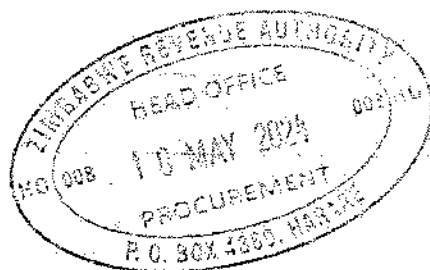


# **FRAMEWORK AGREEMENT FOR THE PROVISION OF MOTOR VEHICLE SERVICE AND REPAIRS**

**DOMESTIC TENDER  
ZIMRA FA 01/2024**



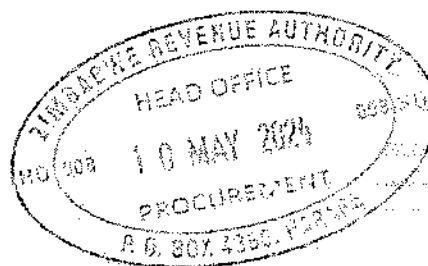
**ZIMRA**  
Zimbabwe Revenue Authority



**PROCUREMENT REFERENCE NO. :** **ZIMRA FA 01/2024**

**DATE OF ISSUE :** **10 MAY 2024**

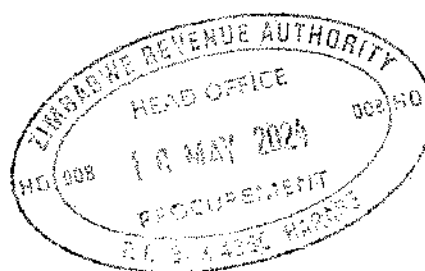
**CLOSING DATE :** **7 JUNE 2024**



## **Standard Bidding Document**

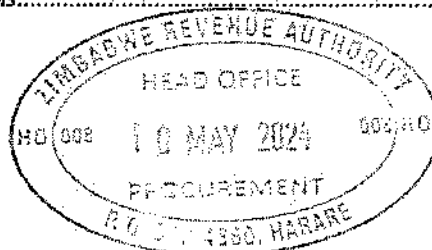
### **Provision of motor vehicle service and repairs**

#### **Framework Agreements and subsequent Call-Off Contracts**



## Table of Contents

INTRODUCTION.....	5
SECTION 1 – BIDDING PROCEDURES .....	6
1.1. Scope of Bid.....	6
1.2. Definitions.....	6
1.3. Corrupt practices.....	7
1.4. Eligible Bidders .....	8
1.5. Eligible Goods .....	9
1.6. Clarification of Bidding Document .....	9
1.7. Amendment of Bidding Document.....	10
1.8. Preparation of bids .....	10
1.9. Submission and opening of bids.....	13
1.10. Withdrawal, amendment, or modification of Bids .....	13
1.11. Clarification of bids.....	14
1.12. Evaluation of bids .....	14
1.13. Review by the Special Procurement Oversight Committee.....	16
1.14. Evaluation criteria .....	16
1.15. Technical criteria.....	17
1.16. Domestic Preference.....	17
1.17. Bid SECURITY.....	17
1.18. Currency.....	17
1.19. Right to Reject .....	17
1.20. Award of Framework Agreement .....	17
1.21. Award of Call-off Contract.....	18
SECTION 2 – BID DATA SHEET .....	19
SECTION 3 – BIDDING FORMS.....	21
SECTION 4 – STATEMENT OF REQUIREMENTS.....	27
SECTION 6 – PROCURING ENTITY FORMS [IN SINGLE USER FA].....	30
SECTION 7 – FRAMEWORK AGREEMENT .....	31
SECTION A: FRAMEWORK AGREEMENT GENERAL PROVISIONS .....	33
SECTION B: FRAMEWORK AGREEMENT SPECIFIC PROVISIONS .....	39
7.1 SCHEDULE 3: SECONDARY PROCUREMENT .....	41
7.2 SCHEDULE 4: CALL-OFF CONTRACT: GENERAL CONDITIONS OF CONTRACT (GCC) .....	44
7.3 SCHEDULE 5: SECONDARY PROCUREMENT FORMS.....	55



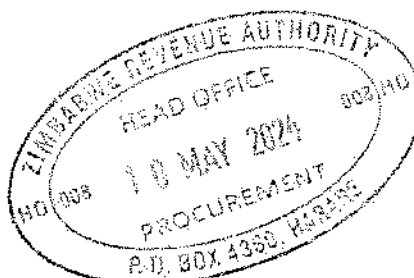
## INTRODUCTION

This Standard Bidding Document (SBD) has been prepared with a view to forming Framework Agreements (FA) for the procurement of Provision of Motor vehicle service and repairs by one or more procuring entities with one or more suppliers with or without second-stage competition.

All stages of the procurement up to the award of the framework agreement, the contracts to be concluded under it (*call-offs*) and the performance of both shall be governed by Public Procurement and Disposal of Public Assets Act [Chapter 22:23] (No. 5/2017), hereinafter referred to as the “Act” or “PPDPA Act”, and the Public Procurement and Disposal of Public Assets (General) Regulations, 2018 (Statutory Instrument 5 of 2018, as amended) hereinafter referred to as the “Regulations”, as well as other applicable legislation of Zimbabwe.

The framework agreement will be formed through competitive or restrictive bidding organized for this purpose, according to section 30(3) (a) of the PPDPA Act. All contracts based on the framework agreement shall be awarded in accordance with the procedures set forth in framework agreement, in accordance with section 30(3) (b) of the PPDPA Act.

Standard Bidding Document for the Procurement of	Provision of Motor vehicle service and repairs
Procurement Reference No.	FA01/2024
Date of Issue	10 May 2024
Lead Procuring Entity / Procuring Entity / Responsible Contracting Entity	Zimbabwe Revenue Authority 10 <sup>th</sup> Floor, ZB Centre, 59 Kwame Nkrumah Avenue, Harare 0242 706 565 procurement@zimra.co.zw <a href="https://www.zimra.co.zw">https://www.zimra.co.zw</a>
Procuring Entity entitled to award <i>Call-Off Contracts</i> under the FA	Zimbabwe Revenue Authority (ZIMRA) 10 <sup>th</sup> Floor, ZB Centre, 59 Kwame Nkrumah Avenue, Harare



## SECTION 1 – BIDDING PROCEDURES

The rules contained in this section govern the procedures for the formation of an Open Framework Agreement (FA) for the Provision of Motor vehicle service and repairs to be carried out by Zimbabwe Revenue Authority (ZIMRA)

### References:

References to the Act are to the Public Procurement and Disposal of Public Assets Act [Chapter 22:23] and references to the Regulations are to the Public Procurement and Disposal of Public Assets (General) Regulations (Statutory Instrument No. 5 of 2018, as amended). The terms and requirements in the Act and Regulations govern the submission of Bids and should be read by all Bidders.

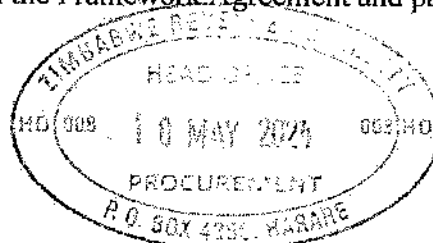
### 1.1. Scope of Bid

The Procuring Entity issues this Bidding Document (BD) as part of the Primary Procurement process for the acquisition of Provision of motor vehicle service and repairs through an Open Framework Agreement (FA) to be concluded with the successful Bidder(s), as defined in Sections 5 and 6 (Procuring Entity Forms). The name and identification of this Bidding Document (BD) are further specified in Section 2 – Bid Data Sheet (BDS).

### 1.2. Definitions

Throughout this Bidding Document (BD):

- a) “*In writing*” means communicated in written form (e.g., by mail, e-mail, including if specified in the BDS, distributed or received through the electronic-procurement system used by the Lead Procuring Entity / Procuring Entity) with proof of receipt;
- b) “*Day*” means calendar day; OR (from the Act) “*day*” means a day of the week other than a Saturday, Sunday or public holiday;
- c) “*Call-off Contract*” means a contract awarded, under a Framework Agreement, with or without a Secondary Procurement process, for the supply of *Goods*;
- d) “*Delivery Period*” is the specified period from the date of formation of a *Call-off Contract* for delivery of the Goods, *as per* the applicable Incoterms;
- e) “*Framework Agreement (FA)*” means an agreement between a Procuring Entity and a Bidder (or Bidders consisting of two or more competing suppliers of the procurement requirement) to establish the terms and conditions governing procurement contracts (*call-offs*) to be awarded during a period, in particular with regard to price and, where appropriate, the quantities envisaged;
- f) “*Closed Framework Agreement*” means a Framework Agreement where the Procuring Entity cannot or a new firm(s) cannot conclude Framework Agreement(s) during the Term of the Framework Agreement;
- g) “*Open Framework Agreement*” means a Framework Agreement is where the Procuring Entity can or an interested new firm(s) can conclude Framework Agreement(s) during the Term of the Framework Agreement;
- h) “*Goods*” means all goods, materials, or *items* that the *Supplier*, as defined hereinafter, is required to supply to a *Purchaser*, as defined hereinafter, under a *Call-off Contract* placed under a Framework Agreement. Details of such Goods are set out in Section 4 – Statement of Requirements, of this BD, in the Framework Agreement and particularly described in the *Call-off Contract*;

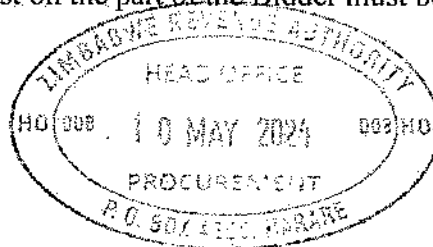


- i) “*Lead procuring entity*” means a Procuring Entity that conducts the procurement on behalf of other procuring entities under an arrangement referred to in section 19 of the Act. The *Lead procuring entity* may act as *Purchaser* or as mere *Responsible Contracting Entity*, as defined hereinafter and in the Framework Agreement;
- j) “*Multi-Purchaser or Multi-User Framework Agreement*” means a Framework Agreement where there is more than one *Purchaser*, as defined hereinafter, permitted to purchase through a *Call-off Contract*;
- k) “*Multi-Supplier Framework Agreement*” means a Framework Agreement where more than one Bidder (Supplier) concludes a Framework Agreement for the supply of each *item/Lot*;
- l) “*Primary Procurement*” means the procurement process that results in concluding a Framework Agreement(s) with a successful Bidder(s), as described in this BD;
- m) “*Procuring Entity*” means the entity, as defined in section 2(1) of the Act, that undertakes the Primary Procurement process and concludes the Framework Agreement(s). The same term is also used to refer to the *Purchaser* under the *Call-Off Contracts* that result from the FA;
- n) “*Purchaser*”, as specified in this BD, means the procuring entity(ies) that is/are permitted to purchase *Goods* from a *Supplier* under a *Call-off Contract* awarded through a Framework Agreement;
- o) “*Responsible Contracting Entity*” when named in the Framework Agreement, is a party to the Framework Agreement, but only in its capacity to conclude the Framework Agreement(s) with successful *Suppliers*, and, as the entity responsible for managing and administering the Framework Agreement, on behalf of the *Purchaser* or *Purchasers* once it has been concluded. A Responsible Contracting Entity is not a *Purchaser* under the Framework Agreement;
- p) “*Secondary Procurement*” means the process described in the Framework Agreement and followed by a *Purchaser* to select a *FA Supplier*, and award a *Call-off Contract* for the supply of *Goods*;
- q) “*Single-Purchaser/Single User Framework Agreement*” means a Framework Agreement where there is only one *Purchaser*;
- r) “*Single-Supplier Framework Agreement*” means a Framework Agreement where only one Bidder (Supplier) concludes a Framework Agreement for the supply of each *item/Lot*;
- s) “*Supplier*” means a Bidder that has concluded a Framework Agreement through the Primary Procurement process and may be considered for the award of a *Call-off Contract*, to deliver the *Goods* as and when required. A Supplier may also be referred to as a “*FA Supplier*”;
- t) “*Term*” means the duration of a Framework Agreement starting on the Commencement Date. Where applicable, it includes any extension(s) to the initial Term, if permitted under the Act and Regulations and if agreed among the parties to the Framework Agreement.

### 1.3. Corrupt practices

1.3.1. The Government of Zimbabwe requires that Procuring Entities, as well as Bidders and Contractors, observe the highest standard of ethics during the procurement and execution of contracts. In pursuit of this policy:

- a) the Procuring Entity will reject a recommendation for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract or been declared ineligible to be awarded a procurement contract under section 99 of the Act;
- b) the Authority may under section 72 (6) of the Act impose the sanctions under section 74 (1) of the Regulations; and
- c) any conflict of interest on the part of the Bidder must be declared.



- 1.3.2. The Lead procuring Entity, the Procuring Entity or the Responsible Contracting Entity, as applicable, shall have the right to incorporate into the Bidding Documents and the Contracts a provision that obligates the Bidders and/or their agents (whether declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entities to inspect all accounts, records and other documents relating to any, Bid submission, Primary Procurement process, Framework Agreement performance, Secondary Procurement process, and/or Call-off Contract performance (in the case of award of a Call-off Contract), and to have them audited by auditors appointed by the relevant Procuring Entity.

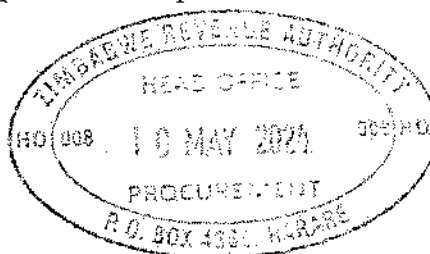
#### 1.4. Eligible Bidders

In accordance with section 28 of the Act, to be eligible to participate in public procurement and to be qualified for the proposed contract, Bidders are required to meet the criteria described below. They must provide any available documentation and certify their eligibility in the Bidding Forms *as per* Section 3 of this BD.

##### 1.4.1. To be eligible, Bidders must: -

- a) have the legal capacity to enter into the procurement contract;
- b) not be insolvent, in receivership, bankrupt or being wound up, not have had business activities suspended and not be the subject of legal proceedings for any of these circumstances;
- c) have fulfilled their obligations to pay taxes, duties and rates and social security contributions for which they are liable in Zimbabwe, together with any contributions or payments due under the National Social Security Authority Act [Chapter 17:04];
- d) not have, neither they nor any of their officers, in the five years immediately preceding the initiation of the procurement proceedings:
  - (i) been convicted in any country of an offence related to their professional conduct or the making of false statements or misrepresentations as to their qualifications; or
  - (ii) been censured or subjected to any penalty in any country following disciplinary proceedings arising out of any conduct involving the making of false statements or misrepresentations;
- e) not have a conflict of interest in relation to this procurement requirement;
- f) not be debarred from participation in public procurement under section 72 (6) of the Act and section 74(1) (c), (d) or (e) of the Regulations or declared ineligible under section 99 of the Act;
- g) have the nationality of an eligible country as specified in the Special Conditions of Call-off Contract; and
- h) have been registered with the Authority as a Supplier and have paid the applicable Supplier Registration Fee set out in Part III of the Fifth Schedule to the Regulations.
- i) Bidders must prove their continued eligibility throughout the phases of primary and secondary procurement in accordance with the requirements of the Procuring Entity(ies).

- 1.4.2. Participation in this bidding procedure is open to Zimbabwean and foreign bidders.





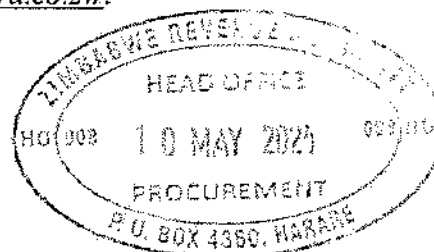
- 1.4.3. A Bidder may be a firm that is a private entity or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of any Call-off Contract(s) awarded under the Framework Agreement in accordance with the Call-off Contract conditions that apply. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of all the members of the JV during the Bidding process and, in the event the JV is awarded a Call-off Contract under the Framework Agreement, during contract execution. Unless specified in the BD, there is no limit on the number of members in a JV.
- 1.4.4. A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this Bidding process, if the Bidder:
- a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
  - b) receives or has received any direct or indirect subsidy from another Bidder; or has the same legal representative as another Bidder; or
  - c) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the Bid of another Bidder, or influence the decisions of the Procuring Entity regarding this Primary Procurement process;
  - d) or any of its affiliates participated as a consultant in the preparation of the technical specifications of the Goods that are the subject of the Bid.
- 1.4.5. A firm that is a Bidder (either individually or as a JV member) shall not participate in more than one Bid. Such participation shall result in the disqualification of all Bids in which the firm is involved. A firm that is not a Bidder or a JV member, may participate as a subcontractor in more than one Bid.

### 1.5. Eligible Goods

- 1.5.1. All the Goods to be supplied under a Call-off Contract awarded under the Framework Agreement must have as their country of origin an eligible country, as specified in the Call-off Contract.
- 1.5.2. For purposes of this FA, the term "Service" means vehicle service and repairs as per requested by the authority
- 1.5.3. The term "origin" means the country where the Goods have been 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.

### 1.6. Clarification of Bidding Document

- 1.6.1. Clarification of the bidding document may be requested in writing by any Bidder 10 days from the date of publication and responses to questions/ queries will be made in writing to all prospective bidders at least 5 days before tender closing and should be sent to Director PMU, [procurement@zimra.co.zw](mailto:procurement@zimra.co.zw).



1.6.2. The Procuring Entity will respond in writing to any request for clarification of any bidding document, and the response shall be communicated simultaneously to all the bidders without identifying the bidder that requested the clarification and in a manner that does not disclose the identities of the other bidders.

1.6.3. Should the clarification result in changes to the essential elements of the Bidding document, the Procuring Entity shall amend the Bidding document following the procedure set out in Subsection 1.7 below.

### **1.7. Amendment of Bidding Document**

The Procuring Entity may modify its bidding documents at any time before the end of the bidding period, but the modification shall be communicated simultaneously to all the bidders and, where necessary, the procuring entity shall extend the bidding period to allow bidders to alter their bids to take the modification into account.

### **1.8. Preparation of bids**

#### **1.8.1. Cost of Bidding**

- a) The Bidder shall bear all costs associated with the preparation and submission of its Bid, in relation to this Primary Procurement process (and if successful any Secondary Procurement process) and the Procuring Entity, shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.
- b) The bidding documents are free of charge and can be obtained electronically from the Internet addresses: -  
Electronic Government Procurement system (e-GP)  
Or via Email to [procurement@zimra.co.zw](mailto:procurement@zimra.co.zw)

#### **1.8.2. Language of Bid**

- a) The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Procuring Entity, shall be written in English.
- b) 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 English.

#### **1.8.3. Documents Comprising the Bid**

- a) Bidders are requested to bid for the supply of the services specified in Section 4 – Statement of Requirements, by completing and returning the following documentation:
  - Letter of Bid: prepared in accordance with Section 3 – Bidding Forms;
  - Price Schedules: completed in accordance with Section 3 – Bidding Forms;
  - Authorization: written confirmation authorizing the signatory of the Bid to commit the Bidder;



- Qualifications: documentary evidence in accordance with Section 3 – Bidding Forms, establishing the Bidder's qualifications to conclude a Framework Agreement and perform any Call-off Contract, if awarded;
  - Bidder's Eligibility: documentary evidence in accordance with Section 3 – Bidding Forms, establishing the Bidder's eligibility to Bid;
  - Eligibility of services: documentary evidence in accordance with Section 1.5. establishing the eligibility of the services to be supplied by the Bidder;
  - Conformity: documentary evidence in accordance with Section 3 – Bidding Forms, that the service conforms to Section 4 – Statement of Requirements; and
  - any other document required in this bidding document.
  - Bids submitted by a Joint Venture (JV) shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed agreement.
  - The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.
- b) Bidders are also required to pay the administration fee of **US\$350.00** payable by bidders for bids subject to prior review by the Special Procurement Oversight Committee in terms of section 54 of the Act and as set out in Part IV of the Fifth Schedule to the Regulations,

This fee is paid directly to the Procurement Regulatory Authority of Zimbabwe (PRAZ) or to the following account FCA Account (foreign deposits);

**Payment Instructions Local Bidders:**

Bank Name: Commercial Bank of Zimbabwe  
 Account Name: Procurement Regulatory Authority of Zimbabwe  
 Account Number: 01121064850040  
 Branch: Kwame Nkrumah

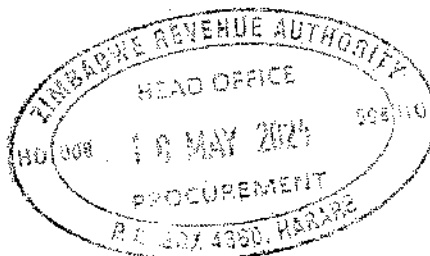
**1.8.4. Letter of Bid and Price Schedules**

- a) The Letter of Bid and Price Schedules shall be prepared using the relevant forms furnished in Section 3 – Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested;
- b) The bidder shall fill the Price Schedules for the services according to their origin and according to the types of supply of Motor vehicle service and repairs using the forms in Section 3 – Bidding Forms.

**1.8.5. Alternative Bids**

Alternative Bids shall not be permitted in this Primary Procurement process.

**1.8.6. Bid Prices and Discounts**



- a) The prices and unconditional discounts quoted by the Bidder in the Letter of Bid and in the Price Schedules shall conform to the requirements specified below. The Bidder must indicate the value of taxes and customs duties and any additional expenses for transport to the final destination of the Goods as specified in the Price Schedules of Section 3 – Bidding Forms;
- b) Bidders shall provide their prices for Goods in the respective Price Schedules;
- c) In quoting prices, the Bidder is free to use transportation through carriers registered in any eligible country and similarly may obtain insurance services from any eligible country. The Bidder shall indicate any unconditional discounts and the methodology for their application in the Letter of Bid;
- d) For the purpose of Secondary Procurement, the price(s) offered by the Bidder shall be treated as set out in the Framework Agreement Specific Provisions;
- e) The terms EXW, CIP, DDP and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce.
- f) Prices shall be quoted as specified in each Price Schedule included in Section 3 – Bidding Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Bids by the Procuring Entity. This shall not in any way limit the Purchaser's right to award a Call-off contract on any of the terms offered.

#### **1.8.7. Documents Establishing the Eligibility of the Services**

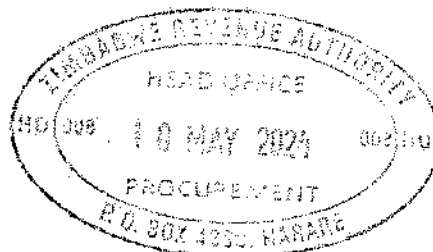
- a) To establish the eligibility of the services in accordance with Section 1.5. Bidders shall complete the country-of-origin declarations in the Price Schedule Forms, included in Section 3 – Bidding Forms;
- b) To establish the conformity of the Service, the Bidder shall furnish as part of its Bid the documentary evidence that the Service conform to the technical specifications and standards specified in Section 4 – Statement of Requirements;
- c) The documentary evidence may be in the form of printed literature, or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Service Goods, demonstrating substantial responsiveness of the Service to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of Section 4 – Statement of Requirements.

#### **1.8.8. Validity of Bids**

The minimum period for which the Bidder's bid must remain valid is 90 days from the deadline for the submission of bids.

#### **1.8.9. Format and Signing of Bid**

- a) Bidders shall mark as "CONFIDENTIAL" information in their Bids which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information;
- b) The original and all copies of the Bid shall be signed by a person duly authorized to sign on behalf of the Bidder;
- c) In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV.



#### 1.8.10. Number of bids allowed

No Bidder may submit more than one bid, either individually or as a joint venture partner in another Bid, except as a subcontractor. Where the procurement is divided into lots and packages, only one Bid can be submitted. A conflict of interest will be deemed to arise if bids are received from more than one Bidder owned, directly or indirectly, by the same person.

#### 1.9. Submission and opening of bids

##### 1.9.1. Submission of Bids

Bids shall be submitted electronically on the Electronic Government Procurement (EGP) portal on Procurement Regulatory Authority of Zimbabwe (PRAZ) website, no later than the date and time of the deadline below.

The Bidder must mark their electronic bid with the Bidder's name and address and the Procurement Reference Number.

##### 1.9.2. Submission deadline, address, and acceptance

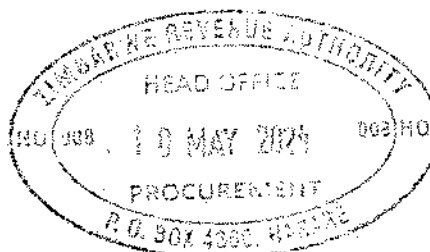
<b>Date of deadline</b>	7 June 2024	<b>Deadline Time:</b>	10:00 Hours Harare time (GMT + 2 hours)
<b>Submission address:</b>	Electronic Government Procurement (EGP) Procurement Regulatory Authority of Zimbabwe ( PRAZ) portal		
<b>Means of acceptance:</b>	Electronic on EGP PRAZ portal		

##### 1.9.3. Bid opening

Bid opening will be done electronically on EGP PRAZ portal

#### 1.10. Withdrawal, amendment, or modification of Bids

A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative. However, 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 or any extension of that period.



**1.11. Clarification of bids**

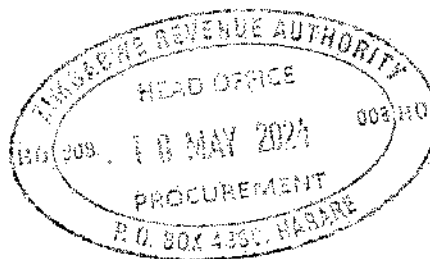
1. To assist in the examination, evaluation and comparison of Bids, the Procuring Entity may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect to its Bid and that is not in response to a request shall not be considered. The request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors.
2. If a Bidder does not provide clarifications of its Bid by the date and time set in the request for clarification, its Bid may be rejected in accordance with the discretion of the Procuring Entity.

**1.12. Evaluation of bids**

Bids will be evaluated using the following methodology:

1. Preliminary examination to confirm that all documents required have been provided, to confirm the eligibility of Bidders in terms of section 28 (1) of the Regulations and to confirm that the Bid is administratively compliant in terms of section 28 (2) of the Regulations;
2. Technical evaluation to determine substantial responsiveness to the specifications in the Statement of Requirements;
3. Financial evaluation and comparison to determine the evaluated price of bids and to determine the lowest evaluated bid.

Bids failing any stage will be eliminated and not considered in subsequent stages.



## Bid Submission Sheet

*{Note to Bidders: Complete this form with all the requested details and submit it as the first page of your Bid. Attach the completed Statement of Requirements and any other documents requested in Part 1. Ensure that your Bid is authorised in the signature block below. A signature and authorisation on this form will confirm that the terms and conditions of this Bid prevail over any attachments. If your Bid is not authorised, it may be rejected. If the Bidder is a Joint Venture (JV), the Bid must be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.}*

*Bidders must mark as "CONFIDENTIAL" information in their Bids which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information}.*

Procurement Reference Number: .....

Subject of Procurement: .....

Name of Bidder: .....

Bidder's Reference Number: .....

Date of Bid: .....

We offer to supply the items listed in the attached Statement of Requirements, at the prices indicated on the attached Price Schedule and in accordance with the terms and conditions stated in your Bidding Document referenced above.

We confirm that we meet the eligibility criteria specified in Part 1: Procedures of Bidding.

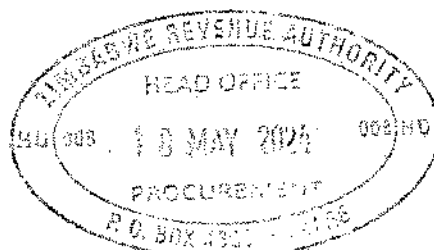
We declare that we are not debarred from bidding and that the documents we submit are true and correct.

The validity period of our bid is: ..... {Days} from the date of submission.

We confirm that the prices quoted in the attached Price Schedule are fixed and firm for the duration of the validity period and will not be subject to revision, variation or adjustment.

**Bid Authorised by:**

Signature .....	Name: .....
Position: .....	Date: ..... (DD/MM/YY)
Authorised for and on behalf of:	
Company .....	
Address: .....	
.....	



**1.13.****Review by the Special Procurement Oversight Committee**

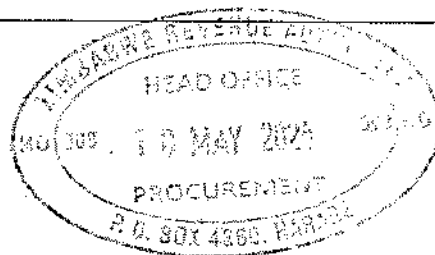
Section 54 of the Act provides for review by the Special Procurement Oversight Committee for certain especially sensitive or especially valuable contracts. This procurement is subject to review by the Special Procurement Oversight Committee in terms of section 10(5) of and the Second Schedule to the Regulations. The Bidder shall submit one (1) original of the documents comprising the Bid and clearly mark it "Original." In addition, the Bidder shall submit two (2) identical copies of the Bid, and clearly mark them "Copy." In the event of any discrepancy between the original and the copies, the contents of the bid marked original will alone be considered.

**1.14.****Evaluation criteria**

The evaluation of the Bids will take into account, **in addition to the Bid Price**, the following criteria and methodologies:

**Preliminary Examination**

	Attributes	Compliant /Not Compliant
1	Signed bid securing declaration	
2	Signed bid submission sheet	
3	Certificate of Incorporation	
4	Comprehensive company profile	
5	CR5 & CR6	
6	Valid Current Tax Clearance Certificate	
7	Valid Proof of PRAZ registration in the relevant category <b>Light Motor Vehicle Maintenance (SL005)</b>	
8	Valid proof of NSSA Registration	
9	Registered with MIAZ (Motor Industry Association of Zimbabwe)	
10	Bidders must pay Special Procurement Oversight Committee (SPOC) fees of USD350.00 in line with S.I. 193 of 2022 for bids subject to review by Special Procurement Oversight Committee.	
11	At least three written trade references (in the form of official letters from client companies), for similar work covered and successfully completed projects.	
12	Validity period of tender of 90 days (Bidders must state)	
13	Proof of dealership/Franchisee	
<b>Overall Comment</b>		<b>Compliant /Not Compliant</b>





**1.15. Technical criteria**

The Technical Specifications contained in Section 4 – Statement of Requirements detail the minimum specification of the services required. The services offered must meet this specification, but no credit will be given for exceeding the specification.

**1.16. Domestic Preference**

A margin of preference, in accordance with the procedures outlined in Section 29 of the Act and Section 8 of the Regulations, will apply.

- (a) The percentage of preference to be given to domestic providers is 15%.
- (b) Any additional preference to be given to women-owned businesses 10%.
- (c) Eligibility for the margin of preference will be based on the following factors
- (d) Documentation required from the Bidder as evidence of eligibility for the margin of preference is/are: [CR5, CR6, ITF263, PRAZ Registration, NSSA]

**1.17. BID SECURITY**

No Bid Security is required in relation to this Primary Procurement process.

**1.18. Currency**

Bids should be priced in United States Dollars. The currency of evaluation will be United States Dollars. Bids in other currencies will be converted to this currency for evaluation purposes only, using the exchange rates published by the Reserve Bank of Zimbabwe on the date of the submission deadline, see <http://www.rbz.co.zw/>. Payment will be made in Zig at the prevailing rate.

**1.19. Right to Reject**

The Procuring Entity reserve the right to accept or reject any Bids or to cancel the procurement process and reject all Bids at any time prior to contract award.

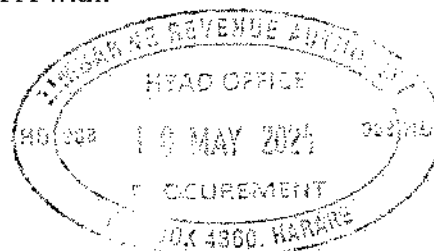
**1.20. Award of Framework Agreement**

This is an Open Framework Agreement.

**1.20.1. Multi-Supplier Framework Agreement:**

The Procuring Entity will conclude Framework Agreements with the Bidders whose Bids have been determined to be substantially responsive as follows:

- (a) All Bidders shall be ranked in terms of evaluated cost(s), with the first ranked being the lowest evaluated cost, the second ranked being the second lowest evaluated cost, and so on.
- (b) The Procuring Entity will conclude a FA with:



- (i) All the Bidders ranked in (a) above if no maximum number of suppliers is specified in Section 2 – Bid Data Sheet;
  - (ii) The Bidders ranked first up to the maximum 10 number of suppliers specified in Section 2 – Bid Data Sheet.
- (c) If the number of Bidders is less than the minimum 3 specified in Section 2 – Bid Data Sheet, the Procuring Entity may decide to invite new bids. Alternatively, the Procuring Entity may conclude the FA with all those Bidders where, an insufficient number of Bids are received, or an insufficient number of Bids meet the criteria for conclusion of Framework Agreements;

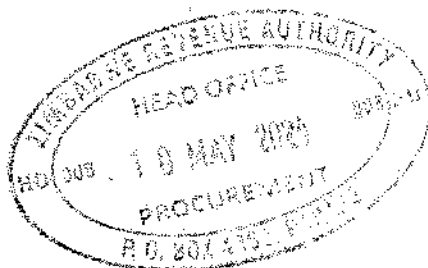
#### **1.20.2. Notification of Contract Award and Challenge**

- (a) The proposed award of contract will be by issue of a Notification of Contract Award in accordance with Sections 5 and 6 Procuring Entity Forms in single user FA which will be effective until signature of the contract documents;
- (b) Unsuccessful Bidders will receive the Notification of Contract Award and, if they consider they have suffered prejudice from the process, they may within 14 days of receiving this Notification, submit to the Procuring Entity a Challenge in terms of section 73 of the Act, subject to payment of the applicable fee set out in section 44 of and the Third Schedule to the Regulations.

#### **1.21.**

#### **Award of Call-off Contract**

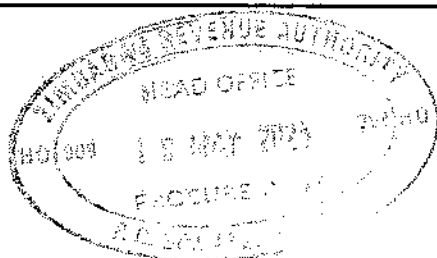
1. The Secondary Procurement method that shall apply in selecting FA supplier and awarding a Call-off contract is specified in the Framework Agreement (Framework Agreement, Schedule 3, Secondary Procurement).
2. To be entitled to participate in a Secondary Procurement, and awarded a Call-off Contract, FA Suppliers must continue to be qualified and eligible, and the Services must continue to be eligible, as per the criteria stipulated in this Bidding Document. The Purchaser may require, at the Secondary Procurement stage and award of Call-off Contract, evidence of continued eligibility.
3. The Call-off Contract Price at the Secondary Procurement stage shall not be subject to price adjustment unless specified in Framework Agreement, Section B: Framework Agreement Specific Provisions



## SECTION 2 – BID DATA SHEET

The following specific data for the Service Provision of Motor vehicle service and repairs to be procured shall complement the provisions in Section 1 – Bidding Procedures.

<b>A. General</b>
The Procuring Entity is: Zimbabwe Revenue Authority (ZIMRA) The name of the BD for the FA Agreement is: Provision of Motor vehicle service and repairs The reference number of the BD for the FA Agreement is: ZIMRA FA01/2024 The Zimbabwe Revenue Authority will conclude, administer and manage the Framework Agreement, and be the sole Purchaser under the Framework Agreement."
<b>Electronic –Procurement System</b> The Procuring Entity shall not use the following electronic-procurement system to manage this Procurement process: The electronic-procurement system shall be used to manage the following aspects of the Procurement process:
This Primary Procurement will conclude a "Single-Purchaser Framework Agreement"
<b>Purchasers</b> The Purchaser that is permitted to purchase under the Framework Agreement is Zimbabwe Revenue Authority (ZIMRA)
<b>B. Preparation of Bids</b>
Bidders may quote their unit prices against any item and estimated quantities over the FA period or one or more of the ranges of Call-off quantities for the item as specified in the Schedule of Prices.]
The price to be quoted in the Letter of Bid shall be (i) the total bid prices against the estimated quantities over the FA period or (ii) the unit bid price against the range of Call-off quantities, as specified in the Schedule of prices.
<b>Final Destination/s (Project Sites)</b> will be specified in each Call-off Contract awarded under the Framework Agreement.
Bids must be expressed in the following currency: United States dollars (US\$) The Bidder is required to quote in United States dollars the portion of the Bid price that corresponds to expenditures incurred in that currency.
<b>Manufacturer's authorization</b> is required where necessary
<b>Period of time the Service are expected to be functioning</b> (for the purpose of spare parts): as per industry standards following acceptance of the services by the Purchaser under a Call-off Contract.

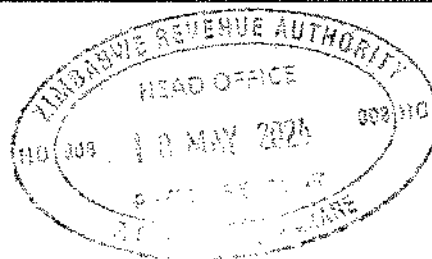


The Bid validity period shall be 90 days.
<b>C. Evaluation of Bids</b>
Bids will be evaluated as per Administration, Technical specifications and Price schedule
<b>D. Concluding a Framework Agreement</b>
This Framework Agreement is an Open Agreement
<b>Signing the Framework Agreement</b>
The Bidder shall sign, date, and return the Framework Agreement within 15 of days of receipt of the same.

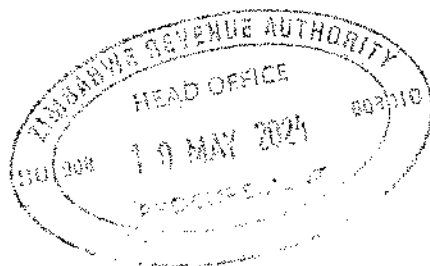
## PRICE SCHEDULE

### Vehicle to be serviced and repaired

Type & make of vehicle	A Service Price in US\$ Vat Inclusive	B Service Price in US\$ Vat Inclusive	C Service Price in US\$ Vat Inclusive
Chevrolet Corsa			
Chevrolet Viva Utility			
Land Rover Defender TDI 110			
Mazda M3			
Mazda 323 Familia			
Mazda 626 GLX			
Mazda B1600			
Mazda B1800			
Mazda B2500			
Mazda B2200 SDX			
Mazda B2500 SDX			
Mazda B2500 EAGLE			
Mazda BT50			
Mazda Rustler			
Mazda T35			
Mitsubishi Canter			
Nissan 3.0 Wolf			
Nissan Hardbody NP300			
Nissan Hardbody 2.7			
Peugeot 306 XN			
Toyota Corolla 1.3			
Toyota Corolla 1.8			



Type & make of vehicle	A Service Price in US\$ Vat Inclusive	B Service Price in US\$ Vat Inclusive	C Service Price in US\$ Vat Inclusive
Toyota Hiace			
Toyota Hilux D4D			
Toyota Hilux IMV			
Toyota LandCruiser			
Foton Tunland 2.8			
Cherry Tiggo FL			
Toyota Hilux 2.8GD6			
FAW Golden Dragon			
<b>TOTAL VAT INCLUSIVE</b>			
<b>LABOUR HOURLY RATE IN US\$ =</b>			



## Bid-Securing Declaration

*{The Bidder must fill in this Form in accordance with the instructions indicated, where it has been stated in the Bidding Procedures that a Bid-Securing Declaration is a requirement of bidding}.*

Procurement Reference number:

Date: .....[date (in day, month and year format)]

Bidder's Reference Number:

To: {full name of Procuring Entity}

We, the undersigned, declare that:

We understand that, according to the terms and conditions of your bidding documents, bids must be supported by a Bid-Securing Declaration.

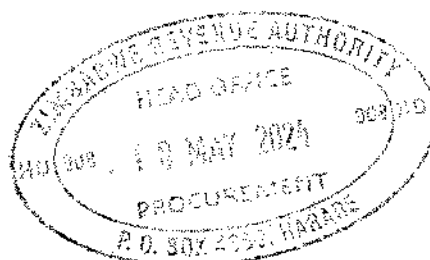
We accept that we may be debarred from being eligible for bidding for any contract with a Procuring Entity in Zimbabwe for a period to be determined by the Authority, if we are in breach of our obligation(s) under the bidding conditions, because:

- (a) we have withdrawn our Bid during the period of Bid validity; or
- (b) having been notified of the acceptance of our Bid by the Procuring Entity during the period of bid validity, we fail or refuse to execute the Contract.

We understand this Bid Securing Declaration will expire if we are not the successful Bidder, upon our receiving your notification to us of the name of the successful Bidder; or twenty-eight days after the expiration of our Bid, whichever is the earlier.

Signed	Name:
In capacity of:	Date: (DD/MM/Y)
Duly authorised for and on behalf of:	
Company	
Address:	
Corporate Seal (where appropriate)	

*{Note: In case of a Joint Venture, the Bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the Bid.}*



### SECTION 3 – BIDDING FORMS

## Letter of Bid

### Primary Procurement - Framework Agreement

**INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT**

*The Bidder must prepare this Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and business address.*

*Note: All italicized text is to help Bidders in preparing this form.*

#### Framework Agreement for Provision of Motor vehicle service and repairs

Date of this Bid submission:

Procurement Ref. No: FA01/2024

To: Zimbabwe Revenue Authority

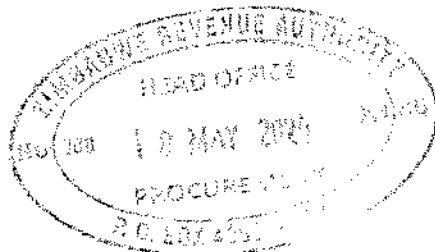
- (a) **No reservations:** We have examined and have no reservations to the Bidding Document in its entirety, including all its sections and schedules;
- (b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with Section 1.4.;
- (c) **Eligible Service:** If we conclude a Framework Agreement, the services that we may provide under a Call-off Contract awarded under the Framework Agreement, shall be sourced from an eligible country in accordance with Section 1.5;
- (d) **Conformity:** We offer to supply, in conformity with the Bidding Document and in accordance with Section 4 – Statement of Requirements, the following service: Provision of Motor vehicle service and repairs
- (e) **Bid Price:** *[Select one of the following four options with respect to Bid Price]*

#### **For Multi Supplier FA**

**OPTION 1- [If range of Call-off quantities is provided by the Purchaser in the Price Schedules]**

**"The unit price/s of our Bid excluding any discounts offered in item (g) below is [insert the unit price/s of the Bid in words and figures, against the range of quantities provided by the Purchaser in the Price Schedules in the table below"]**

**OPTION 2- [If estimated quantities over FA period is provided by the Purchaser in the Price Schedules]**



"The total price of our Bid, excluding any discounts offered in item (g) below is: [insert the total price of the Bid in words and figures, indicating the various amounts and the respective currencies]"

**For Single Supplier FA**

**OPTION 3- [For Single Lot]**

"The total price of our Bid, excluding any discounts offered in item (f) below is: [insert the total price of the Bid in words and figures, indicating the various amounts and the respective currencies]"

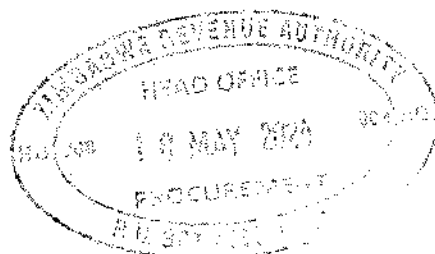
**OPTION 4 - [For Multiple Lots]**

"The total price of each lot [insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]; and (b) Total price of all lots (sum of all lots) [insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies]"

- (f) **Unconditional Discounts:** The unconditional discounts offered are: [Specify in detail each unconditional discount offered.]

The exact method of calculations to determine the net price after application of unconditional discounts is shown below: [Specify in detail the method that shall be used to apply the discounts];

- (g) **Bid Validity Period:** Our Bid shall be valid for the period specified in **Subsection 1.8.8.** from the date fixed for the Bid submission deadline specified in **Subsection 1.9.2.** (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (h) **Performance Security:** If our Bid is accepted and we conclude a Framework Agreement, we understand that we may be required, as a condition of a subsequent Call-off Contract, to obtain a performance security;
- (i) **One Bid per Bidder:** We are not submitting any other Bid(s) as an individual Bidder, and we are not participating in any other Bid(s) as a Joint Venture member, or as a subcontractor, and meet the requirements of **Subsections 1.4.5. and 1.8.11.;**
- (j) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Procurement Regulatory Authority of Zimbabwe (PRAZ);
- (k) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding procedures 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			

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

- (l) **Not Bound to Purchase:** We understand that there is no obligation on the Procuring Entity/Purchaser(s) to procure services from any FA Supplier during the Term of the Framework Agreement.
- (m) **No expectation of Call-off Contract:** We confirm that no undertaking or any form of statement, promise, representation or obligation has been made by the Procuring Entity/Purchaser in respect of the total quantities or value of the Goods that may be ordered by it, or any participating Purchaser(s), in accordance with this Framework Agreement. We acknowledge and agree that we have not submitted this Bid on the basis of any such undertaking, statement, promise or representation. If we conclude a Framework Agreement, we have no legitimate expectation of being awarded a Call-off Contract under the Framework Agreement.
- (n) **Not Bound to Accept:** In relation to this Primary Procurement, we understand that you are not bound to accept any Bid that you may receive.
- (o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

**Name of the Bidder:**

**Name of the person duly authorized to sign the Bid on behalf of the Bidder:**

**Title of the person signing the Bid:**

**Signature of the person named above:**

**Date signed**

**day of**

- \* In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder.
- \*\* Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules.

## Bidder Information Form

### Primary Procurement - Framework Agreement for the Provision of Motor vehicle service and repairs

*[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.]*

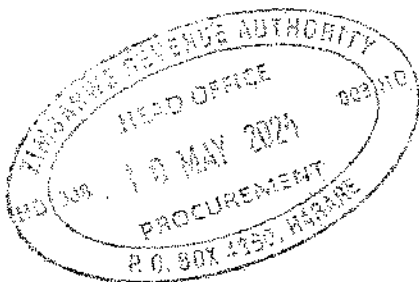


**Date:**

**Procurement Ref No:**

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

1. Bidder's Name
2. In case of JV, legal name of each member:
3. Bidder's actual or intended country of registration:
4. Bidder's year of registration:
5. Bidder's Address in country of registration:
6. Bidder's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <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 <b>Subsections 1.4.1. (a) 1.4.2. 1.4.3.</b> <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with <b>Subsection 1.4.3.</b>



## SECTION 4 – STATEMENT OF REQUIREMENTS

**Summary of Technical Specifications.** The services shall comply with following Technical Specifications and Standards:

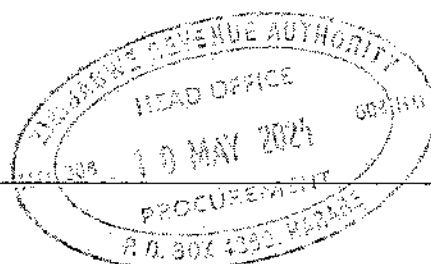
Name of Bidder:

Bidder's Reference Number: FA 01/2024

The Motor vehicle spares must comply with following Technical Specifications and Standards:

[Columns a and b are completed by the Procuring Entity. Column c must be completed by the Bidder to indicate the full specification of the items offered and their compliance with the specification required (in Column b)]

A	B	C	
Item No	Item description and full technical Specification required (including applicable standards)	{Confirm full specification of items offered by Bidder and compliance of items to detail in column b}	
ATTRIBUTE	MINIMUM REQUIREMENTS	POSSIBLE SCORE (points)	
Infrastructure	<b>Premises</b>		
	Walled and gated	5	
	Minimum of 2 work bays with service pits/hoists	10	
	Stocked spare parts room/warehouse	5	
	Evidence of stocks valued at minimum of USD2,000.00	5	
	At least 1 fixed contact telephone line (submit proof)	1	
	<b>Equipment</b>		
	Minimum of 2 delivery vehicles	3	
	Engine diagnostic machine	7	
	Wheel balancing/alignment machine	7	
	Engine/gearbox lifting equipment	7	
		<b>Total Score= 50</b>	



<b>Manpower</b>	<b>Minimum of 3 technically qualified technicians (Class 1 artisans) Submit proof</b>	15	
	<b>24hour security personnel at premises</b>	10	
		<b>Total Score=25</b>	
	<b>Proof of membership to motor industry board</b>	10	
		<b>Total Score= 10</b>	
<b>Experience of the firm</b>	<b>Minimum of 5 years of existence as a vehicle maintenance service provider (submit proof in form of 3 reference letters from corporate clients)</b>  <b>Marks for two or less references will be zero</b>	15	
<b>OVERALL SCORE</b>		<b>100%</b>	

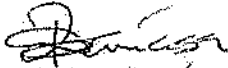
**The minimum technical score mark shall be 80%**



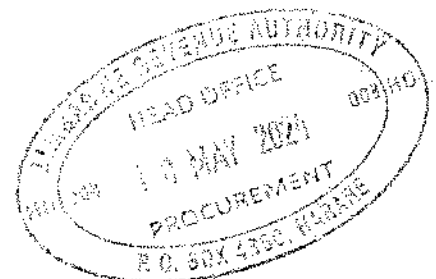
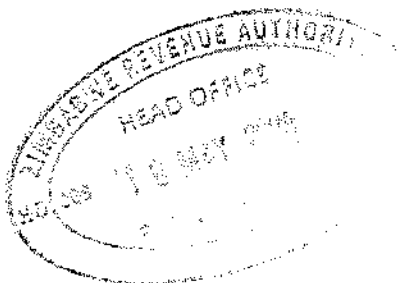
The detailed technical evaluation will examine the technical specification of the items offered in column c and determine whether this meets the minimum specification in column b. Bidders must complete column c or their tender will be rejected. **Bidders are required to include technical literature to positively support the details provided in column c.**

**Declaration by the Accounting Officer**

I declare that the procurement is based on neutral and fair technical requirements and bidder qualifications.



21/5/2024



## SECTION 6 – PROCURING ENTITY FORMS [IN SINGLE USER FA]

### Notification to Conclude a Framework Agreement

*[Use letterhead paper of the Procuring Entity]*

*[Date]*

To: *[name and address of successful Bidder]*

#### Notification to Conclude a Framework Agreement Framework Agreement No. [ZIMRA FA01/2024]

This is to notify you that your Bid dated *[insert date]* to conclude a Framework Agreement in relation to the supply of *[insert short title for Goods]* is hereby accepted by the *[insert name of the Procuring Entity]*.

Please sign, date and return the Framework Agreement within *[insert the applicable period for signing of the FA]* days of receipt of this Notification.

Authorized Signature:

Name:

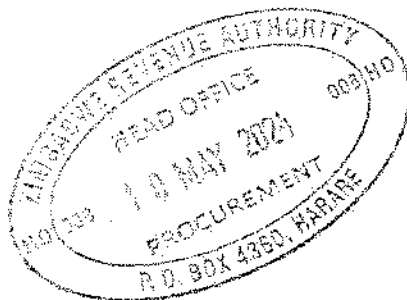
Title/position:

Name of Procuring Entity:

Telephone:

Email:

Attachment: Framework Agreement



## SECTION 7 – FRAMEWORK AGREEMENT

This Framework Agreement ZIMRA FA01/2024 is made for the provision of Motor vehicle service and repairs

on the [ ] day of [insert: month], [insert: year]

between

[Select one of the three OPTIONS below]

[OPTION 1: for Single User Framework Agreement]

**the Purchaser(s):** Zimbabwe Revenue Authority (ZIMRA)

[having its principal place of business at [insert Responsible Contracting Entity's address] as responsible for the management and administration of the Framework Agreement for use by the Purchasers listed in Schedule [insert number] to this Framework Agreement and

**the Supplier** [insert name of the Supplier], a corporation incorporated under the laws of [insert country of Supplier] and having its principal place of business at [insert Supplier's address] (Supplier) and named as the **Supplier** in this Framework Agreement.

This Framework Agreement is subject to the provisions described in the Sections and Schedules listed below, and any amendments.

This Framework Agreement concludes a standing offer by the Supplier to supply the specified Goods to the Purchaser(s) during the Term of the Framework Agreement, as and when the Purchaser(s) wishes to purchase them, through a Call-off Contract.

The following documents shall be deemed to form and be read and construed as part of this Framework Agreement and, where indicated, to any Call-off Contract awarded under this Framework Agreement.

**Section A:** Framework Agreement General Provisions

**Section B:** Framework Agreement Specific Provisions

**Schedule 1:** Schedule of Requirements

**Schedule 2:** Price Schedules

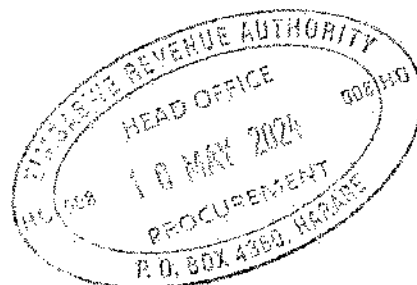
**Schedule 3:** Secondary Procurement

**Schedule 4:** Call-off Contract: General Conditions of Contract (GCC)

**Schedule 5:** Secondary Procurement Forms

IN WITNESS whereof, the Parties to this Framework Agreement have caused this Framework Agreement to be executed in accordance with the applicable legislation of Zimbabwe, in particular the Public Procurement and Disposal of Public Assets Act [Chapter 22:23] and the Public Procurement and Disposal of Public Assets (General) Regulations, 2018.

[Select one of the three options below]



[OPTION 1: for Single User Framework Agreement]

**“For and on behalf of the Purchaser:”**

[OPTION 2: for a Multi-User Framework Agreement with a Lead Procuring Entity / Purchaser that is responsible for managing and administering the Framework Agreement, and that is also a Purchaser]

**“For and on behalf of the Lead Procuring Entity / Purchaser:”**

[OPTION 3: for a Multi-User Framework Agreement with a Responsible Contracting Entity / Purchaser that is responsible for managing and administering the Framework Agreement, and is not a Purchaser]

**“For and on behalf of the Responsible Contracting Entity:”**

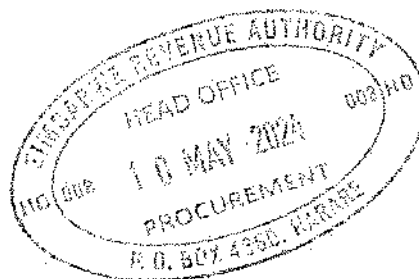
**For and on behalf of the Supplier:**

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

Full name: *[name of person signing]*

In the capacity of: *[insert title or other appropriate designation]*

In the presence of *[insert identification official of witness]*



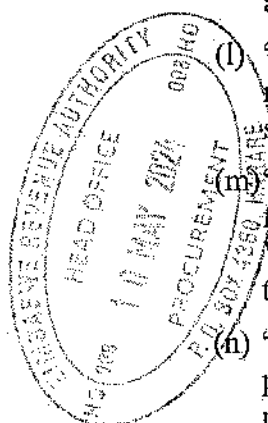


## SECTION A: FRAMEWORK AGREEMENT GENERAL PROVISIONS

### 1. Definitions

Unless the context indicates otherwise, the following words and expressions shall have the following meaning:

- (a) "*Base Price*" is the Framework Agreement (FA) unit price prior to any price adjustment in accordance with **FA Specific Provision**;
- (b) "*Call-off Contract*" is a contract awarded under a Framework Agreement, through a Secondary Procurement process, for the supply of Goods;
- (c) "*Closed Framework Agreement*" is where no new firm(s) may conclude Framework Agreement(s) during the Term of the Framework Agreement.
- (d) "*Open Framework Agreement*" is where an interested new firm(s) can conclude Framework Agreement(s) during the Term of the Framework Agreement;
- (e) "*Commencement Date*" is the date of the Notice to conclude the Framework Agreement, being the commencement of the Term of the FA;
- (f) "*Contract Price*" is the price payable to the Supplier as specified in the Call-off Contract, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Call-off Contract;
- (g) "*Day*" means calendar day;
- (h) "*Goods*" means all goods e.g., pharmaceuticals, or as specified in the **FA Specific Provisions**, that the Supplier is required to supply to the Purchaser under a Call-off Contract;
- (i) "*In Writing*" means any alphabetical or numerical expression that can be read or reproduced and subsequently communicated in written form. It can include information sent and stored electronically;
- (j) "*Incoterms*" means the international commercial terms for goods published by the International Chamber of Commerce (ICC);
- (k) "*Lead Procuring Entity*", when named in the Framework Agreement, means a party to the Framework Agreement, as a Purchaser in its own right under the framework agreement and as the entity responsible for the management and administration of the Framework Agreement for use by the other participating Purchasers as specified in the **FA Specific Provisions**. All communications, including notices, in relation to the Framework Agreement, are to be addressed to the Lead Procuring Entity. All communications, including notices, in relation to a Call-off Contract, are to be addressed to the Purchaser named in the Call-off Contract;
- (l) "*Multi-User Framework Agreement*" means a Framework Agreement where there is more than one Purchaser permitted to purchase through a Call-off Contract, as specified in the **FA Specific Provisions**;
- (m) "*Purchaser*" is/are the procuring entity(ies) that is/are permitted to purchase Goods from a Supplier under a Call-off Contract awarded through a Framework Agreement. Where appropriate, for the purpose of interpretation of the Framework Agreement, the term Purchaser includes the Lead Procuring Entity;
- (n) "*Responsible Contracting Entity*", when named in the Framework Agreement, is a party to the Framework Agreement, but only in its capacity as the Contracting Entity responsible for managing and administering the Framework Agreement for use by the participating Purchasers. All communications, including notices, in relation to the



Framework Agreement, are to be addressed to the Responsible Contracting Entity. A Responsible Contracting Entity is not a Purchaser under the Framework Agreement;

- (o) "*Secondary Procurement*" is the method used to select a Supplier and award a Call-off Contract under this Framework Agreement;
- (p) "*Single-User Framework Agreement*" means a Framework Agreement where there is only one Purchaser, as specified in the **FA Specific Provisions**;
- (q) "*Supplier*" means the private entity (legal person), or a combination of entities as a joint venture, who has concluded a Framework Agreement to supply to a Purchaser, from time to time, and as and when required, the Goods, under a Call-off Contract;
- (r) "*Term*" means the duration of this Framework Agreement as described in the **FA Specific Provisions** starting on the Commencement Date. Where applicable, it includes any extension(s) to the initial Term, if permitted in the **FA Specific Provisions**, but not exceeding the maximum allowable duration under the Act and Regulations.

## 2. Framework Agreement Documents

2.1 This Framework Agreement (FA) shall be read as a whole. Where a document is incorporated by reference into this Framework Agreement, it shall be deemed to form, and be read and construed, as part of this Framework Agreement.

2.2 This Framework Agreement comprises the documents specified in the **FA Specific Provisions**.

## 3. Supplier's obligations

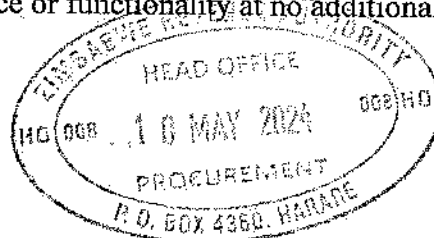
3.1 The Supplier shall offer to supply (*standing offer*) to the Purchaser, the Goods described in the Framework Agreement Schedule 1: Schedule of Requirements, for the Term of this Framework Agreement, in accordance with the terms and conditions stipulated in this Framework Agreement.

3.2 During the Term of the Framework Agreement, the Supplier shall continue to be eligible, and the Goods shall continue to be eligible, as per the eligibility criteria stipulated in the Primary Procurement process and the provisions of sub-paragraphs 3.3a. to 3.3c. below. The Supplier shall notify the Purchaser immediately, in writing, if it ceases to be eligible, or the Goods cease to be eligible.

3.3 The Supplier undertakes to supply the Goods under a Call-off Contract. The Goods supplied shall be:

- (a) of the quality, type and as otherwise specified in the Framework Agreement, Schedule 1: Schedule of Requirements,
- (b) at the Contract Price specified in the Call-off Contract, and
- (c) in such quantities, at such times and to such locations as specified in the Call-off Contract.

3.4 If specified in the **FA Specific Provisions**, at any point during Term of the Framework Agreement should technological advances be introduced by the Supplier for the Goods originally offered by the Supplier in its bid and still to be delivered, the Supplier shall offer to the Purchaser(s) of the Call-off Contracts the latest versions of the available Goods having equal or better performance or functionality at no additional cost to the Purchaser (s).



3.5 The Supplier agrees that the Call-off Contract General Conditions of Contract set out in the Framework Agreement, shall apply to the provision of vehicle service and repair.

#### 4. Continued Eligibility

4.1 The Supplier, shall continue to have the nationality of an eligible country as specified in the **FA Specific Provisions**. A Supplier or subcontractor, shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in, and operates in conformity with, the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be.

4.2 All Goods to be supplied under a Call-off Contract shall continue to have their origin in eligible Countries as specified in the **FA Specific Provisions**. For the purpose of this provision, 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. In-eligible Countries, if any, are listed in the **FA Specific Provisions**.

4.3 To continue to be eligible the Supplier shall not have been sanctioned pursuant to the Anti-Corruption provisions. Where the Supplier has been so sanctioned it will be ineligible for the duration of the period of time as the sanctions decision shall have determined.

4.4 The Purchaser or the Responsible Contracting Entity may require, during the Term of the Framework Agreement, evidence of the Supplier's continued eligibility, and the Goods continued eligibility. Failure to provide such evidence, as requested, may result in the Supplier being disqualified from participating in a Secondary Procurement process, and/or being awarded a Call-off Contract, and/or the termination of the Framework Agreement.

#### 5. Term

5.1 This Framework Agreement shall commence on the Commencement Date and, unless terminated earlier in accordance with the provisions of this Framework Agreement, or the general law, shall continue until the end of the Term specified in the **FA Specific Provisions**.

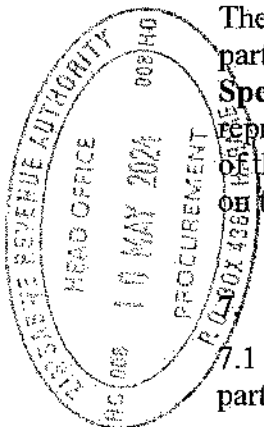
5.2 Where permitted in the **FA Specific Provisions**, the Term may be extended, at the Purchaser's sole discretion, and where there has been satisfactory performance by the Supplier. To extend the Term, the Purchaser shall give the Supplier no less than three (3) months' notice, In Writing, prior to the date on which the Framework Agreement would otherwise have expired.

#### 6. Representative

The representatives for each party, who shall be the primary point of contact for the other party in relation to matters arising from this Framework Agreement, are specified in the **FA Specific Provisions**. Should the representative be replaced, the party replacing the representative shall promptly inform the other party In Writing of the name and contact details of the new representative. Any representative appointed shall be authorized to make decisions on the day-to-day operation of the Framework Agreement.

#### Role of Lead Procuring Entity or Responsible Contracting Entity

7.1 Where there is a Lead Procuring Entity or a Responsible Contracting Entity that is a party to the Framework Agreement, their role is to manage and administer the Framework



Agreement(s) for use by the participating Purchaser(s). All communications, including notices, in relation to the Framework Agreement are to be made to the Lead Procuring Entity or Responsible Contracting Entity. The Lead Procuring Entity or Responsible Contracting Entity is responsible for all matters pertaining to the Framework Agreement including, for example, amendments, suspension, and termination of the Framework Agreement. For matters relating to individual Call-off Contracts, all communications, including notices, must be made to the Purchaser named in the Call-off Contract.

7.2 Where no Lead Procuring Entity or a Responsible Contracting Entity has been appointed, the named Purchaser is responsible for managing and administering the Framework Agreement and the provisions in FAGP 6 above, in relation to communications and notices *etc.*, apply to the Purchaser.

## **8. Contract Price**

The Contract Price for each Call-off Contract, shall be determined as specified in the **FA Specific Provisions**.

## **9. Performance Security**

The Purchaser may require a Performance Security from the Supplier in relation to the performance of a specific Call-off Contract. In this event, the Supplier shall comply with the relevant provisions relating to Performance Security contained in the Call-off.

## **10. Language**

10.1 This Framework Agreement, and any Call-off Contract, as well as all correspondence and documents relating to this Framework Agreement, and any Call-off Contract, exchanged by the Purchaser and Supplier, shall be written in the language specified in the **FA Specific Provisions**. Supporting documents and printed literature that are part of this Framework Agreement, and any Call-off 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 this Framework Agreement, and any Call-off Contract, this translation shall govern.

10.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

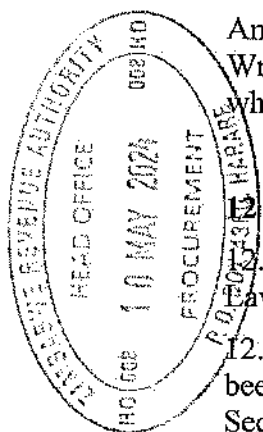
## **11. Notices**

Any notice given by one party to the other pursuant to this Framework Agreement shall be In Writing to the address specified in the **FA Specific Provisions**. A notice shall be effective when delivered, or on the notice's effective date, whichever is later.

## **12. Fraud and Corruption**

12.1 The Purchaser requires compliance with the Anti-Corruption provisions of Zimbabwean Law.

12.2 The Purchaser requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the Primary or Secondary Procurement process or execution of a Call-off Contract. The information



disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

### **13 Records, inspections, and audit**

13.1 The Supplier shall keep and shall make all reasonable efforts to cause its subcontractor(s), if any, to keep, accurate and systematic accounts and records in respect of this Framework Agreement, the Goods, and any Call-off Contract, in such form and details as will clearly identify relevant time changes and costs.

13.2 The Supplier shall permit, and shall cause its subcontractor(s) and subconsultants to permit, the Purchaser and/or persons appointed by the Purchaser, to inspect the site and/or the accounts and records relating to the Framework Agreement, and/or any Call-off Contract(s) awarded under the Framework Agreement, in relation to the procurement process, selection, contracting, execution or implementation, and to have such accounts and records audited by auditors appointed by the Purchaser, if requested by the Purchaser. The Supplier's and its Subcontractors' and subconsultants' attention is drawn to FAGP 12.1, which provides, *inter alia*, that acts intended to materially impede the exercise of the Purchaser's inspection and audit rights constitute a prohibited practice subject to contract termination.

### **14 Confidential Information**

14.1 The Purchaser and the Supplier shall keep confidential and shall not, without the consent In Writing from the other, divulge to any third party any documents, data, or other information furnished directly or indirectly by either party in connection with the Framework Agreement.

14.2 The obligation of a party under FAGP 14.1. above, shall not apply to information that:

- (a) the Purchaser or Supplier need to share with the financing agency or other institution(s) participating in the financing of a Call-off Contract
- (b) now, or in future, 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
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

### **15 Governing Law**

This Framework Agreement, and any Call-off Contract, shall be governed by, and interpreted in accordance with, the laws of Zimbabwe, unless otherwise specified in the **FA Specific Provisions**, or the Special Conditions of Contract as set out in any Call-off Contract.

### **16 Change to the Framework Agreement**

Any change to this Framework Agreement, including an extension of the Term, must be In Writing and signed by both Parties. A change can be made at any time after this Framework Agreement has been signed by both Parties, and before it expires.



## **17 Termination of the Framework Agreement**

17.1 The Purchaser or the Responsible Contracting Entity, without prejudice to any other remedy for breach of the Framework Agreement, may terminate this Framework Agreement immediately, by notice In Writing to the Supplier, if:

- (a) It has been proven that the Supplier has engaged in Fraud and Corruption, or
- (b) during the Term of the Framework Agreement, the Supplier ceases to be eligible as per FAGP 4, or
- (c) the Supplier purports to assign, or otherwise transfer or dispose of this Framework Agreement, in whole, or in part, without the prior written consent of the Purchaser, or
- (d) the Supplier becomes bankrupt or otherwise insolvent.

17.2 The Purchaser or the Responsible Contracting Entity may terminate this Framework Agreement, in whole or in part, by notice In Writing sent to the Supplier, at any time, for its convenience. The notice of termination shall specify that the termination is for the Purchaser's convenience, the extent to which the performance of the supplier under the Framework Agreement is terminated, and the date upon which such termination becomes effective.

## **18 Consequence of expiry or termination**

Upon expiry, or earlier termination of this Framework Agreement, all Call-off Contracts entered into under this Framework Agreement shall continue in full force and effect unless otherwise terminated under the Call-off Contract General. However, no further Call off Contracts shall be awarded once the Framework Agreement is terminated.

## **19 Dispute resolution in relation to this Framework Agreement**

19.1 In the case of a dispute arising out of, or in connection with this Framework Agreement, the Parties shall, in good faith, make every reasonable effort to communicate and cooperate with each other with a view to amicably resolving the dispute.

19.2 Where parties have exhausted the process described in FAGP 19.1, the parties may, by mutual agreement, nominate and refer the dispute to an adjudicator/mediator to assist in the resolution of the dispute. Parties will meet their own costs associated with such a referral and split the costs of the adjudicator/mediator. In appointing the adjudicator/mediator parties should agree whether or not the adjudicator's/mediator's decision is to be final and binding.

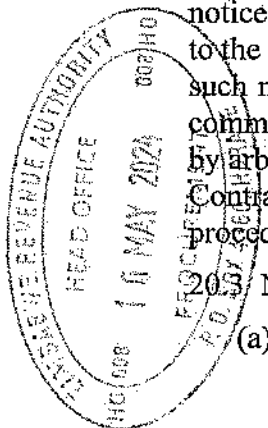
## **20 Dispute resolution in relation to Call-off Contracts**

20.1 The Purchaser and the Supplier for a Call-off Contract 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.

20.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this provision shall be finally settled by arbitration. Arbitration may be commenced prior to or after provision of service under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **FA Specific Provisions**.

20.3 Notwithstanding any reference to arbitration herein,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and



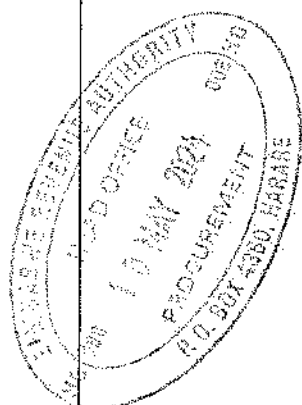
(b) the Purchaser shall pay the Supplier any monies due the Supplier.

## SECTION B: FRAMEWORK AGREEMENT SPECIFIC PROVISIONS

*The following Framework Agreement Specific Provisions (FASP) shall supplement and/or amend the Framework Agreement General Provisions (FAGP). Whenever there is a conflict between the FAGP and FASP, the provisions of the FASP shall prevail.*

Framework Agreement General Provision	Description
<b>FAGP 1. (h) Services</b>	This Framework Agreement relates to the purchase and supply, under a separate Call-off Contract, for the provision of Motor Vehicle service and repairs. The Vehicles are more fully described in Schedule 1: Schedule of Requirements including, where applicable: list of service, requirements and technical specifications.
<b>FAGP 2.2 Framework Agreement Documents</b>	This Framework Agreement comprises the following documents: <ul style="list-style-type: none"> <li>a. Framework Agreement, including all Sections and Schedules, and</li> <li>b. Letter of Bid (from Primary Procurement process)</li> </ul>
<b>FAGP 1. (r) and 5.1 Term</b>	The Term of this Framework Agreement will be determined by number of participant who progresses to the finals.
<b>FAGP 5.2 Term extension(s)</b>	"There are no permitted extensions to the Term."
<b>FAGP 6 Representatives</b>	<p><b><u>Purchaser's Representatives</u></b> (Selection one of the following OPTIONS)</p> <p><i>OPTION 1: for a Single-User Framework Agreement use the following text]</i></p> <p>The name and contact details of the Purchaser's Representative under this Framework Agreement, and the address for notices in relation to this Framework Agreement, are:</p> <p>Name: Tonderayi Shonhiwa  Title/position: Director Procurement  Address: 10<sup>th</sup> Floor, ZB Centre, 59 Kwame Nkrumah Avenue, Harare  Harare Harare  Phone: 0242 706 565  Mobile: 0719526953  E-mail: tonderayishonhiwa@zimra.co.zw</p>
<b>FAGP 6 Representatives</b>	<p><b><u>Supplier's Representatives</u></b></p> <p>The name and contact details of the Supplier's Representative, for the purposes of this Framework Agreement, and the address for notices in relation to this Framework Agreement are:</p> <p>Name:  Title/position:  Address:  Phone:  Mobile:  E-mail:</p>
<b>FAGP 8 Contract Price</b>	<b>For Mini competition (Request for quotations – RFQ for every Call-Off contract):</b>

	<p>the successful competitive quotation subject to the provisions below: and any additional price for inland transportation and other services not included in the Base Price required in the Purchaser's Country to convey the Goods to their final destination specified in RFQ.</p>
<b>FAGP 10.1 Language</b>	The language of this Framework Agreement, and any Call-off Contract is English.
<b>FAGP 20.2 Dispute Resolution in relation to Call- off Contract.</b>	<p>The rules of procedure for arbitration proceedings shall be as follows:</p> <p><i>[describe the proceedings that are to apply e.g.]</i></p> <p><i>[For contracts entered into with foreign suppliers, International commercial arbitration may have practical advantages over other dispute settlement methods. Among the rules to govern the arbitration proceedings, the Purchaser may wish to consider the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules of 1976, should the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC), the Rules of the London Court of International Arbitration or the Rules of Arbitration Institute of the Stockholm Chamber of Commerce. If the Purchaser chooses the UNCITRAL Arbitration Rules, the following sample clause be inserted:</i></p> <p><i>"Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force."</i></p> <p><i>If the Purchaser chooses the Rules of ICC, the following sample clause should be inserted:</i></p> <p><i>"All disputes arising in connection with this Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules."</i></p> <p><i>If the Purchaser chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted:</i></p> <p><i>"Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce."</i></p> <p><i>If the Purchaser chooses the Rules of the London Court of International Arbitration, the following clause should be inserted:</i></p> <p><i>"Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which rules are deemed to be incorporated by reference to this clause."</i></p> <p><i>For Contracts with a Supplier of the Purchaser's Country nationality:</i> <b>Litigation (Court Procedure) in courts of jurisdiction in Zimbabwe</b></p> <p><b>OR</b></p> <p><i>"In the case of a dispute between the Purchaser and a Supplier who is a national of the Purchaser's Country, the dispute shall be referred to arbitration in accordance with the laws of Zimbabwe."</i></p> <p>The place of arbitration will be <i>[insert city and country]</i></p>





### 7.1 SCHEDULE 3: SECONDARY PROCUREMENT

This Section contains the methods and the criteria that the Procuring Entity shall use to conduct a Secondary Procurement process to select a Supplier and award a Call-off Contract under this Framework Agreement. No other factors, methods or criteria shall be used other than specified in this Bidding document for the Secondary Procurement process.

## Secondary Procurement method(s) For Award of Call-Off contracts

The Secondary Procurement method(s) that apply to the selection of a Supplier for the award of a Call-off Contract under this Framework Agreement [is/are] :

- (i) Request for quotations (RFQ) restricted to the winners of the FA.

The procedure for the application of the procurement methods outlined under paragraph 1 above are the following.

### 1.1 Request for Quotations (mini competition)

The Purchaser will prepare a Request for Quotation (RFQ) and invite all eligible Suppliers holding a Framework Agreement that includes the services to be procured under the Call-off contract, to submit competitive quotations.

The RFQ will include:

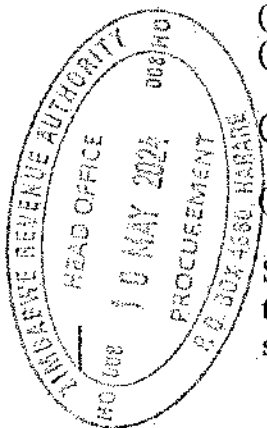
- (a) the service to be provided
- (b) delivery location(s)
- (c) delivery date(s) or schedule
- (d) quantity
- (e) any additional requirement for inland transportation and other services in the Purchaser's Country to convey the Goods to their final destination specified in RFQ not included in the Base Price,
- (f) details of any inspections or tests that are additional to those described in the Framework Agreement
- (g) the criteria to be applied to the evaluation of quotations

The award criteria, e.g.:

The Purchaser shall award the Call-off Contract to the Supplier whose Bid(s) has been determined to be: substantially responsive to the RFQ; and presents the lowest evaluated cost.

- (h) deadline for submission of quotations
- (i) attach the Call-off Contract Terms and Conditions of supply, which are to apply to the purchase
- (j) request to Suppliers to demonstrate that they continue to be eligible and qualified to supply the Goods
- (k) *any other relevant information.*

Suppliers are not permitted to quote a price, excluding any additional price for inland transportation and other services required in the Purchaser's Country to convey the services to their final destination specified in RFQs.



## 1.2 Direct selection based on balanced division of supply

The Purchaser will rotate the award of Call-off Contracts amongst all eligible Suppliers holding a Framework Agreement, based on a balanced division of supply as determined by the Procurement entity.

The first Call-off Contract(s) will be awarded to the Supplier whose Framework Agreement has the lowest evaluated cost. The first Supplier will continue to be awarded Call-off Contracts until the total value/quantity of all Call-off Contracts awarded reaches the upper value/quantity limit.

A second supplier, whose Framework Agreement has the second lowest evaluated cost, will then be awarded the subsequent Call-off Contracts until the total value/quantity of all Call-off Contracts awarded reaches the upper value/quantity limit. And so on.

The Purchaser will issue a Call-off Contract using the prices/pricing mechanism set out in the Framework Agreement, Schedule 2 or as adjusted by the agreed price adjustment formula, if applicable.

The Purchaser will request the Suppliers and include in the Call-off Contract Price the prices for any additional inland transportation and other related services, not included in the Base Price, in the Purchaser's Country to convey the Goods to their final destination.

### 1.3 *[add any other applicable method]*

## 2. Formation of Call-off contract (to become legally binding)

The Purchaser shall confirm that the selected Supplier continues to be qualified and eligible in accordance with Framework Agreement prior to the formation of the Call-off Contract. The Call-off Contract is formed when one of the following conditions are met depending on the method of selection used for the Secondary procurement.

### 2.1 For competitive quotations through mini competition using a Request for Quotation, the Call-off contract is formed when:

"the Purchaser issues, the Letter of Award of Call-off Contract to the successful Supplier Following the formation of contract; through offer and acceptance, the Purchaser and Supplier shall sign a Call-off Contract as per the form contained in the Framework Agreement." / OR

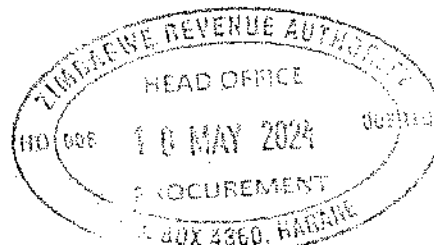
### 2.2 For direct selection based balanced division of supply, the Call-off contract is formed when the Purchaser transmits, to the successful Supplier, the Letter of Award and the Call-off Contract for signature and return. The Call-off Contract is signed by both the Purchaser and the Supplier and the Supplier shall submit the performance security within the period specified in the Letter of Award. The date that the Call-off Contract is formed, is the date mutually agreed by the parties.

## 3. Communicating the award of Call-off Contract

*[Describe the process to announce the award of a Call-off Contract e.g.*

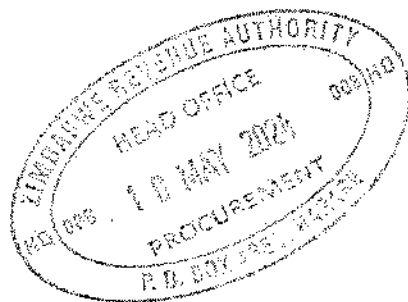
The Purchaser shall, at the same time as awarding the contract, communicate the award of the Call-off Contract in the case of:

- a. Direct Selection to all FA Suppliers for the items included in the Call-off Contract.
- b. selection based on competitive quotations (through mini competition) to all Suppliers invited to submit quotations.



The communication must be by the quickest means possible, *e.g.* by email, and include, as a minimum, the following information:

- i. the name and address of the successful Supplier
- ii. the quantity/volume of Goods being procured
- iii. the contract price.



## 7.2 SCHEDULE 4: CALL-OFF CONTRACT: GENERAL CONDITIONS OF CONTRACT (GCC)

*The following Call-off Contract General Conditions of Contract shall be read in conjunction with the other documents listed in the Call-Off Contract Form. Together with the aforementioned documents it shall constitute the complete Contract defining the rights and obligations of the Contract parties.*

*These General Conditions of Contract shall be incorporated in the Contract without any change. If needed, any change or adjustment shall be incorporated by the Procuring Entity in the Call-off Contract Special Conditions of Contract contained in the individual Call-off Contract.*

### 1. Call-off Contract

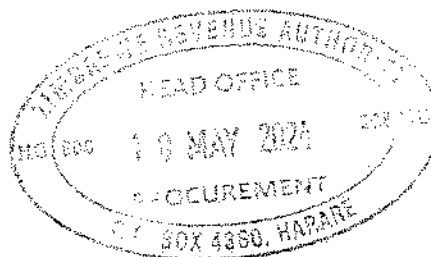
- 1.1. The General and Specific provisions of the Framework Agreement shall be considered incorporated into this Call-off Contract.
- 1.2. All documents forming this Call-off Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. This Call-off Contract shall be read as a whole.

### 2. Definitions

- 2.1. In this Call-off Contract the words and expressions defined in the Framework Agreement shall (except where the context requires otherwise or as specified in 2.2. below) have the meaning given in the Framework Agreement. In this Call-Off Contract references to attachments are, unless otherwise provided, references to attachments of this Call-off Contract.
- 2.2. Unless the context indicates otherwise, the following words and expressions shall have the following meanings:
  - (a) "Contract" means a Call-off Contract awarded under a Framework Agreement, through a Secondary Procurement process, for the supply of Goods. The parties are the Purchaser and Supplier;
  - (b) "Contract Documents" means the documents listed in the Call-off Contract, including any amendments thereto;
  - (c) "GCC" means these General Conditions of Contract that apply to any Call-off Contract;
  - (d) "Purchaser" means the Lead Procuring Entity/Procuring Entity purchasing the Goods, as specified in the Call-off Contract.
  - (e) "Registration Certificates" means the certificates or other similar alternative documents which certify that the services offered under the Contract are registered for use in Zimbabwe in accordance with applicable laws and regulations;
  - (f) "Supplier" means the legal person, private entity, or a combination of the above that has concluded a Framework Agreement with the Purchaser to deliver, under a Call-off Contract, the services as and when required.

### 3. 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 specified in the Call-off Contract.



- (b) The terms EXW, CIP, DDP and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the Call-off Contract and published by the International Chamber of Commerce in Paris, France.

#### **4. Entire Agreement**

The Call-off Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations, and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

#### **5. 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.

#### **6. No waiver**

- (a) Subject to GCC 6(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.

#### **7. Severability**

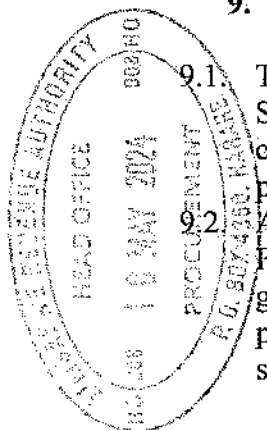
If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

#### **8. Joint Venture Consortium or Association**

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

#### **9. Eligibility**

- 9.1. The Supplier and its subcontractors shall have the nationality of an eligible country. A Supplier or subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 9.2. All Goods 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.



## **10. Notices**

- 10.1. Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the Call-off Contract. The term "in writing" means any worded or numbered expression that can be read, reproduced, and later communicated. It may include electronically transmitted and stored information.
- 10.2. A notice shall be effective when delivered or on the notice's effective date, whichever is later.

## **11. Scope of Supply**

The service to be provided shall be as specified in the Call-off Contract.

## **12. Delivery and Documents**

Subject to GCC Sub-Clause 31.1. below, the provision of service shall be in accordance with the Delivery dates, or time schedule, specified in the Call-off Contract.

## **13. Supplier's Responsibilities**

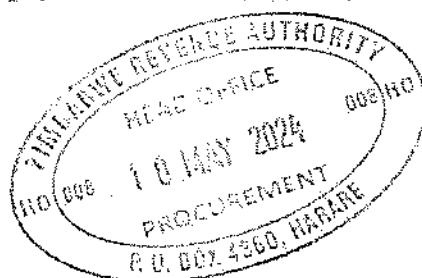
The Supplier shall supply all the Goods included in the scope of supply in accordance with GCC Clause 11, and the delivery dates or schedule, as per GCC Clause 12.

## **14. Contract Price**

- 14.1. Prices charged by the Supplier for the Goods supplied under the Contract shall be in accordance with the provisions of the Framework Agreement.
- 14.2. The price offered by the Supplier (who is awarded the Call-Off) through competitive quotations (mini competition) at the Secondary Procurement selection stage but such price shall not exceed the Base Price as per Sub-Clause 14.1 above.

## **15. Terms of Payment**

- 15.1. The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the Call-off Contract.
- 15.2. The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered, and 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 Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 15.4. The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the Bid price is expressed.
- 15.5. In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the Call-off Contract, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the Call-off Contract, 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 Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country as well as the customs, duties and other levies imposed on imported Goods in the Purchaser's Country.
- 16.2. For Goods Manufactured within the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 16.3. If any tax exemptions, reductions, allowances, or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

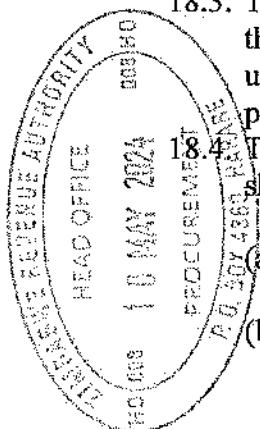
## 17. Performance Security

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

## 18. Confidential Information

- 18.1. The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract.
- 18.2. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 18.1.
- 18.3. The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 18.4. The obligation of a party under GCC Sub-Clauses 18.1, 18.2 and 18.3 above, however, shall not apply to information that:

- (a) the Purchaser or Supplier need to share with the official authorities 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.

18.5. The above provisions 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.

18.6. The provisions of GCC Clause 18 shall survive completion or termination, for whatever reason, of the Contract.

## **19. Subcontracting**

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

19.2. Subcontracts shall comply with the provisions of GCC Clause 3 and GCC Clause 7.

## **20. Specifications and Standards**

20.1. The Goods supplied under this Contract shall conform to the technical specifications and standards/pharmacopeia more fully described in the Framework Agreement, Schedule 1: 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.

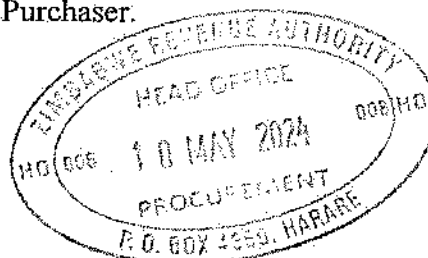
20.2. The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

20.3. 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 Framework Agreement, Schedule 1: Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 31.

## **21. Packing and Documents**

21.1. The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.

21.2. The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Purchaser.





## 22. Insurance.

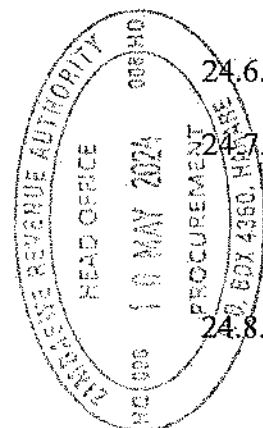
Unless otherwise specified in the Call-off Contract, the services provided under the Contract shall be fully insured, in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the Call-off Contract.

## 23. Transportation and Incidental Services

- 23.1. Unless otherwise specified in the Call-off Contract, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 23.2. Prices charged by the Supplier for incidental Services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services

## 24. Inspections and Tests

- 24.1. The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods as are specified in the Framework Agreement, Schedule 1: Schedule of Requirements, and/or the SCC.
- 24.2. The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Purchaser's Country as specified in the SCC. Subject to GCC Sub-Clause 24.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 24.3. The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 24.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 24.4. Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 24.5. The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specification's codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and the other obligations so affected.
- 24.6. The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 24.7. The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 24.4.
- 24.8. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of



any report pursuant to GCC Sub-Clause 24.6, shall release the Supplier from any warranties or other obligations under the Contract.

## 25. Liquidated Damages

Except as provided under GCC Clause 30, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 33.

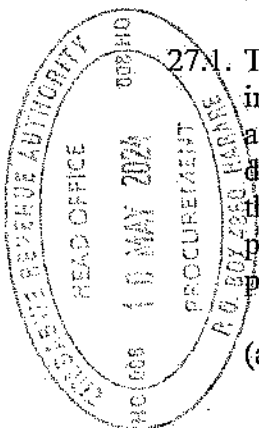
## 26. Warranty

- 26.1. The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 26.2. Subject to GCC Sub-Clause 20.2, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 26.3. Unless otherwise specified in the Call-off Contract, 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 Call-off Contract, 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.
- 26.4. The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 26.5. Upon receipt of such notice, the Supplier shall, within the period specified in the Call-off Contract, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 26.6. If having been notified, the Supplier fails to remedy the defect within the period specified in the Call-off Contract, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## 27. Intellectual Property Rights' Indemnity

- 27.1. The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 27.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and



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

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

- 27.2. If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clauses 27.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 27.3. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 27.4. The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 27.5. The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

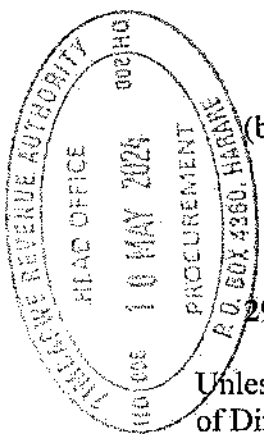
## 28. Limitation of Liability

Except in cases of criminal negligence or willful misconduct,

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

## 29. Change in Laws and Regulations

Unless otherwise specified in the Contract, if after the date of 7 (seven) days prior to: (i) in case of Direct Contracting, the date of issuance of Letter of Award of Call-off contract or (ii) in case of mini competition, the date of Request for Quotation, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's Country where the Project Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Period and/or the Contract Price, then such Delivery Period and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the



foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions and/or Change in Laws and Regulations, where applicable, in accordance with the Framework Agreement.

### **30. Force Majeure**

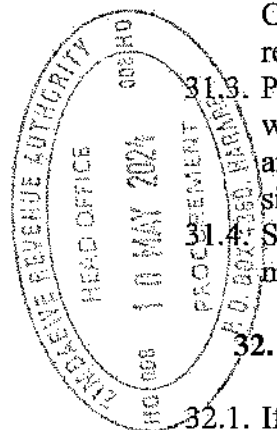
- 30.1. The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 30.2. For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

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

- 31.1. The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 10, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
  - (b) the method of shipment or packing; and
  - (c) the place of delivery.
- 31.2. If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.
- 31.3. Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 31.4. 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.

### **32. Extensions of Time**

- 32.1. If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods pursuant to GCC Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for



performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

- 32.2. Except in case of Force Majeure, as provided under GCC Clause 30, a delay by the Supplier in the performance of its Delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 25, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 32.1.

### **33. Termination**

#### **33.1. Termination for Default**

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
- (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 32;
  - (ii) if the Supplier fails to perform any other obligation under the Contract; or
  - (iii) if the Supplier, in the judgment of the Purchaser has engaged in Fraud and Corruption, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Sub-Clause 33.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods similar to those undelivered, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods. However, the Supplier shall continue performance of the Contract to the extent not terminated.

#### **33.2. Termination for Insolvency.**

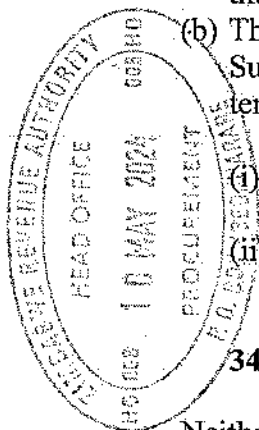
The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy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

#### **33.3. Termination for Convenience.**

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within seven (7) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
- (i) to have any portion completed and delivered at the Contract terms and prices, which the Supplier has committed to deliver as per the Contract; and/or
  - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and for materials and parts previously procured by the Supplier.

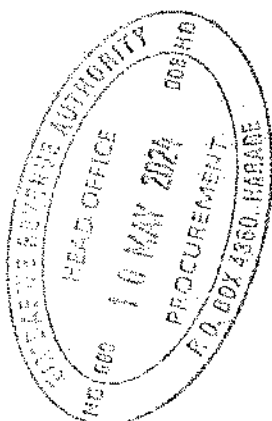
### **34. Assignment**

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



### 35. Export Restriction

Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to GCC Sub-Clause 33.3.



## Request for Quotation

### Secondary Procurement under a Framework Agreement (Method: mini competition)

*(The Purchaser issues this RFQ)*

<b>From:</b>	
<b>Purchaser's Representative:</b>	
<b>Title/Position:</b>	
<b>Address:</b>	
<b>Telephone:</b>	
<b>Email:</b>	

<b>To:</b>	
<b>Supplier's Representative:</b>	
<b>Title/Position:</b>	
<b>Address:</b>	
<b>Telephone:</b>	
<b>Email:</b>	

<b>Framework Agreement (FA):</b>	
<b>FA Date:</b>	
<b>FA Reference No.</b>	

<b>RFQ Ref No.:</b>	
<b>RFQ Date:</b>	
<b>RFQ issued:</b>	This RFQ has been transmitted by: "post" or "email" or "fax"

## RFQ ANNEX 2: Supplier Quotation Form

<b>From:</b>	<i>[Insert Supplier's legal name]</i>
<b>Supplier's Representative:</b>	<i>[Insert name of Supplier's Representative]</i>
<b>Title/Position:</b>	<i>[Insert Representatives title or position]</i>
<b>Address:</b>	<i>[Insert Supplier's address]</i>
<b>Email:</b>	<i>[Insert Supplier's email address]</i>
<b>To:</b>	<i>[Insert Purchaser's legal name]</i>
<b>Purchaser's Representative:</b>	<i>[Insert name of Purchaser's Representative]</i>

<b>Title/Position:</b>	<i>[Insert Representatives title or position]</i>
<b>Address:</b>	<i>[Insert Purchaser's address]</i>
<b>Framework Agreement (FA)</b>	<i>[Insert short title of FA]</i>
<b>FA Reference No.</b>	<i>[Insert Purchaser's FA reference]</i>
<b>Date of Framework Agreement:</b>	<i>[Insert FA date]</i>
<b>RFQ Ref No.:</b>	<i>[Insert Purchaser's reference]</i>
<b>Date of Quotation:</b>	<i>[Insert date of Quotation]</i>

Dear *[insert name of Purchaser's Representative]*

## SUBMISSION OF QUOTATION

### 1. Conformity and no reservations and Offer Securing Declaration

In response to the above named RFQ we offer to supply the Goods, as per this Quotation and in conformity with the RFQ, Delivery Schedules, Technical Specifications, Drawings, Inspections and Tests. We confirm that we have examined and have no reservations to the RFQ, including the Call-off Contract.

We attach to our Quotation the requested Offer/Bid Securing Declaration in accordance with your requirements. We accept that we may be debarred from participating in future procurements for a period up to three years a per section 99(1)(b) of the Act should we default on our obligations with respect to the conditions of the Secondary Procurement stage for award of the Call-Off contract.

### 2. Eligibility and conflict of interest

We declare that we continue to be qualified and meet the eligibility requirements and that we have no conflict of interest. If awarded the Call-off Contract, the Goods that we supply shall be sourced from an eligible country.

We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the concerned authorities in Zimbabwe. Further, we are not ineligible under the Purchaser's Country laws or official regulations or pursuant to a decision of the United Nations Security Council.

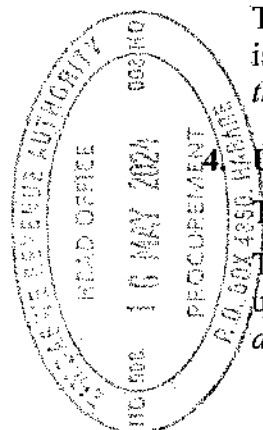
### 3. Bid Price

The total price of our Bid, excluding any unconditional discounts offered in item (4) below is *[insert the total price of the Bid in words and figures, indicating the various amounts and the respective currencies]*.

### 4. Unconditional Discounts

The unconditional discounts offered are: *[Specify in detail each discount offered.]*

The exact method of calculations to determine the net price after application of unconditional discounts is: *[Specify in detail the method that shall be used to apply the discounts]*.





**5. Quotation Validity Period**

Our Quotation shall be valid for the period specified in RFQ, and it shall remain binding upon us and may be accepted at any time before it expires.

**6. Performance Security**

If we are awarded the Call-off Contract, we commit to obtain a Performance Security in accordance with the RFQ.

**7. Not Bound to Accept**

We understand that you reserve the right to:

- a. accept or reject any Quotation and are not bound to accept the lowest evaluated cost Quotation, or any other Quotation that you may receive, and
- b. annul the RFQ process at any time prior to the award of a Call of Contract without incurring any liability to Suppliers.

**8. Fraud and Corruption**

We hereby certify that we have taken steps to ensure that no person acting for us, or on our behalf, engages in any type of Fraud and Corruption.

On behalf of the Supplier:

**Signature:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title/position:**

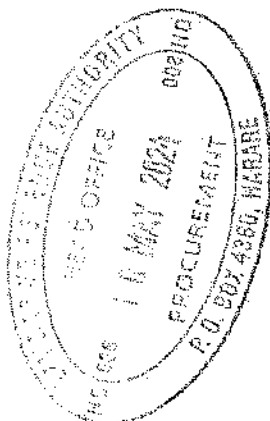
\_\_\_\_\_

**Telephone:**

\_\_\_\_\_

**Email:**

\_\_\_\_\_



#### 4. Formation of Call-off contract (to become legally binding)

The Purchaser shall confirm that the selected Supplier continues to be qualified and eligible in accordance with Framework Agreement prior to the formation of the Call-off Contract. The Call-off Contract is formed when one of the following conditions are met depending on the method of selection used for the Secondary procurement.

2.3 **For competitive quotations through mini competition using a Request for Quotation**, the Call-off contract is formed when:

“the Purchaser issues, the Letter of Award of Call-off Contract to the successful Supplier.” *[add if applicable: “Following the formation of contract, through offer and acceptance, the Purchaser and Supplier shall sign a Call-off Contract as per the form contained in the Framework Agreement.”] OR*

2.4 **For direct selection based balanced division of supply**, the Call-off contract is formed when the Purchaser transmits, to the successful Supplier, the Letter of Award and the Call-off Contract for signature and return. The Call-off Contract is signed by both the Purchaser and the Supplier and the Supplier shall submit the performance security within the period specified in the Letter of Award. The date that the Call-off Contract is formed, is the date mutually agreed by the parties.

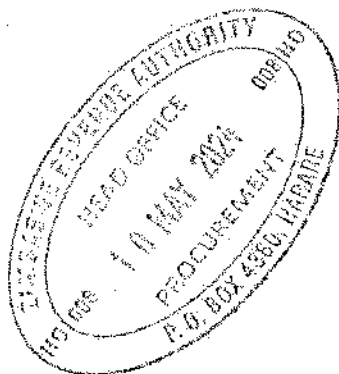
#### 5. Communicating the award of Call-off Contract

The Purchaser shall, at the same time as awarding the contract, communicate the award of the Call-off Contract in the case of:

- c. Direct Selection to all FA Suppliers for the items included in the Call-off Contract.
- d. selection based on competitive quotations (through mini competition) to all Suppliers invited to submit quotations.

The communication must be by the quickest means possible, *e.g.* by email, and include, as a minimum, the following information:

- iv. the name and address of the successful Supplier
- v. the quantity/volume of Goods being procured
- vi. the contract price.



## 7.4 SCHEDULE 4: CALL-OFF CONTRACT: GENERAL CONDITIONS OF CONTRACT (GCC)

*The following Call-off Contract General Conditions of Contract shall be read in conjunction with the other documents listed in the Call-Off Contract Form. Together with the aforementioned documents it shall constitute the complete Contract defining the rights and obligations of the Contract parties.*

*These General Conditions of Contract shall be incorporated in the Contract without any change. If needed, any change or adjustment shall be incorporated by the Lead Procuring Entity / Procuring Entity / Responsible Contracting Entity in the Call-off Contract Special Conditions of Contract contained in the individual Call-off Contract.*

### 36. Call-off Contract

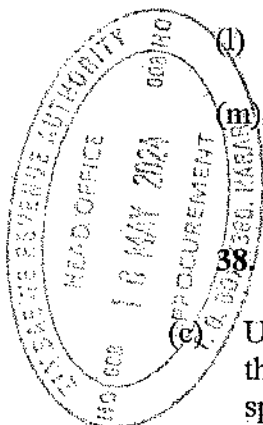
- 36.1. The General and Specific provisions of the Framework Agreement shall be considered incorporated into this Call-off Contract.
- 36.2. All documents forming this Call-off Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. This Call-off Contract shall be read as a whole.

### 37. Definitions

- 37.1. In this Call-off Contract the words and expressions defined in the Framework Agreement shall (except where the context requires otherwise or as specified in 2.2. below) have the meaning given in the Framework Agreement. In this Call-Off Contract references to attachments are, unless otherwise provided, references to attachments of this Call-off Contract.
- 37.2. Unless the context indicates otherwise, the following words and expressions shall have the following meanings:
- (g) "Contract" means a Call-off Contract awarded under a Framework Agreement, through a Secondary Procurement process, for the supply of Goods. The parties are the Purchaser and Supplier;
  - (h) "Contract Documents" means the documents listed in the Call-off Contract, including any amendments thereto;
  - (i) "GCC" means these General Conditions of Contract that apply to any Call-off Contract;
  - (j) "Purchaser" means the Lead Procuring Entity/Procuring Entity purchasing the Goods, as specified in the Call-off Contract Special Conditions of Contract;
  - (k) "Registration Certificates" means the certificates or other similar alternative documents which certify that the Goods offered under the Contract are registered for use in Zimbabwe in accordance with applicable laws and regulations;
  - (l) "SCC" means the Special Conditions of Contract as set out in an individual Call-off Contract;
  - (m) "Supplier" means the legal person, private entity, or a combination of the above that has concluded a Framework Agreement with the Purchaser to deliver, under a Call-off Contract, the Goods as and when required.

### 38. Incoterms

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 specified in the SCC.



- (d) The terms EXW, CIP, DDP 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.

### **39. Entire Agreement**

The Call-off Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations, and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

### **40. 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.

### **41. Non-waiver**

- (c) Subject to GCC 6(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.
- (d) 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.

### **42. Severability**

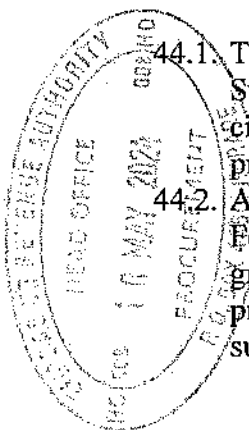
If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### **43. Joint Venture Consortium or Association**

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

### **44. Eligibility**

- 44.1. The Supplier and its subcontractors shall have the nationality of an eligible country. A Supplier or subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 44.2. All Goods 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.



#### **45. Notices**

- 45.1. Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the Call-off Contract. The term "in writing" means any worded or numbered expression that can be read, reproduced, and later communicated. It may include electronically transmitted and stored information.
- 45.2. A notice shall be effective when delivered or on the notice's effective date, whichever is later.

#### **46. Scope of Supply**

The service to be provided shall be as specified in the Call-off Contract.

#### **47. Delivery and Documents**

Subject to GCC Sub-Clause 31.1. below, the Delivery of the Goods shall be in accordance with the Delivery dates, or time schedule, specified in the Call-off Contract. The details of shipping and other documents to be furnished by the Supplier are specified in the Call-off Contract.

#### **48. Supplier's Responsibilities**

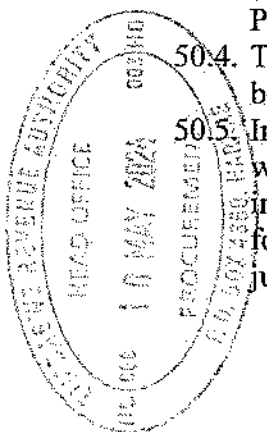
The Supplier shall supply all the Goods included in the scope of supply in accordance with GCC Clause 11, and the delivery dates or schedule, as per GCC Clause 12.

#### **49. Contract Price**

- 49.1. Prices charged by the Supplier for the Goods supplied under the Contract shall be in accordance with the provisions of the Framework Agreement, Schedule 2, after the application of any price adjustments authorized in the Call-off Contract.
- 49.2. The price offered by the Supplier (who is awarded the Call-Off) through competitive quotations (mini competition) at the Secondary Procurement selection stage but such price shall not exceed the Base Price as per Sub-Clause 14.1 above.

#### **50. Terms of Payment**

- 50.1. The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the Call-off Contract.
- 50.2. The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all other obligations stipulated in the Contract.
- 50.3. Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 50.4. The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the Bid price is expressed.
- 50.5. In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the Call-off Contract, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the Call-off Contract, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.



## 51. Taxes and Duties

- 51.1. For Goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country as well as the customs, duties and other levies imposed on imported Goods in the Purchaser's Country.
- 51.2. For Goods Manufactured within the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 51.3. If any tax exemptions, reductions, allowances, or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

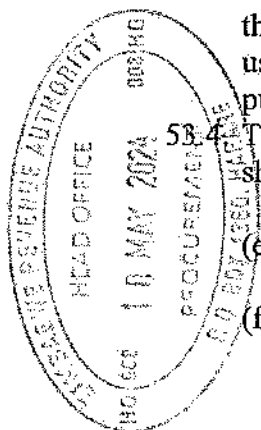
## 52. Performance Security

- 52.1. If required as specified in the Call-off Contract, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the Call-off Contract.
- 52.2. The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 52.3. As specified in the Call-off Contract, the Performance Security, if required, shall be denominated in the currency (ies) of the Contract; and shall be in one of the forms stipulated by the Purchaser in the Call-off Contract, or in another format acceptable to the Purchaser.
- 52.4. The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the Call-off Contract.

## 53. Confidential Information

- 53.1. The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract.
- 53.2. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 18.1.
- 53.3. The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 53.4. The obligation of a party under GCC Sub-Clauses 18.1, 18.2 and 18.3 above, however, shall not apply to information that:

- (e) the Purchaser or Supplier need to share with the official authorities or other institutions participating in the financing of the Contract;
- (f) now or hereafter enters the public domain through no fault of that party;



- (g) 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
- (h) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

53.5. The above provisions 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.

53.6. The provisions of GCC Clause 18 shall survive completion or termination, for whatever reason, of the Contract.

#### **54. Subcontracting**

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

54.2. Subcontracts shall comply with the provisions of GCC Clause 3 and GCC Clause 7.

#### **55. Specifications and Standards**

55.1. The Goods supplied under this Contract shall conform to the technical specifications and standards/pharmacopeia more fully described in the Framework Agreement, Schedule 1: 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.

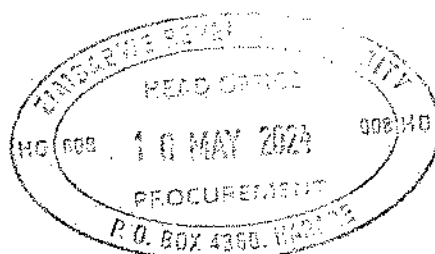
55.2. The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

55.3. 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 Framework Agreement, Schedule 1: Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 31.

#### **56. Packing and Documents**

56.1. The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.

56.2. 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 Call-off Contract, and in any other instructions ordered by the Purchaser.



## 57. Insurance

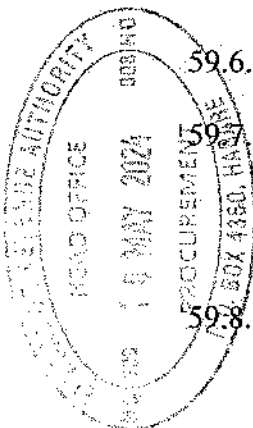
Unless otherwise specified in the Call-off Contract, the Goods supplied under the Contract shall be fully insured, in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the Call-off Contract.

## 58. Transportation and Incidental Services

- 58.1. Unless otherwise specified in the Call-off Contract, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 58.2. Prices charged by the Supplier for incidental Services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services

## 59. Inspections and Tests

- 59.1. The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods as are specified in the Framework Agreement, Schedule 1: Schedule of Requirements, and/or the Call-off Contract.
- 59.2. The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Purchaser's Country as specified in the Call-off Contract. Subject to GCC Sub-Clause 24.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 59.3. The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 24.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 59.4. Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 59.5. The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specification's codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and the other obligations so affected.
- 59.6. The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 59.7. The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 24.4.
- 59.8. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of





any report pursuant to GCC Sub-Clause 24.6, shall release the Supplier from any warranties or other obligations under the Contract.

## **60. Liquidated Damages**

Except as provided under GCC Clause 30, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the Call-off Contract 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 Call-off Contract. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 33.

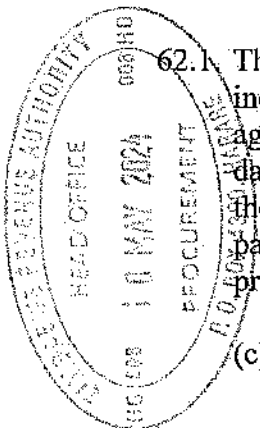
## **61. Warranty**

- 61.1. The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 61.2. Subject to GCC Sub-Clause 20.2, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 61.3. Unless otherwise specified in the Call-off Contract, 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 Call-off Contract, 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.
- 61.4. The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 61.5. Upon receipt of such notice, the Supplier shall, within the period specified in the Call-off Contract, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 61.6. If having been notified, the Supplier fails to remedy the defect within the period specified in the Call-off Contract, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## **62. Intellectual Property Rights' Indemnity**

- 62.1. The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 27.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (c) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and



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

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

- 62.2. If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clauses 27.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 62.3. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 62.4. The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 62.5. The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

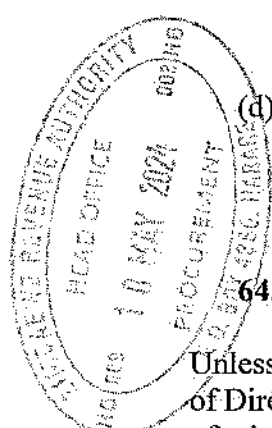
### 63. Limitation of Liability

Except in cases of criminal negligence or willful misconduct,

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

### 64. Change in Laws and Regulations

Unless otherwise specified in the Contract, if after the date of 7 (seven) days prior to (i) in case of Direct Contracting, the date of issuance of Letter of Award of Call-off contract or (ii) in case of mini competition, the date of Request for Quotation, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's Country where the Project Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Period and/or the Contract Price, then such Delivery Period and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the



foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions and/or Change in Laws and Regulations, where applicable, in accordance with the Framework Agreement.

## **65. Force Majeure**

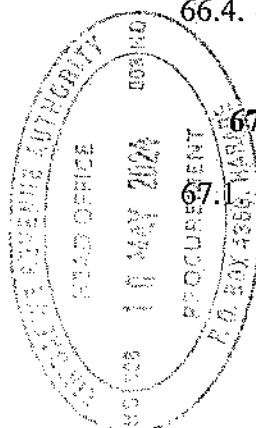
- 65.1. The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 65.2. For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

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

- 66.1. The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 10, to make changes within the general scope of the Contract in any one or more of the following:
- (d) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
  - (e) the method of shipment or packing; and
  - (f) the place of delivery.
- 66.2. If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.
- 66.3. Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 66.4. 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.

## **67. Extensions of Time**

- 67.1. If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods pursuant to GCC Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for



performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

- 67.2. Except in case of Force Majeure, as provided under GCC Clause 30, a delay by the Supplier in the performance of its Delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 25, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 32.1.

## **68. Termination**

### **68.1. Termination for Default**

- (c) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:

- (iv) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 32;
- (v) if the Supplier fails to perform any other obligation under the Contract; or
- (vi) if the Supplier, in the judgment of the Purchaser has engaged in Fraud and Corruption, in competing for or in executing the Contract.

- (d) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Sub-Clause 33.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods similar to those undelivered, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### **68.2. Termination for Insolvency.**

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

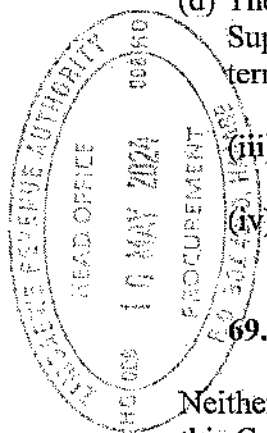
### **68.3. Termination for Convenience.**

- (c) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (d) The Goods that are complete and ready for shipment within seven (7) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:

- (ii) to have any portion completed and delivered at the Contract terms and prices, which the Supplier has committed to deliver as per the Contract; and/or
- (iv) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and for materials and parts previously procured by the Supplier.

## **69. Assignment**

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



## **70. Export Restriction**

Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to GCC Sub-Clause 33.3.

