</p> <p>If among the bids that have been determined, up to this stage of the evaluation, to be substantially responsive, there are bids in EUR and USD for evaluation purposes the bid price in USD will be converted into EUR at the reference exchange rate of the European Central Bank for public banks 2 weeks before the bid opening day.</p>
ITB 33.3(d)	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: Not applicable</p>
ITB 33.6	<p>The Contracting Authority shall not grant Regional Preference for the purpose of the evaluation of this Contract.</p>

	F. Award of Contract
ITB 37.1	<p>The maximum percentage by which quantities may be increased is: 20 % of bid price per lot</p> <p>The maximum percentage by which quantities may be decreased is: 20 % of bid price per lot</p>
ITB 38.3	<p>EAC Financial Rules and Regulations [2012], clause <i>Regulation 61</i>.</p> <p>KfW Guidelines for Procurement of Goods, Works and Associated Services in Financial Cooperation with Partner Countries (https://www.kfw-entwicklungsbank.de/Download-Center/PDF-Dokumente-Richtlinien/Vergabe-E.pdf) also apply.</p>

Section III. Evaluation and Qualification Criteria

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

Contents

1. Evaluation Criteria (ITB 33.3 (d))
2. Multiple Contracts (ITB 33.7)
3. Qualification Criteria (ITB 36)

1. Evaluation Criteria (ITB 33.3 (d))

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

Not applicable

2. Multiple Contracts (ITB 33.7)

Not applicable

3. Qualification Criteria (ITB 36)

No	Subject	Requirement	Compliance with the requirement		Source of information	Supporting document
			Single Bidder	Joint Venture or Consortium		
3.1	Experience in implementing similar contracts	a) experience as Contractor, in at least <i>three</i> contracts within the last <i>five</i> years, with a combined value of at least twice the bid amount, that have been successfully and substantially completed (with proof of acceptance or recommendation letter of client) and that are similar to the proposed works. The similarity shall be based on the characteristics as described in Section VI, Schedule of Requirements , in particular at least 5 years of experience in unified communication systems integrations	Must meet the requirement	All members together must meet the requirement	Form 2	Requested attachments to Form 2
3.2		i) Minimum average annual turnover of 3 x	Must meet the	All members together	Form 3	Requested attachments to

No	Subject	Requirement	Compliance with the requirement		Source of information	Supporting document
			Single Bidder	Joint Venture or Consortium		
	Financial Resources	the tendered price for the goods and associated services proposed for award calculated as total certified payments received for contracts in progress or completed, within the last three years	requirement	must meet the requirement The leader of the JV or Consortia alone must meet at least 50 percent of the requirement		Form 3
		ii) Access to a dedicated credit line or overdraft facility of the price for goods and related services proposed for award. (in case of doubt, the Client reserves the right to verify this).	Must meet the requirement	The leader of the consortia must meet the requirement alone	Form 3	Requested attachments to Form 3
		iii) Minimum average annual operational profit of 1 % of total operational revenues with profit calculated as total operational revenues minus total operational expenses, within the last three years	Must meet the requirement	All members together must meet the requirement	Form 3	Requested attachments to Form 3

Section IV. Bidding Forms

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Bid Submission Form

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

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

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

Invitation for Prequalification No.: *[insert No of IFP]*

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

To: The Secretary General
 East African Community
 EAC headquarters
 EAC Close, Afrika Mashariki Road
 Arusha,
 Tanzania

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: _____ *[insert the number and issuing date of each Addenda];*
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods and Related Services _____ *[insert a brief description of the lot(s) of Goods and Related Services included in bid];*
- (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 19.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 23.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

- (f) If our bid is accepted, we commit to obtain a performance security in accordance with ITB Clause 40 and GCC Clause 17 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 3.4;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the EAC, under the Contracting Authority’s country laws or official regulations, in accordance with ITB Sub-Clause 3.2 and 3.5;
- (j) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—are not falling under any of the exclusion criteria stated in ITB Sub-Clause 3.2;
- (k) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

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

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

- (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]*

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]*

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

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

Page _____ of _____ pages

1. Bidder's Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each member : <i>[insert legal name of each member 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 Address in country of registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information A. 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 <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 3. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 3. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Bidder's JV Members Information Form

[The Bidder shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Bidder and for each member of a Joint Venture].

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

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

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

Page _____ of _____ pages

1. Bidder's Name: <i>[insert Bidder's legal name]</i>
2. Bidder's JV Member's name: <i>[insert JV's Member legal name]</i>
3. Bidder's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4. Bidder's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5. Bidder's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6. Bidder's JV Member's authorized representative information Name: <i>[insert name of JV's Member authorized representative]</i> Address: <i>[insert address of JV's Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i> Email Address: <i>[insert email address of JV's Member 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 equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 3. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Form 2 Experience

[The following table shall be filled in for the Bidder and in the case of a JV Bidder, each Member]

Bidder's Legal Name: *[insert full name]*
 Date: *[insert day, month, year]*
 JV Member's Legal Name: *[insert full name]*
 ICB No. and title: *[insert ICB number and title]*
 Page *[insert page number]* of *[insert total number]* pages

[Identify contracts that demonstrate relevant similar supplies and associated services over the past five years pursuant to Section III, Evaluation and Qualification Criteria, Sub-Factor 4.1. List contracts chronologically, according to their commencement (starting) dates.]

Starting Year	Ending Year	Contract Identification	Role of Bidder
<i>[indicate year]</i>	<i>[indicate year]</i>	Contract name: <i>[insert full name]</i> Brief Description of the Supplies and associated Services performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and US\$ equivalent*]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i> E-mail and telephone:	<i>[insert "Prime Contractor" or "JV Member" or "Sub-contractor" or "Management Contractor"]</i>
		Contract name: <i>[insert full name]</i> Brief Description of the Supplies and associated Services performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in currency, mention currency used, exchange rate and US\$ equivalent*]</i> Name of Employer: <i>[indicate full name]</i> Address: <i>[indicate street/number/town or city/country]</i> E-mail and telephone:	<i>[insert "Prime Contractor" or "JV Member" or "Sub-contractor" or "Management Contractor"]</i>

Form – 3
Financial Situation and Performance

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

Bidder's Legal Name: *[insert full name]*

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

JV Member's Legal Name: *[insert full name]*

ICB No. and title: *[insert ICB number and title]*

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

1. Financial data

Type of Financial information in (currency)	Historic information for previous <i>_three years,</i> (amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

2. Sources of Finance

[The following table shall be filled in for the Bidder and all parties combined in case of a Joint Venture]

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total cash flow demands of the subject contract or contracts for lots tendered for, as specified in Section III (Evaluation and Qualification Criteria)

No.	Source of finance	Amount (US\$ equivalent)
1		
2		
3		

3. Financial documents

The Bidder and its parties shall provide copies of financial statements for *three* years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.2. The financial statements shall:

- (a) reflect the financial situation of the Bidder or in case of JV member , and not an affiliated entity (such as parent company or group member).
 - (b) be independently audited or certified in accordance with local legislation.
 - (c) be complete, including all notes to the financial statements.
 - (d) correspond to accounting periods already completed and audited.
- Attached are copies of financial statements⁶ for the three years required above; and complying with the requirements

⁶ If the most recent set of financial statements is for a period earlier than 12 months from the date of submission, the reason for this should be justified.

Technical Offer Form

The Bidder must specify the make / model of each piece of equipment offered, provide information on each part of the Technical Specifications included in Section VI. Schedule of Requirements and attach relevant catalogs, brochures and manufacturer's drawings. A system description of the proposed solution must be submitted.

Price Schedule Forms

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

Price Schedule per Lot: Goods

Date: _____ In US Dollars or Euro Bid/Contract No: _____ (bidder to specify) Page N° _____ of _____						
1	2	3	4	5	6	7
Line Item N° with separation in individual pieces of equipment of the online conference system	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price DDP EAC, Arusha, Tanzania in accordance with ITB 13.6	DDP Price per line item = Total Price per Line item (Col. 5x6)
<i>[insert number of the item]</i>	<i>[insert name of good]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit DDP price per line item]</i>	<i>[insert total DDP price of the line item]</i>
					Total Bid Price of Goods	

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

Price and Completion Schedule per Lot - Related Services

In US Dollars or Euro (bidder to specify)						Date: _____
						Contract No: _____
						Page N° _____ of _____
1	2	3	4	5	6	7
Lot and Service N°	Description of Services (excludes inland transportation and other services required in the Contracting Authority's country to convey the goods to their final destination)	Country of Origin	Delivery Date at place of Final destination	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6 or estimate)
<i>[insert number of the Service]</i>	<i>[insert name of Services –if any of the services not applicable for a particular lot, state so]</i>	<i>[insert country of origin of the Services]</i>	<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item]</i>	<i>[insert total price per item]</i>
A	Installation or assembly in working condition at place of final destination as per Part VI, Schedule of Requirements for all items					
B	Training for all items of the lot as per Part VI, Schedule of Requirements for all items					
C	Maintenance for 2 years as per Part VI, Schedule of Requirements for all items					

Total Bid Price of Related Services	
-------------------------------------	--

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

Bid Security (Bank Guarantee)

Standard Form of a Bid Bond

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

Address of guarantor bank:

.....
.....

Address of beneficiary (contracting agency):

.....
.....

We, the undersigned (Guarantor), in order to enable to bid for (project, object of contract), hereby irrevocably and independently guarantee to pay to you an amount up to a total of

.....

waiving all objections and defences.

We shall effect payments under this guarantee on your first written demand, which must be accompanied by your confirmation that you have accepted the above-mentioned bid and that the firm is no longer prepared to abide by this bid.

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

This guarantee is governed by the laws of

.....

Date

.....

Guarantor

Manufacturer's Authorization

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

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

To: *[insert complete name of Contracting Authority]*

WHEREAS

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

We hereby extend our full guarantee and warranty in accordance with Clause 26 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

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

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

Title: *[insert title]*

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

Declaration of Undertaking

Reference name of the Application/Offer/Contract: ("Contract")¹
 To: ("Project Executing Agency")

1. We recognise and accept that KfW only finances projects of the Project Executing Agency ("PEA")² subject to its own conditions which are set out in the Funding Agreement it has entered into with the PEA. As a matter of consequence, no legal relationship exists between KfW and our company, our Joint Venture or our Subcontractors under the Contract. The PEA retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:
 - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganization or being in any analogous situation;
 - 2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organization, money laundering, terrorist-related offences, child labor or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
 - 2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests (*in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);
 - 2.4) having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
 - 2.5) not having fulfilled applicable fiscal obligations regarding payments of taxes either in the country where we are constituted or the PEA's country;
 - 2.6) being subject to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debar> or respectively on the relevant list of any other multilateral development bank (*in the event of such exclusion, the Applicant or Bidder shall attach to this Declaration of*

1 Capitalised terms used, but not otherwise defined in this Declaration of Undertaking have the meaning given to such term in KfW's "Guidelines for the Procurement of Consulting Services, Works, Goods, Plant and Non-Consulting Services in Financial Cooperation with Partner Countries".

2 The PEA means the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services.

Guidelines for the Procurement of Consulting Services, Works, Goods, Plant and Non-
Consulting Services in
Financial Cooperation with Partner Countries

Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction); or

- 2.7) being guilty of misrepresentation in supplying the information required as a condition of participation in the Tender.
3. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Contract are in any of the following situations of conflict of interest:
 - 3.1) being an affiliate controlled by the PEA or a shareholder controlling the PEA, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.2) having a business or family relationship with a PEA's staff involved in the Tender Process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.3) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the PEA;
 - 3.4) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the PEA;
 - 3.5) in the case of procurement of Works, Plant or Goods:
 - i. having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Contract;
 - ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
5. We undertake to bring to the attention of the PEA, which will inform KfW, any change in situation with regard to points 2 to 4 here above.
6. In the context of the Tender Process and performance of the corresponding Contract:
 - 6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Contract have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Contract will engage in any Sanctionable Practice during the performance of the Contract;
 - 6.2) neither we nor any of the members of our Joint Venture or any of our Subcontractors under the Contract shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or Germany; and
 - 6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labor standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International

Guidelines for the Procurement of Consulting Services, Works, Goods, Plant and Non-Consulting Services in
Financial Cooperation with Partner Countries

Labor Organisation³ (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents provided by the PEA and, in any case, implement measures to prevent sexual exploitation and abuse and gender based violence.

7. In the case of being awarded a Contract, we, as well as all members of our Joint Venture partners and Subcontractors under the Contract will, (i) upon request, provide information relating to the Tender Process and the performance of the Contract and (ii) permit the PEA and KfW or an agent appointed by either of them, and in the case of financing by the European Union also to European institutions having competence under European Union law, to inspect the respective accounts, records and documents, to permit on-the-spot checks and to ensure access to sites and the respective project.
8. In the case of being awarded a Contract, we, as well as all our Joint Venture partners and Subcontractors under the Contract undertake to preserve above mentioned records and documents in accordance with applicable law, but in any case for at least six years from the date of fulfillment or termination of the Contract. Our financial transactions and financial statements shall be subject to auditing procedures in accordance with applicable law. Furthermore, we accept that our data (including personal data) generated in connection with the preparation and implementation of the Tender Process and the performance of the Contract are stored and processed according to the applicable law by the PEA and KfW.

Name: _____ In the capacity of:

Duly empowered to sign in the name and on behalf of⁴: _____

Signature: Dated:

³ In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

⁴ In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder.

PART 2 – Supply Requirements

Section VI. Schedule of Requirements

Contents

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1. List of Goods and Delivery Schedule

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

Line Item N°	Description of Goods	Quantity	Physical unit	Destination as specified in BDS	Delivery (as per Incoterms DDP) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date <i>[to be provided by the bidder]</i>
<i>[insert item No]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of item to be supplied]</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>
	ONLINE CONFERENCE ROOM as per below specifications	10 in total	one conference unit per location	see page 68		45 days	

Item number	Description of item	Description of Service			Place where Services shall be performed	Final Completion Date(s) of Services
		Installation / assembly in working condition	User training on use and maintenance of equipment	Maintenance requirements, incl. spare part and consumables consumption for maintenance (PM= preventive maintenance CM = corrective maintenance)		

					<p>All : 1 Installation / assembly as specified : at <u>Burundi:</u> Institut National de Santé Publique (INSP) => 1 smart board <u>Kenya:</u> National Public Health Laboratory Services => 2 smart boards <u>Rwanda:</u> National Reference Laboratory (NRL) => 1 smart board <u>South Sudan:</u> Public Health Laboratory and National Blood Transfusion Centre => 1 smart board <u>Tanzania:</u> National Public Health Laboratory => 2 smart boards <u>Uganda:</u> Central Public Health Laboratories (CPHL) => 2 smart boards Health Department EAC HQ Arusha => 1 smart board</p>	<p>All : 1 Installation / assembly as specified: within 120 days following the date of effectiveness and prior to acceptance.</p>
					<ul style="list-style-type: none"> • Training of Two 	

						<p>(2) Technical persons per site (i.e IT personnel) per site</p> <p>2 Minimum (Two) Days per location (one day for Installation & Testing and second day for training users and IT personnel</p> <p>Personnel to be trained: Maximum is 5 (five) user per site.</p> <p>Users at every site will be trained on how the online conference system works and this will happen after delivery and installation at the following locations:-</p> <p>(i) Burundi: Institut National de Santé Publique (INSP)</p> <p>(ii) Kenya:</p>
--	--	--	--	--	--	---

						<p>National Public Health Laboratory Services National Reference Laboratory <i>(iii) Rwanda:</i> National Reference Laboratory (NRL) <i>(iv) South Sudan:</i> Public Health Laboratory and National Blood Transfusion Centre <i>(v) Tanzania:</i> NATIONAL PUBLIC HEALTH LABORATORY <i>(vi) Uganda:</i> Central Public Health Laboratories (CPHL) <i>(vii) Health Department EAC HQ Arusha</i></p>
					<p>3 Maintenance as specified: at EAC and locations of participating reference laboratories as per 2 above</p>	<p>3 Maintenance as specified: during two years from acceptance of equipment</p>

Item number	Description of item	Description of Service			Place where Services shall be performed	Final Completion Date(s) of Services
		Installation / assembly in working condition	User training on use and maintenance of equipment	Maintenance requirements, incl. spare part and consumables consumption for maintenance (PM= preventive maintenance CM = corrective maintenance)		
	Online conference room system and smart board	X	X	CM		

3. Technical Specifications

SUPPLY OF ONLINE CONFERENCE ROOM SYSTEM SPECIFICATIONS

The East African Community wishes to extend virtual service to mobile laboratories located in the following 7 (seven) locations namely:

1. Republic of Burundi: Institut National de Santé Publique (INSP)
2. Republic of Kenya: National Public Health Laboratory Services,
3. Republic of Rwanda: National Reference Laboratory (NRL)
4. South Sudan: Public Health Laboratory and National Blood Transfusion Centre
5. United Republic of Tanzania: National Public Health Laboratory
6. Republic of Uganda: Central Public Health Laboratories (CPHL)
7. Health Department based at the EAC Headquarters in Arusha, United Republic of Tanzania

Purpose of the System

The Online Conference Room System (Video/Telepresence) facility is to allow users to interact and communicate progress or operational issues with each other. The system is designed to support both virtual meetings and also training through virtual technical by using smart board.

Integration with the existing system

The Smartboard will be linked and integrated with the existing system EAC telepresence of Cisco Unified Communication Manager Version 11.5.1.21900-40

Testing

Upon delivery, installation and integration of the system, the successful bidder (supplier) would be required to test the functionality of these equipment and connectivity to all the individual sites and also the bridge connectivity for multiple connections or sites. User acceptance test and proper handing over of the technology would be required.

User Training

1. Training of administrators and Technical persons who shall manage the equipment and the technology behind it. Provide a well-illustrated training plan as per below matrix which includes training of Users at every site on how the online conference system works.

<u>Country</u>	Institute	Physical Location	Number of Technical personnel) of (IT per location	Number of Users to be trained per location	Number of days
Burundi:	Institut National de Santé Publique (INSP)	Bujumbura	2 (two)	Maximum 5 users	2 days (day one installation and day two training)
Kenya:	National Public Health Laboratory Services	Nairobi	2 (two)	Maximum 5 users	2 days (day one installation and day two training)
Rwanda:	National Reference Laboratory (NRL)	Kigali	2 (two)	Maximum 5 users	2 days (day one installation and day two training)
South Sudan:	Public Health Laboratory and National Blood Transfusion Centre	Juba	2 (two)	Maximum 5 users	2 days (day one installation and day two training)
Tanzania:	National Public Health Laboratory boards	Dar es Salaam	2 (two)	Maximum 5 users	2 days (day one installation and day two training)
Uganda:	Central Public Health Laboratories (CPHL)	Kampala	2 (two)	Maximum 5 users	2 days (day one installation and day two training)
Health Department	EAC Headquarters Arusha Tanzania	Arusha	2 (two)	Maximum 5 users	2 days (day one installation and day two training)

- Convene educational meetings
- Receive webinars and online trainings
- Journal club presentation.

Therefore the Video/Telepresence has to be capable of; -

- Facilitating the projection of interactive online presentations between the locations
- Allowing users to dial into video/telephone conferences even if they are at the time of the meeting not stationed in the respective location

System description

The Conferencing room should have one-touch recording, whiteboard sharing and digital signage Everything can be synchronized across multiple tablets, laptops and the web to make team communications and project collaboration as simple as possible; -

Location

Burundi: Institut National de Santé Publique (INSP) => **1**

Kenya: National Public Health Laboratory Services => **2**

Rwanda: National Reference Laboratory (NRL) => **1**

South Sudan: Public Health Laboratory and National Blood Transfusion Centre => **1**

Tanzania: National Public Health Laboratory => **2**

Uganda: Central Public Health Laboratories (CPHL) => **2**

Health Department EAC Headquarter Arusha United Republic of Tanzania => 1

Specifications

Below are the highlights of the system per site for 10 locations

- All-in-one designed specifically for Online meeting Rooms

- Online meeting rooms software preloaded
- 95" Interactive Touch Ultra HD 4K Display
- Inbuild Integrated Camera, Speakers and Microphones
- Pluggable PC Module (Intel OPS i7) and Microsoft Windows 10 IoT LTSC include

Unified Communication Smart Board conference system

Quantity: 10 Display Screens

Display

- Minimum 95 inch, 4K UltraHD, 3840x2160 @ 60Hz
- Aspect Ratio: 16:9
- Brightness: 350 cd/m2 (typ.) / 300 cd/m2(min.)
- Contrast Ratio: 1200:1
- Backlight: Direct LED
- Touch System: Projected capacitive / passive capacitive pen and finger; 10 points writing and 20 points touch; Active pen x 1 included; Anti-glare, anti-fingerprint
- Panel Connections: HDMI 2.0 Input (2), USB-B Touch (2), USB 2.0 (2 available for use, 2 for maintenance only), USB 3.0 (1 for maintenance only)

Camera

- Sensor: 4K CMOS sensor
- Field of View: Diagonal 94°, horizontal 85°, vertical 55°
- Fixed Lense with embedded tilt down at -20°

Audio (Microphone and Speakers)

- Fully integrated 13-element microphone array with beam-foaming (without Audio DSP)
- Two (2) built-in speakers with 12-watt output

- Fixed Lense with embedded tilt down at -20°

PC Module and Connectivity

- Intel OPS-Z1, with Intel Core i7-7700 processor
- HD graphics and stereo sound
- 10/100/1000 network connectivity, WiFi and Bluetooth 4.0
- Fully Licensed Microsoft Windows 10 IoT LTSC
- UC Rooms software preloaded
- Connections available: USB 3.0 (6), LAN/RJ45 (1), Microphone Input (1), Earphone Output (1), VGA Output (1), Display Port Output (1), HDMI 1.4 Output (1)
- Only one video output can be active at a time

Software Solution

Meeting subscription Plans- Business

- Admin dashboard
- Vanity URL
- Option for on-premise deployment
- Managed domains
- Single sign-on
- Company branding
- Custom emails
- LTI integration
- Cloud Recording Transcripts

Dedicated phone support

Supplier Should;

2. Present a valid partnership certification (Hardware manufacturer's authorization and channel partner/reseller) with the owner of the proposed solution for both Hardware and software
3. Vendor should Integrate the proposed solution with the existing EAC Telepresence (Cisco TX9000 Telepresence)
4. Catalogs, Brochures and Manufacturer's drawings
5. The vendor will supply, install, configure and train the technical staff at every site,

4. Drawings

These Bidding Documents includes no drawings.

5. Inspections and Tests

The following inspections and tests shall be performed:

- verification of the compliance of the equipment and accessories to the technical specifications as defined in section IV.3 ;
- as applicable verification of installation / assembly of the equipment in working condition and commissioning;
- verification of the correct functioning of the equipment with tests covering all the parameters of the technical specifications.

PART 3 - Contract

STANDARD CONTRACT FOR GOODS

CONTRACT FOR

.....
.....
.....

Procurement Reference Number:

BETWEEN (“the Contracting Authority”)

AND

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

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

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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 Contracting Authority], a [insert description of type of legal entity, for example, an Institution of the EAC, Organ of the EAC] and having its principal place of business at [insert address of Contracting Authority] (hereinafter called “the Contracting Authority”), and*

(2) *[insert name of Contractor], a corporation incorporated under the laws of [insert: country of Contractor] and having its principal place of business at [insert: address of Contractor] (hereinafter called “the Contractor”).*

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

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this 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 Contracting Authority and the Contractor, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Agreement
 - (b) Section II – Special Conditions of Contract
 - (c) Section I – General Conditions of Contract
 - (d) Section III – Technical Requirements (including Schedule of Requirements and Technical Specifications)
 - (e) Section IV – The Contractor’s Bid and original Price Schedules
 - (f) Section V – The Contracting Authority’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 Contracting Authority to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Contracting Authority to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
5. The Contracting Authority hereby covenants to pay the Contractor in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

For and on behalf of the Contracting Authority

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 Contractor

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

SECTION 1 – GENERAL CONDITIONS OF CONTRACT**Table of Clauses**

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Section I. General Conditions of Contract

1. Definitions

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

- (a) "Contract" means the Contract Agreement entered into between the Contracting Authority and the Contractor, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (b) "Contract Documents" means the documents listed in the Contract Agreement, including any amendments thereto.
- (c) "Contract Price" means the price payable to the Contractor as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (d) "Day" means calendar day.
- (e) "Completion" means the fulfillment of the Related Services by the Contractor in accordance with the terms and conditions set forth in the Contract.
- (f) "GCC" means the General Conditions of Contract.
- (g) "Goods" means all of the commodities, raw material, machinery and equipment, and/or other materials that the Contractor is required to supply to the Contracting Authority under the Contract.
- (h) "Contracting Authority's Country" is the country specified in the Special Conditions of Contract (SCC).
- (i) "Contracting Authority" means the entity purchasing the Goods and Related Services, as specified in the SCC.
- (j) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Contractor under the Contract.
- (k) "SCC" means the Special Conditions of Contract.
- (l) "Subcontractor" means any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Contractor.
- (m) "Contractor" means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Contracting Authority and is named as such in the Contract Agreement.
- (n) "The Project Site," where applicable, means the place named in the SCC.

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

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

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice"⁸ is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice"⁹ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) "collusive practice"¹⁰ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) "coercive practice"¹¹ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (v) "obstructive practice" is
 - (aa) deliberately destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators in order to materially impede the

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

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

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

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

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

Contracting Authority or a governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

- (bb) acts intended to materially impede the exercise of the Contracting Authority or governmental or inspection and audit rights.
- (c) It will take the following measures against the bidder recommended for award who has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - (viii) will reject the bid for award;
 - (ix) will declare the bidder/the contractor, including its affiliates, ineligible, either indefinitely or for a stated period of time, to become the Contracting Authority contractor;
 - (x) will cancel or terminate any ongoing contract with the bidder /the contractor;
 - (xi) will request a the relevant national authorities to conduct a joint investigation with Contracting Authority to inspect or carry out audits of the bidder /the contractor' accounting records and financial statements in connection with the contract in question for which it was found guilty of engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices;
 - (xii) will forfeit the bid or performance securities of the bidder /the contractor;
 - (xiii) will suspend any payments due to the bidder/ contractor, under the contract in question or any other contract the bidder/contractor might have with the organization, until the extent of damage caused by the its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the Contracting Authority contract are determined and recovered, and

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

4. Interpretation

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

4.2 Incoterms

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

4.3 Entire Agreement

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

4.4 Amendment

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

4.5 Non-waiver

- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

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

5. Language

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

6. Joint Venture, Consortium or Association

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

7. Eligibility

- 7.1 **Is so specified in the SCC**, the Contractor and its Subcontractors shall have the nationality of an eligible country. A Contractor or Subcontractor shall be deemed to have the nationality of a country if it is constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country. This restriction doesn't apply to the contractors and subcontractors personnel.
- 7.2 **Is so specified in the SCC**, all Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 7.3 The Contractor has the obligation to promptly notify the Contracting Authority about any change in their or their subcontractor legal or commercial status that might affect the eligibility conditions that prevail at the time of prequalification.

- 8. Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.
- 9. Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Contracting Authority’s Country, unless otherwise specified in the **SCC**.
- 10. Settlement of Disputes**
- 10.1 The Contracting Authority and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after 28 days the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Contracting Authority or the Contractor may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.
- 10.3 Notwithstanding any reference to arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the Contracting Authority shall pay the Contractor any monies due the Contractor.
- 11. Scope of Supply**
- 11.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
- 12. Delivery and Documents**
- 12.1 Subject to GCC Sub-Clause 32.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Contractor are specified in the **SCC**.

- 13. Contractor's Responsibilities** 13.1 The Contractor shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.
- 14. Contract Price** 14.1 Prices charged by the Contractor for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Contractor in its bid, with the exception of any price adjustments authorized in the **SCC**.
- 15. Terms of Payment**
- 15.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.
- 15.2 The Contractor's request for payment shall be made to the Contracting Authority in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all other obligations stipulated in the Contract.
- 15.3 Payments shall be made promptly by the Contracting Authority, but in no case later than thirty (30) days after submission of an invoice or request for payment by the Contractor, and after the Contracting Authority has accepted it.
- 15.4 The currencies in which payments shall be made to the Contractor under this Contract shall be those in which the bid price is expressed.
- 15.5 In the event that the Contracting Authority fails to pay the Contractor any payment by its due date or within the period set forth in the **SCC**, the Contracting Authority shall pay to the Contractor interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- 16. Taxes and Duties**
- 16.1 For goods manufactured outside the Contracting Authority's Country, the Contractor shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Contracting Authority's Country.
- 16.2 For goods Manufactured within the Contracting Authority's country, the Contractor shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Contracting Authority.
- 16.3 If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in the Contracting Authority's Country,

the Contracting Authority shall use its best efforts to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.

17. Performance Security

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

18. Copyright

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

19. Confidential Information

- 19.1 The Contracting Authority and the Contractor 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 Contractor may furnish to its Subcontractor such documents, data, and other information it receives from the Contracting Authority to the extent required for the Subcontractor to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor an

undertaking of confidentiality similar to that imposed on the Contractor under GCC Clause 19.

- 19.2 The Contracting Authority shall not use such documents, data, and other information received from the Contractor for any purposes unrelated to the contract. Similarly, the Contractor shall not use such documents, data, and other information received from the Contracting Authority for any purpose other than the performance of the Contract.
- 19.3 The obligation of a party under GCC Sub-Clauses 19.1 and 19.2 above, however, shall not apply to information that:
- (a) the Contracting Authority or Contractor need to share with the Contracting Authority or other institutions participating in the financing of the Contract;
 - (b) now or hereafter enters the public domain through no fault of that party;
 - (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
 - (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 19.4 The above provisions of GCC Clause 19 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.
- 19.5 The provisions of GCC Clause 19 shall survive completion or termination, for whatever reason, of the Contract.

20. Subcontracting

- 20.1 The Contractor shall notify the Contracting Authority in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Contractor from any of its obligations, duties, responsibilities, or liability under the Contract.
- 20.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

21. Specifications and Standards

- 21.1 Technical Specifications and Drawings
- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
 - (b) The Contractor shall be entitled to disclaim responsibility for any design, data, drawing,

specification or other document, or any modification thereof provided or designed by or on behalf of the Contracting Authority, by giving a notice of such disclaimer to the Contracting Authority.

- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Contracting Authority and shall be treated in accordance with GCC Clause 32.

22. Packing and Documents

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

23. Insurance

- 23.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

24. Transportation

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

25. Inspections and Tests

- 25.1 The Contractor shall at its own expense and at no cost to the Contracting Authority carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 25.2 The inspections and tests may be conducted on the premises of the Contractor or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the

Contracting Authority's Country as specified in the SCC. Subject to GCC Sub-Clause 25.3, if conducted on the premises of the Contractor or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Contracting Authority.

- 25.3 The Contracting Authority or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 25.2, provided that the Contracting Authority bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 25.4 Whenever the Contractor is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Contracting Authority. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Contracting Authority or its designated representative to attend the test and/or inspection.
- 25.5 The Contracting Authority may require the Contractor to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 25.6 The Contractor shall provide the Contracting Authority with a report of the results of any such test and/or inspection.
- 25.7 The Contracting Authority may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Contractor shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Contracting Authority, and shall repeat the test and/or inspection, at no cost to the Contracting Authority, upon giving a notice pursuant to GCC Sub-Clause 25.4.
- 25.8 The Contractor agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance

by the Contracting Authority or its representative, nor the issue of any report pursuant to GCC Sub-Clause 25.6, shall release the Contractor from any warranties or other obligations under the Contract.

26. Liquidated Damages

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

27. Warranty

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

27.2 Subject to GCC Sub-Clause 21.1(b), the Contractor further warrants that the Goods shall be free from defects arising from any act or omission of the Contractor or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

27.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

27.4 The Contracting Authority shall give notice to the Contractor stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Contracting Authority shall afford all reasonable opportunity for the Contractor to inspect such defects.

27.5 Upon receipt of such notice, the Contractor shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Contracting Authority.

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

28. Patent Indemnity

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

- (a) the installation of the Goods by the Contractor or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

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

28.2 If any proceedings are brought or any claim is made against the Contracting Authority arising out of the matters referred to in GCC Sub-Clause 28.1, the Contracting Authority shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Contracting Authority's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

28.3 If the Contractor fails to notify the Contracting Authority within 28 days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Contracting Authority shall be free to conduct the same on its own behalf.

28.4 The Contracting Authority shall, at the Contractor's request, afford all available assistance to the Contractor in conducting

such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

28.5 The Contracting Authority shall indemnify and hold harmless the Contractor and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Contracting Authority.

29. Limitation of Liability

29.1 Except in cases of criminal negligence or willful misconduct,

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

30. Change in Laws and Regulations

30.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Contracting Authority's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 14.

- 31. Force Majeure**
- 31.1 The Contractor shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 31.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Contractor that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Contractor. Such events may include, but not be limited to, acts of the Contracting Authority in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 31.3 If a Force Majeure situation arises, the Contractor shall promptly notify the Contracting Authority in writing of such condition and the cause thereof. Unless otherwise directed by the Contracting Authority in writing, the Contractor shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 32. Change Orders and Contract Amendments**
- 32.1 The Contracting Authority may at any time order the Contractor through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Contracting Authority;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Contractor.
- 32.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Contractor’s performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Contractor for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Contractor’s receipt of the Contracting Authority’s change order.
- 32.3 Prices to be charged by the Contractor for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall

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

32.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

33. Extensions of Time

33.1 If at any time during performance of the Contract, the Contractor or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Contractor shall promptly notify the Contracting Authority in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Contracting Authority shall evaluate the situation and may at its discretion extend the Contractor's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

33.2 Except in case of Force Majeure, as provided under GCC Clause 31, a delay by the Contractor in the performance of its Delivery and Completion obligations shall render the Contractor liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.

34. Termination

34.1 Termination for Default

(a) The Contracting Authority, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor, may terminate the Contract in whole or in part:

(i) if the Contractor fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Contracting Authority pursuant to GCC Clause 33;

(ii) if the Contractor fails to perform any other obligation under the Contract; or

(iii) if the Contractor, in the judgment of the Contracting Authority has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.

(iv) if the Contractor, doesn't meet the eligibility criteria that prevailed at the time of prequalification.

(b) In the event the Contracting Authority terminates the Contract in whole or in part, pursuant to GCC Clause

34.1(a), the Contracting Authority 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 Contractor shall be liable to the Contracting Authority for any additional costs for such similar Goods or Related Services. However, the Contractor shall continue performance of the Contract to the extent not terminated.

34.2 Termination for Insolvency.

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

34.3 Termination for Convenience.

- (a) The Contracting Authority, by notice sent to the Contractor, 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 Contracting Authority's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Contractor's receipt of notice of termination shall be accepted by the Contracting Authority at the Contract terms and prices. For the remaining Goods, the Contracting Authority 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 Contractor an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Contractor.

35. Assignment

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

**36. Export
Restriction**

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

SECTION II. SPECIAL CONDITIONS OF CONTRACT

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

GCC 1.1(h)	The Contracting Authority's country of domicile is: United Republic of Tanzania
GCC 1.1(j)	The Contracting Authority is: East African Community EAC headquarters EAC Close, Afrika Mashariki Road Arusha, Tanzania
GCC 1.1 (n)	<p>The Project Sites for delivery of the Goods are:</p> <p>DDP at EAC, EAC Close, Afrika Mashariki Road, Arusha, Tanzania</p> <p>For warranty and maintenance services the Final Destinations of the Goods as specified in Part VI , Schedule of requirements,</p> <p><u>Burundi:</u> Institut National de Santé Publique (INSP) => 1</p> <p><u>Kenya:</u> National Public Health Laboratory Services => 2</p> <p><u>Rwanda:</u> National Reference Laboratory (NRL) => 1</p> <p><u>South Sudan:</u> Public Health Laboratory and National Blood Transfusion Centre => 1</p> <p><u>United Republic of Tanzania:</u> National Public Health Laboratory => 2</p> <p><u>Uganda:</u> Central Public Health Laboratories (CPHL) => 2</p> <p>Health Department EAC Headquarters Arusha United Republic of Tanzania => 1</p>
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms.
GCC 4.2 (b)	The version edition of Incoterms shall be Incoterms 2020
GCC 5.1	The language shall be: English
GCC 7.1	The Contractors and Sub-Contractors with the nationality in the following countries are ineligible: <i>Not applicable</i>

GCC 7.2	The Goods and Related Services to be supplied under the Contract with the origin from the following countries are ineligible: <i>“Not Applicable”</i>
GCC 8.1	<p>For <u>notices</u>, the Contracting Authority’s address shall be:</p> <p>The Secretary General East African Community Secretariat EAC headquarters EAC Close, Afrika Mashariki Road Arusha, Tanzania Email: eacprocurement@eachq.org; panjimbi@eachq.org and gochido@eachq.org</p>
GCC 9.1	The governing law shall be the law of: United Republic of Tanzania
GCC 10.2	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:</p> <p><i>“Clause 10.2 (a) shall be retained in the case of a Contract with a foreign Contractor and clause 10.2 (b) shall be retained in the case of a Contract with a national of the Contracting Authority’s country.”</i></p> <p>(a) Contract with foreign Contractor:</p> <p>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 Provision of the East Africa Court of Justice, Arusha Tanzania/ UNCITRAL Arbitration Rules as at present in force.</p> <p>(b) Contracts with Contractor national of the Contracting Authority’s country:</p> <p>In the case of a dispute between the Contracting Authority and a Contractor who is a national of the Contracting Authority’s country, the dispute shall be referred to adjudication or arbitration in accordance with the Provision of The East Africa Court of Justice Arusha, Tanzania.</p>
GCC 11	The scope of supply includes maintenance services for items of equipment as specified in Section VI Schedule of Requirements of the bidding documents.

	For maintenance services the attachment below the SCC provides “SPECIAL CONDITIONS OF SERVICE CONTRACT FOR PREVENTIVE AND/OR CORRECTIVE MAINTENANCE”
GCC 12.1	<p>Details of Shipping and other Documents to be furnished by the Contractor are</p> <ul style="list-style-type: none"> i. Commercial Invoice 2-fold, stating the origin of the goods and showing taxes, duties and other levies as separate items. ii. Packing lists 2-fold iii. Airwaybill, Bill of Lading or Consignment note, as applicable for international transport and transport within Tanzania iv. Manufacturers'/ Suppliers' guarantee certificate; v. Certificate of Insurance in accordance with delivery conditions <p>The above documents shall be received by the Contracting Authority before arrival of the Goods and, if not received, the Contractor will be responsible for any consequent expenses.</p>
GCC 14.2	The prices charged for the Goods supplied and the related Services performed shall not be adjustable.
GCC 15.1	<p>GCC 15.1—The method and conditions of payment to be made to the Contractor under this Contract shall be as follows:</p> <p>Payment for Goods, including related services with the exception of maintenance services</p> <ul style="list-style-type: none"> (i) Advance Payment: <i>Not applicable</i> (ii) On Delivery: Ninety (90) percent of the Contract Price of the Goods shipped shall be paid upon submission of claim, documents specified in GCC Clause 12 and evidence of receipt of said goods.

	<p>(iii) On Acceptance: Ten (10) percent of the Contract Price of all Goods to be supplied and actually received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by acceptance certificate(s) issued by the Contracting Authority covering all goods received.</p> <p>Payment shall be made according to the provisions of the Separate Agreement between EAC and KfW for the project Regional Network of Public Health Laboratories for Communicable Diseases, KfW No. 2015 68 229. Specifically:</p> <p>-for payments for contracts with a contract value of more than EUR 350,000 or equivalent, the direct disbursement procedure applies with KfW paying directly to the supplier at the request of EAC.</p> <p>- for payments for contracts with a contract value of up to EUR 350,000 or equivalent, the disposition fund procedure applies with EAC paying the supplier from a special account held by EAC.</p> <p>For payment for maintenance services refer to the attachment below the SCC: “SPECIAL CONDITIONS OF SERVICE CONTRACT FOR PREVENTIVE AND/OR CORRECTIVE MAINTENANCE”</p>
GCC 15.5	<p>The payment-delay period after which the Contracting Authority shall pay interest to the Contractor shall be <i>60</i> days.</p> <p>The interest rate that shall be applied is LIBOR + 1%</p>
GCC 16.3	<p>As import duties and public charges to be borne by the Contracting Authority are not financed from KfW funds they have to be shown separately by the contractor in the invoices, if applicable.</p> <p>EAC has diplomatic status and is not required to pay taxes and duties on its procurements</p>
GCC 17.1	<p>A Performance Security shall be required.</p> <p>The amount of the Performance Security shall be 10 % of the Contract Price.</p>
GCC 17.3	<p>The Performance Security shall be in the form of a Bank Guarantee with the content specified in Appendix 1 to these Special Conditions of Contracts.</p>

GCC 22.2	<p>The packing, marking and documentation within and outside the packages shall be:</p> <ul style="list-style-type: none"> (a) Packing case size and weights shall take into consideration, as appropriate, the transit route and final destination, and the absence of the heavy handling facilities at the destination. (b) Each transport package (which may contain several primary packages) shall be clearly marked as follows: <ul style="list-style-type: none"> i) Destination: ii) Name of Consignee: iii) Contract Number: iv) Name of Manufacturer/Supplier: v) Description of the Goods: vi) Quantities of Goods inside the case/ package vii) Special handling instructions, if applicable viii) Other Instructions to shippers and warehouse personnel, as appropriate (c) The primary packing for major equipment shall be the individual piece of equipment (incl. accessories, if any), while minor equipment items, consumables may be packed together for primary packing. Individual packages shall contain two packing lists and shall be clearly marked with the contents.
GCC 23.1	<p>The insurance coverage shall be as specified in the Incoterms.</p> <p>The insurance policy must state, that in the event of any claim under the insurance, payment shall be effected to KfW, Frankfurt am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of EAC (project-executing agency/purchaser).</p>
GCC 24.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p>

GCC 25.1	<p>The inspections and tests shall be:</p> <ul style="list-style-type: none"> ▪ verification of the compliance of the equipment and accessories to the technical specifications as defined in section IV.3 ; ▪ as applicable verification of installation / assembly of the equipment in working condition and commissioning; ▪ verification of the correct functioning of the equipment with tests covering all the parameters of the technical specifications.
GCC 25.2	<p>The Inspections and tests shall be conducted at: the Project Sites as per GCC 1.1 (n) above</p>
GCC 26.1	<p>The liquidated damage shall be: 0,5 % per week</p>
GCC 26.1	<p>The maximum amount of liquidated damages shall be: 8 %</p>
GCC 27.3	<p>The period of validity of the Warranty shall be: 730 days, or, for consumables/reagents with expiry dates shorter than 730 days, until the expiry date of the production batch concerned</p> <p>For purposes of the Warranty, the place(s) of final destination(s) shall be as per GCC 1.1 (n) above.</p>
GCC 27.5	<p>The period for repair or replacement shall be: 60 days.</p>
No reference	<p>In the event of any repayment or reimbursement, payment shall be effected to KfW, Frankfurt am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of EAC (contracting agency/project-executing agency)</p>

Attachment:**SPECIAL CONDITIONS OF SERVICE CONTRACT FOR PREVENTIVE AND/OR CORRECTIVE MAINTENANCE****1 OBJECTIVE**

- 1.1 The purpose of the Special Conditions Service Contract for Preventive and/or Corrective Maintenance is to detail the works of the maintenance contract for medical laboratory equipment and to establish the standard of work.
- 1.2 This contract covers maintenance services including all wear and tear spare parts for two years after acceptance of goods (i.e. covering the warranty period). The service contract period shall commence on the day after the date of the Acceptance Certificate for the concerned equipment and expires two years later.
- 1.3 It is the intention of the Contracting Authority (EAC) as Contracting Authority and the participating reference laboratories in each of the East African Community countries as beneficiaries that the repair, planned preventive maintenance, testing and re-commissioning for the equipment will be implemented using appropriate techniques to ensure the maximum efficiency and long term benefit from all supplied goods.

2 EXECUTING AGENT(S) ON BEHALF THE CONTRACTOR

For Burundi
For Kenya
For Rwanda
For South Sudan
For United Republic of Tanzania
For Uganda

3 CONTRACT SUPERVISOR FOR THE CONTRACTING AUTHORITY

For EAC:
For Burundi
For Kenya
For Rwanda
For South Sudan
For United Republic of Tanzania
For Uganda

4 DESCRIPTION OF THE EQUIPMENT TO BE MAINTAINED

The equipment to be maintained and type of maintenance services is stated in Part VI, Schedule of Requirements of the bidding documents.

5 DESCRIPTION OF SERVICES TO BE SUPPLIED

- 4.1 Preventive and/or Corrective maintenance of the equipment as stated in Part VI, Schedule of Requirements of the bidding documents, including training of beneficiary laboratory staff in first line maintenance and the supply of spare parts needed for both the preventive and corrective maintenance and in accordance with the Product Maintenance Service Form submitted as part of tender along with supporting documents and incorporated into the contract.
- 4.2 The Contractor shall provide a copy of the preventive maintenance checklist, method and procedures, which shall be in accordance with manufacturer's recommendations.

5 PAYMENT

- 5.1 50% of the Service Contract for Preventive and/or Corrective Maintenance cost per as per Contractor's bid (i.e. -----) will be paid per year after acceptance of the concerned services for equipment for such , upon receipt of a commercial invoice.

6 PREVENTIVE MAINTENANCE

- 6.1 For equipment specified in Part VI, Schedule of Requirements of the bidding documents for preventive maintenance, the Contractor shall provide a Planned Preventive Maintenance (PPM) Schedule. The PPM schedule should provide a timetable (with a minimum of one visit per year) with a short description of activities to be performed. The PPM schedule shall include each designated article of the Schedule of Requirements. Equipment or articles, which are part of the designated equipment, shall be mentioned as a separate article.
- 6.2 The Contractor shall prepare a Planned Preventive Maintenance Protocol for every single article or part of the article as designated in the Schedule of Requirements. The Maintenance Protocol shall contain a detailed listing of all maintenance procedures, and the frequency required for each of these procedures. The printed procedures should be classified and indexed in an ordered filing system. The Maintenance Protocol shall be in accordance with the stipulations in the manufacture's maintenance manual/recommendations of the equipment.

7 CORRECTIVE MAINTENANCE

In addition to the regular maintenance programme the Contractor shall send suitable service personnel to carry out repairs or adjustments at any time when requested to do so by the Purchaser.

8 FIRST LINE MAINTENANCE

- 8.1 The Contractor shall instruct staff of the respective beneficiary laboratories in the First- Line Maintenance of the equipment. First Line Maintenance includes: every-day maintenance, visual check on proper function of vital parts, and ability to recognise and define technical problems for communication with the contractor.

- 8.2 The Contractor shall prepare and leave on the site the algorithm of FLM for each equipment item in the English language.

9 STAFF

- 9.1 The Contractor will provide qualified professional engineers who are competent and experienced in the preventive maintenance of medical laboratory equipment, its repair, maintenance, testing and re-commissioning and calibration together with the appropriate 'back-up' staffing as is required.
- 9.2 All Contractors' staff shall report to the authorised officer on arrival and departure from the premises. Visits to the location of the equipment are not permitted without the consent of the authorised officer.
- 9.3 The Contractor shall cause as little interference as possible with other activities on the premises.
- 9.4 The Contractor shall instruct its staff about fire risks and require them not to smoke on the premises except where it is expressly permitted to do so.
- 9.5 The Contractor shall remove from the premises any of its staff where the respective authority requests this on grounds of efficiency or public interest.

10 SUPPLY OF SPARE PARTS

The Contractor will supply the parts required for the preventive and corrective maintenance. The price for the parts includes cost, insurance and delivery to the respective sites. Consumable materials required for the daily operation of the equipment are not the responsibility of the Contractor. Any taxes or import duties of spare parts shall be borne by the beneficiary who will provide all necessary assistance for customs clearance.

11 WARRANTY

- 11.1 The Contractor guarantees that the equipment is in good working condition after each preventive maintenance visit.
- 11.2 The beneficiary laboratory, in consultation with EAC as Contracting Authority, shall promptly notify the Contractor in writing of any claim arising under this warranty.
- 11.3 Upon receipt of such notice, the Contractor shall, with all reasonable speed, repair the malfunction without costs to the beneficiary laboratory or the Contracting Authority..

12 REPORTING

After each visit the Contractor will provide a detailed report of the works performed and the parts used to the Contract Supervisor. This report has to be signed by the respective Contract Supervisor and is mandatory for payments.

13 TIME SCHEDULE

13.2 Preventive maintenance: as per manufacturer's recommendations with at least one visit per year.

13.2 Corrective maintenance; as required.

14 CONTRACT PERIOD

The service contract for preventive and corrective maintenance shall be valid per for a period of two years after acceptance of goods.

15 TOOLS

The Contractor will make available to his staff all tools required for the proper maintenance of the equipment.

16 DEFAULT BY CONTRACTOR

16.1 Without prejudice to any other right or remedy, if the Contractor does not provide the services in accordance with the specification or at the times specified in the contract the Contracting Authority may:

- (a) Terminate the contract;
- (b) Itself provide or procure the provision of the services until it is satisfied that the Contractor is able to carry out the services in accordance with these conditions.

16.2 If the cost to the Contracting Authority /beneficiary laboratories of executing or procuring such services exceeds the amount that would have been payable to the Contractor for executing or procuring such services, such excess shall be paid by the Contractor to the Contracting Authority in addition to any other sums payable by the Contractor to the Contracting Authority in respect of the breach of contract.

17 INDEMNITY

Without prejudice to its liability for breach of any of its obligations under the contract the Contractor shall be liable for and shall indemnify the Contracting Authority and any beneficiary laboratory against any liability, loss, costs, expenses, claims or proceedings whatsoever arising under any statute or at common law in respect of:

- (a) Any loss of or damage to property (whether real or personal);

- (b) Any injury to any person, including injury resulting in death.

18 INSURANCE

The Contractor shall insure against its liability under condition 16 with Construction All Risk (CAR) insurance.

19 TRANSFER AND SUB-CONTRACTING

Neither party shall assign the whole or any part of the contract. Except for the use of executing agent(s) under clause 2 the Contractor shall not sub-contract the production or supply of any services without the previous consent in writing of the Contracting Authority, such consent not to be unreasonably withheld.

20 PATENTS, ETC.

- 20.1 The contract price shall include all royalties, license fees or similar expenses in respect of the making, use or exercise by the Contractor of any invention or design for the purpose of performing the contract.
- 20.2 The Contractor shall indemnify the Contracting Authority against any costs, claims, proceedings, expenses and demands arising from the use, manufacture, supply or delivery of any process, article, matter or thing supplied under the contract that would constitute any infringement of any right, patent, design, trademark or copyright.

Appendixes to the Special Conditions of Contract – Forms

Table of Forms

1. PERFORMANCE SECURITY 116

2. BANK GUARANTEE FOR ADVANCE PAYMENT 117

1. Performance Security

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

Standard Form of a Performance Bond

Address of guarantor bank:

.....
.....

Address of beneficiary (contracting agency):

.....
.....

On you concluded with ("Contractor") a contract for (project, object of contract) at a price of

In accordance with the provisions of the contract the Contractor is obligated to provide a performance bond for ... % of the contract price.

We, the undersigned (Guarantor), waiving all objections and defences under the aforementioned contract, hereby irrevocably and independently guarantee to pay on your first written demand an amount up to a total of (in words:

.....)

against your written declaration that the Contractor has failed to duly perform the aforementioned contract. In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of (project-executing agency/purchaser).

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

This guarantee is governed by the laws of

.....
Place, date

.....
Guarantor

2. Bank Guarantee for Advance Payment

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

Standard Form of an Advance Payment Bond

Address of guarantor bank:

.....
.....

Address of beneficiary (contracting agency):

.....
.....

On you concluded with ("Contractor") a contract for (project, object of contract) at a price of

In accordance with the provisions of the contract the Contractor receives an advance payment in the amount of, which represents % of the order value.

We, the undersigned (Guarantor), waiving all objections and defences under the aforementioned contract, hereby irrevocably and independently guarantee to pay on your first written demand any amount advanced to the Contractor up to a total of (in words:) against your written declaration that the Contractor has failed to duly perform the aforementioned contract.

This guarantee shall come into force and effect as soon as the advance payment has been credited to the account of the Contractor.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt am Main, BIC: KFWIDEFF, account IBAN: DE53 5002 0400 3800 0000 00, for account of (contracting agency/project-executing agency).

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

This guarantee is governed by the laws of

.....
Place, date

.....
Guarantor

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

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

SECTION V. THE CONTRACTING AUTHORITY'S NOTIFICATION OF AWARD

Notification of Award
[letterhead paper of the Contracting Authority]

[date]

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

14

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

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

15

Authorized Signature: _____

Name and Title of Signatory: _____

