

**SUPPLY AND DELIVERY OF TRANSFORMER BATTERIES**

**PROCUREMENT REFERENCE NO: COB/WKD/BT/02/2025**

**CITY OF BULAWAYO**



**SUPPLY AND DELIVERY OF TRANSFORMER  
BATTERIES**

**PROCUREMENT REFERENCE NUMBER: COB/WKD/BT/02/2025**

**APRIL 2025**

**SUPPLY AND DELIVERY OF TRANSFORMER BATTERIES**

**PROCUREMENT REFERENCE NO: COB/WKD/BT/02/2025**

**DOMESTIC BIDDING DOCUMENT FOR SUPPLY AND DELIVERY OF  
TRANSFORMER BATTERIES**

**Procurement Reference Number: COB/WK/BT/02/2025**

**Procuring Entity: CITY OF BULAWAYO**

**Date of Issue: 11 APRIL 2025**

**SUPPLY AND DELIVERY OF TRANSFORMER BATTERIES**

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# SUPPLY AND DELIVERY OF TRANSFORMER BATTERIES

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## **PART 1: BIDDING PROCEDURES**

### **References:**

References to the Act are to the Public Procurement and Disposal of Public Assets Act [Chapter22:23] and references to the Regulations are to the Public Procurement and Disposal of Public Assets (General) Regulations (Statutory Instrument No. 5 of 2018). The terms and requirements in the Act and Regulations govern the submission of Bids and should be read by all Bidders.

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### **Preparation of Bids**

You are requested to bid for the supply of the goods specified in the Statement of Requirements below, by completing and returning the following documentation:

1. the Bid Submission Sheet in this Part;
2. the Bills of Quantities (BOQ);
3. Supplier Registration Certificate showing that the bidder is registered with the Procurement Regulatory Authority of Zimbabwe on the following category
  - (i) **GE001: Electrical Products: Cables and Materials, Power Back-Up Equipment, Transformers, Standby Generators, Consumables & Accessories**
4. A bid securing Declaration.
5. Copies of original documents defining the constitution or legal status, place of registration and principal place of business i.e.
  - Certificate of incorporation
  - CR 6 Form
  - CR 14/CR5 Form fully showing list of directors and their addresses
  - Valid Tax Clearance Certificate
  - Valid NSSA Clearance Certificate
  - VAT Registration
6. Delivery Schedule Form
7. Financial statements for the last three [3] years
8. **Trade references letters from clients whom you have conducted related business for the last three [3] years with a minimum value of USD5, 000.00**, in the letterhead of the current and or previously serviced client stating;
  - i. Name of client;
  - ii. Contact person indicating position and contact details;
  - iii. Description of the relevant service rendered, indicating whether the quality of work was satisfactory or not
  - iv. Value of contract
  - v. Dates of engagement

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**10. Participation in this bidding procedure is open to Zimbabwean bidders only**

11. You are advised to carefully read the complete Bidding Document, and also insert the required documents on the E-gp system, which include the special and gen Conditions of Contract, before preparing your Bid. Part 3: Contract is provided not for completion at this stage but to enable Bidders to note the Contract terms they will enter into if their Bid is successful.

The standard forms in this document should be completed by the Bidder

**Lots and Packages**

The requirement may be divided into lots and packages, if indicated in Part 2, Statement of Requirements. Bidders may bid for any number of lots; lots should be taken in full and cannot be split.

**Number of bids allowed**

No Bidder may submit more than one bid, either individually or as a joint venture partner in another Bid. 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 or as a director in any of the competing bidders.

**Clarification**

Clarification of the bidding document may be requested in writing by any Bidder on or before 8 May 2025 and should be sent to <https://egp.praz.org.zw>

**Pre-bid meeting**

A Non-compulsory tender briefing shall be held on the 24<sup>th</sup> of April, 2025 at the Municipal offices, City Hall Building, Upper foyer, Bulawayo at 10:00hrs

**Validity of Bids**

The minimum period for which the Bidder's bid must remain valid is ninety [90] days from the deadline for the submission of bids. *In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with Part 1- Bidding Procedures, the Bidder granting the request shall also extend the bid security in line with the extended Bid validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid.*

**Submission of Bids**

Bid Documents are obtainable on the Electronic Government Procurement System

<https://egp.praz.org.zw>

Completed bids must be submitted on the Electronic Government Procurement System

<https://egp.praz.org.zw>

on or before 10:00am of the due date.

The Procuring Entity reserves the right to extend the bid submission deadline but will notify all potential bidders through the e-GP system of the amended bid submission deadline.

Date of deadline: **16 May ,2025**

Deadline Time:

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1000hrs

Means of acceptance: Completed bids must be submitted on the Electronic Government Procurement System <https://egp.praz.org.zw>

## **Bid opening**

Bid open will take place online.

## **Withdrawal, amendment or modification of Bids**

A Bidder may withdraw, substitute, or modify its Bid after it has been submitted through the e-GP system.

## **Delivery Requirements**

The delivery period required (from the date of contract signing) and the final destination for delivery are as indicated in the Delivery Schedule in Part 2.

## **Bid Prices and Discounts**

The prices and discounts quoted by the Bidder in the Bid Submission Form and in the Price, Schedules must conform to the requirements specified below.

Prices must be quoted as specified in the Price Schedule included in Part 2 Statement of Requirements. 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. Prices quoted must include the following costs and components:

- (a) For Goods
  - (i) the price of the Goods and the cost of delivery to the final destination, including the relevant INCOTERM, as stated in the Delivery Schedule;
  - (ii) the custom duties to be paid on the Goods on entry in Zimbabwe, if not already included;
  - (iii) Any other applicable import taxes;
  - (iv) any sales and other taxes due within Zimbabwe which will be payable on the Goods, if not already included;
  - (v) any rebate or mark-up of the local agent or representative.
- (b) for Related Services, (other than inland transportation and other services required to convey the Goods to their final destination), whenever such Related Services are specified in the Schedule of Requirements:
  - the price of each item comprising the Related Services (inclusive of any applicable taxes).

## **Bid Securing Declaration**

The Bidder must include

The Bidder must include a "Bid-Securing Declaration" using the form included in Part 2. Any bid not accompanied by a Bid Security or Bid Securing Declaration, where this is a requirement of bidding, will be rejected by the Procuring Entity as non-responsive.

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Bid Security or Bid Securing Declaration of a Joint Venture (JV) must be in the name of the JV that submits the Bid. If the JV has not been legally constituted at the time of bidding, the Bid Security or Bid-Securing Declaration must be in the names of all intended partners.

### **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.

### **Review by the Special Procurement Oversight Committee**

Section 54 of the Act provides for review by the Special Procurement Oversight Committee [SPOC] for certain especially sensitive or especially valuable contracts. This tender will not be reviewed by SPOC

### **Origin of Goods**

All goods and related services must have as their country of origin an eligible country, as specified in the Special Conditions of Contract.

### **Technical Criteria**

The Technical Specifications Sheet details the minimum specification of the goods required.

***Bidders should provide certified proof from the manufacturer or dealership that goods offered are original. No credit will be given for exceeding the specification.***

### **Currency**

Bids should be priced in United States Dollars. The currency of evaluation will be United States Dollars.

### **Award of Contract**

The lowest evaluated bid, after application of any additional evaluation criteria, including any margin of preference, which is substantially responsive to the requirements of this bidding document, will be recommended for award of contract. The proposed award of contract will be by issue of a Notification of Contract Award in terms of section 55 of the Act which will be effective until signature of the contract documents in accordance with Part 3: Contract. 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.

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### **Right to Reject**

The Procuring Entity reserves 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.

### **Corrupt Practices**

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:

1. 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;
2. the Authority may under section 72 (6) of the Act impose the sanctions under section 74 (1) of the Regulations; and
3. any conflict of interest on the part of the Bidder must be declared.



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## 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  
[Company Registration 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:**

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

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### Qualification Criteria

Factor	Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
	All partners combined		Each partner	At least one partner		
1. Financial Resources	<p>The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the cash-flow requirement for the contract.</p> <p><i>(for determination of cashflows required, use the formula: <math>t/ct \times bv</math> where: <math>t</math> = time taken to clear and pay a certificate, <math>ct</math> = project duration, <math>bv</math> = bid value.</i></p> <p><i>For determination of turnover, either the average annual turnover for a period of the past three (3) years must least be twice the value of the bid or a letter of commitment from a financial institution should be submitted. institution will not be accepted)</i></p>	Must meet requirement	Must meet requirement	Must meet __forty__ __ percent (__40%) of the requirement	Must meet twenty five percent (25%) of the requiremen t	<ul style="list-style-type: none"><li>• Letters of credit</li><li>• Financial statements</li><li>• Cash flow statements</li></ul>

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Factor	Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	

### 2 Specific Experience

Factor	Experience					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
1. Specific Experience	Experience as Supplier, in at least three (3) contracts within the last three (3) years, each with a value of at least US\$5,000.00 that have been successfully and substantially completed and that are similar to the	Must meet requirement	Must meet requirements for all characteristics	N / A	Must meet requirement for one characteristic	<ul style="list-style-type: none"><li>Reference letters from Clients</li></ul>

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Factor	Experience					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
	proposed Goods and Related Services. The similarity shall be based on the physical size, complexity, methods/technology					

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### Annual Turnover (Previous years)

Bidder's Legal Name: \_\_\_\_\_

Date:

JV Partner Legal Name: \_\_\_\_\_

Bidding No.: \_\_\_\_\_

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

Year	USD
2024	
2023	
2022	

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***Financial Resources***

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract.

Source of financing	Amount (USD)
1.	
2.	
3.	
4.	

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## **PART 2: STATEMENT OF REQUIREMENTS**

Name of Bidder:

Bidder's Reference Number:

### **List of Goods and Price Schedule**

<b>Item No<sup>1</sup></b>	<b>Description of Goods</b>	<b>Quantity<sup>2</sup></b>	<b>Unit Price<sup>3</sup> [to be provided by the Bidder]</b>	<b>VAT [to be provided by the Bidder]</b>	<b>Total Price vat [inclusive]<sup>4</sup> [to be provided by the Bidder]</b>
<b>1</b>	Transformer Batteries [Flooded Lead Acid 2-250(2v250Ah)]	110			

Note 1: The description or quantity must indicate the unit of measure where relevant.

Note 2: Unit and total prices must be for delivery through to the final destination stated in Part 1.

Note 3: Include any additional costs, such as installation or commissioning.

The price to be quoted in the Price Schedule must be the total price of the bid, excluding any discounts offered.

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## **Delivery Schedule**

Name of Bidder:

Bidder's Reference Number:

{NOTE TO BIDDERS: IF THE DELIVERY PERIOD OFFERED, OR ANY OTHER DETAILS, DIFFER FROM THE REQUIREMENTS BELOW, THIS SHOULD BE STATED IN YOUR TENDER}.

<b>Item</b>	<b>Delivery Date Required by Procuring Entity and applicable INCOTERM</b>	<b>Bidder's offered Delivery period</b>
1	60 Days DDP	

The delivery period required is measured from the date of the signing of the Contract between the Procuring Entity and the Bidder.

The Project Site for delivery of the goods is the final destination:

***[Bulawayo City Council Main Stores, Khami Road Bulawayo]***



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## Technical Specification and Compliance Sheet

Name of Bidder:

Bidder's Reference Number:

*The Goods and Related Services must comply with following Technical Specifications and Standards:*

**Flooded Lead Acid battery 2-250(2V250Ah)**

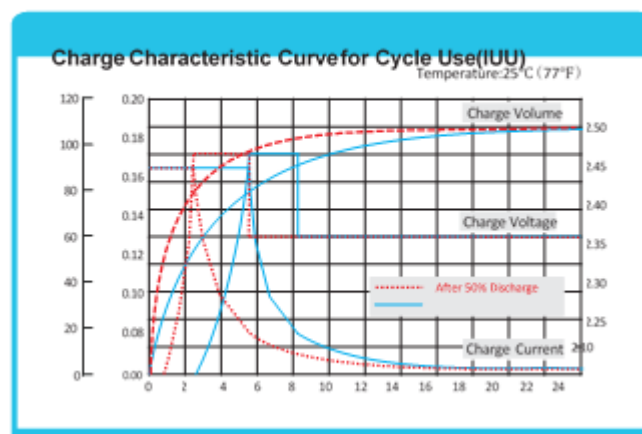
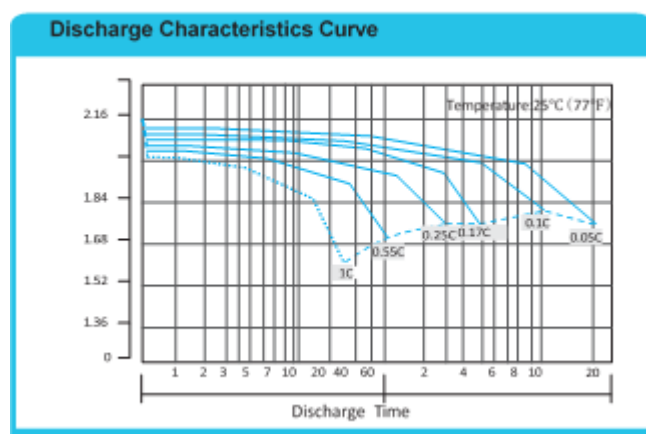
The flooded Lead Acid battery must adopt a Tubular Plate technology to offer high reliability and performance. The Battery must be designed and manufactured according to standards and with DIN40736/IEC60896 positive spine and patent formula of die-casting active material. The series battery must offer 400% more cyclic life than the standby and must be stored up to 2 years before filling.

*[Columns a,b and c 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 c)]*

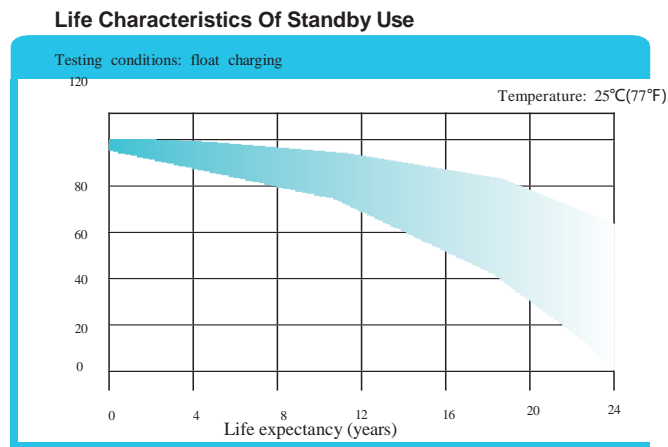
Item	Confirm full specification of items offered by Bidder <u>and</u> compliance of items to detail in column c}	Detailed Technical Specifications		Confirm full specification of items offered by Bidder <u>and</u> compliance of items to detail in column c
1	Transformer Batteries [Flooded Lead Acid 2-250(2v250Ah)]	Voltage Per Unit	2V	
		Normal Capacity	250 Ah@10 hour-rate to 1.80V per cell @ 25°C (degrees Celsius)	
		Weight	Without Electrolyte 16.2 kg (Tolerance ±5%) With Electrolyte 21.1kg (Tolerance ±5%)	
		Internal resistance	≤0.76 m0 (Full Charge Condition @ 25°C)	

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		Terminal	Default F10(M8)	
		Max. Discharge Current	1200A (5sec)	
		Design life	20 Years	
		Max. Charging Current	37.5A	
		Float Charging Voltage	2.25 V~2.30 V @ 25°C)	
		Cycle Use Voltage	Temperature Compensation:3mv/°C/Cell	
		Operating Temperature Range	2.50 V~2.55V @ 25°C) Temperature Compensation:4mv/°C/Cell	
		Normal operating temperature range	Discharge:- 15°C ~50°C Charge: 0°C ~40°C Storage: 15°C ~50°C	
			25°C ±5°C	



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Specification of the items offered in column d and determines whether this meets the minimum specification in column c. 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 d.**

## **Declaration by the Accounting Officer**

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

**Signed**

**CHRISTOPHER DUBE [TOWN CLERK]**

## **PART 3 – CONTRACT**

### **Contract Agreement**

**Procurement Reference: SUPPLY AND DELIVERY OF BATTERIES**  
**(COB/WKD/BT/01/2025)**

THIS CONTRACT AGREEMENT is made the *[insert: date]* day of *[insert: month]*, *[insert: year]*.

BETWEEN

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

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

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are assigned to them in the General and Special Conditions of Contract referred to below.
2. The following documents shall constitute the Contract between the Procuring Entity and the Contractor, and each shall be read and construed as an integral part of the Contract:
  - (a) This Contract Agreement;
  - (b) Special Conditions of Contract;
  - (c) General Conditions of Contract;
  - (d) Technical Requirements (including Schedule of Requirements and Technical Specifications);
  - (e) The Contractor’s Bid, original Price Schedules and Delivery Schedule;
  - (f) The Procuring Entity’s Notification of Contract Award;
  - (g) *[Add here any other document(s)]*.

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3. This Contract Agreement shall prevail over all other Contract Documents. In the event of any discrepancy or inconsistency within the Contract Documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Procuring Entity to the Contractor as mentioned below, the Contractor hereby agrees with the Procuring Entity to provide the Goods and Services and to remedy any defects in them in conformity with the Contract.
5. The Procuring Entity hereby agrees to pay the Contractor in consideration of the provision of the Goods and Services and the remedying of any defects in them, the Contract Price or such other sum as may become payable under the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Zimbabwe on the day, month and year indicated above.

**For and on behalf of the Procuring Entity**

Signed: .....

Name:

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

**For and on behalf of the Contractor**

Signed: .....

Name:

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

**General Conditions of Contract**

***[NAME OF PROCURING ENTITY]***

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**GENERAL CONDITIONS OF CONTRACT**

**FOR THE**

**PROCUREMENT OF GOODS**

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## **GENERAL PROVISIONS**

### **1. Definitions**

The definitions used in the Public Procurement and Disposal of Public Assets Act [Chapter 22:23] (“the Act”) and the Public Procurement and Disposal of Public Assets (General) Regulations, 2018 (Statutory Instrument 5 of 2018) (“the Regulations”), shall apply to these General Conditions of Contract. In addition, the following words and expressions shall have the following meanings, unless the context otherwise indicates:

- “Clause” and “Sub-Clause” means a clause or subclause, as the case may be, of these General Conditions of Contract.
- “Completion” means the fulfilment of the Related Services by the Contractor in accordance with the terms and conditions set forth in the Contract.
- “Contract” means the Contract entered into between the Procuring Entity and the Contractor, together with the Contract Documents.
- “Contract Documents” means the documents listed in the Contract or incorporated by reference in the Contract, and all attachments and appendices to those documents as well as any amendments to them.
- “General Conditions of Contract”, hereinafter referred to as GCC, means the conditions set out in this document.
- “Goods” means all of the commodities, raw material, machinery, equipment, and other things, as defined in section 2 of the Act, which the Contractor is required to supply to the Procuring Entity under the Contract.
- “Project Site,” where applicable, means the place or places specified in the Schedule of Requirements.
- “Related Services” means the services incidental to the supply of goods, such as insurance, installation, training and initial maintenance and other such obligations of the Contractor under the Contract.
- “Special Conditions of Contract”, hereinafter referred to as “SCC”, means the conditions attached to the Contract Agreement, which shall govern the Contract and shall prevail over these General Conditions of Contract.
- “Subcontractor” means any person or entity to whom the Contract has subcontracted the supply of any part of the Goods or the execution of any part of the Related Services.

### **2. Fraud and corruption**

- 2.1 If the Procuring Entity determines that the Contractor and/or any Subcontractor has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) days’ notice to the Contractor, terminate the Contractor’s employment under the Contract, and the provisions of Clause 16 shall apply as if such termination had been made under Clause 16.1.
- 2.2 In accordance with section 42 of the Regulations, submission of a bid shall be deemed to have been an undertaking on behalf of the Contractor to accept its responsibilities under this Clause.
- 2.3 For the purposes of this Clause:



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“corrupt practice”<sup>1</sup> means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value in order to influence improperly the actions of another party;

“fraudulent practice”<sup>2</sup> means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation;

“collusive practice”<sup>3</sup> means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

“coercive practice”<sup>4</sup> means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party in order to influence improperly the actions of a party;

“obstructive practice” means:

(a) deliberately destroying, falsifying, altering or concealing of evidence material to an investigation or making false statements to investigators in order to materially impede an investigation by the Procuring Entity or a Government agency into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party in order to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(b) an act intended to materially impede the exercise of the Procuring Entity’s inspection and audit rights provided for under Sub-clause 2.5.

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

2.5 The Contractor shall permit the Procuring Entity or any authorised agent of the Procuring Entity to inspect the Contractor’s accounts and records relating to the performance of the Services and to have them audited by auditors appointed by the Government, if so required by the Government.

## **THE CONTRACT**

### **3. Interpretation**

#### **3.1 Entire Agreement**

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

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<sup>1</sup> “Another party” means a public official acting in relation to the procurement process or contract execution]. In this context, “public official” includes Government staff and employees of other organizations taking or reviewing procurement decisions.

<sup>2</sup> A “party” means a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

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

<sup>4</sup> A “party” means a participant in the procurement process or contract execution.

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**3.2 Contract to be read as whole**

The Contract shall be read as a whole. The Contract and Contract Documents (and all parts thereof) are intended to be complementary, correlative and mutually explanatory.

**3.3 Amendment**

No amendment or other variation of the Contract shall be valid unless it is in accordance with section 81 of the Act and section 62 of the Regulations, is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party to the Contract. The terms of Clause 11 shall also apply.

**3.4 Non-waiver**

3.4.1 Subject to Clause 3.4.2, 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.

3.4.2 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.

**3.5 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 provision or condition of the Contract.

**3.6 Headings and Titles**

The headings and titles of these General Conditions of Contract shall not limit, alter or affect the meaning of the Contract.

**3.7 Number and Gender**

In these GCC, unless the context otherwise requires:

- (a) the singular includes the plural and *vice versa*;
- (b) words indicating one gender include all genders.

**3.8 Relationship between Parties**

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent between the Procuring Entity and the Contractor.

**4. Governing law**

4.1 The Contract shall be governed by and interpreted in accordance with the laws of Zimbabwe.

4.2 If after the date of the Bidding Document, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in Zimbabwe or where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Terms of Reference and/or the Contract Price, then the Contract Price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if it has already been

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accounted for in the price adjustment provisions where applicable. An adjustment shall also be made to the completion time if that is affected by the change.

**5. Language**

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

**6. Joint venture, consortium or association**

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

**7. Eligible country**

The Contractor and its Subcontractors shall have the nationality of an eligible country. All countries shall be eligible except countries that are subject to the following provisions:

- 7.1 A country shall not be eligible if:
- (a) by law or lawful order, the Government of Zimbabwe prohibits commercial relations with that country, provided that the Government of Zimbabwe is satisfied that such exclusion does not preclude effective competition for the provision of Goods or Related Services required; or
  - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government of Zimbabwe prohibits any import of Goods from that country or any payments to persons or entities in that country.
- 7.2 A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.3 All Goods and Related Services to be supplied under the Contract and funded by the Government shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 7.4 Countries that are ineligible under this clause shall be specified in the SCC.

**8. Notices**

- 8.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized

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representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

- 8.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SCC.

**9. Assignment**

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

**10. Subcontracting**

- 10.1 Except where expressly permitted by the Contract, the Contractor shall not subcontract the supply of any Goods or the performance of any Service, except with the prior written approval of the Procuring Entity. Subcontracting shall in no event relieve the Contractor from any of its obligations, duties, responsibilities or liability under the Contract.
- 10.2 Subcontracts shall comply with Clauses 2 and 7.

**11. Change Orders and Contract Amendments**

- 11.1 The Procuring Entity may at any time order the Contractor through notice in accordance with Clause 8, to make changes within the general scope of the Contract to any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity;
  - (b) the method of shipment or packing;
  - (c) the place of delivery; and
  - (d) the Related Services to be provided by the Contractor.
- 11.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Contractor's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Contractor for adjustment under this Clause shall be asserted within twenty-one (21) days from the date of the Contractor's receipt of the Procuring Entity's change order.
- 11.3 Prices to be charged by the Contractor for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Contractor for similar services.
- 11.4 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.

**12. Taxes and duties**

- 12.1 For goods manufactured outside Zimbabwe, the Contractor shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside Zimbabwe.
- 12.2 For goods manufactured within Zimbabwe, the Contractor shall be entirely responsible for all taxes, duties, licence fees and other such levies, incurred until delivery of the contracted Goods to the Procuring Entity.

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- 12.3 If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in Zimbabwe, the Procuring Entity shall use its best efforts to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.

**13. Export Licences and Restrictions**

- 13.1 Responsibility for obtaining export and import licences, or similar documentation or formalities, shall be based on the appropriate INCOTERMS. For ease of reference, a copy of the current Incoterms is an appendix to these GCC.
- 13.2 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Procuring Entity, to Zimbabwe, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, or the country of manufacture of those products/goods, systems or services, and which substantially impede the Contractor from meeting its obligations under the Contract, shall release the Contractor from the obligation to provide deliveries or services, provided that the Contractor demonstrates to the satisfaction of the Procuring Entity 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 Procuring Entity's convenience pursuant to Sub-Clause 16.3.

**14. Force majeure**

- 14.1 The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, the Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Contract.
- 14.2 For the purposes of the Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party's performance of its obligations under the Contract impossible or so impractical as reasonably to be considered impossible in the circumstances, and:
- (a) includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies;
  - (b) does not include:
    - (i) any event which is caused by the negligence or intentional action of a Party or a Party's Sub-Consultants or agents or employees; or
    - (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of the Contract, and avoid or overcome in the carrying out of its obligations hereunder; or
    - (ii) insufficiency of funds or failure to make any payment required under the Contract.

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- 14.3 If a Force Majeure situation arises, the Contractor shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Contractor shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**15. Suspension of assignment**

The Procuring Entity may, by written notice of suspension of the assignment to the Contractor, suspend all payments to the Contractor hereunder if the Contractor fails to perform any of its obligations under the Contract, including the carrying out of the Services, provided that such notice of suspension shall:

- (a) specify the nature of the failure; and
- (b) request the Contractor to remedy such failure within a period not exceeding thirty days after receipt by the Contractor of such notice of suspension.

**16. Termination**

**16.1 Termination for Default**

- 16.1.1 The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor, may terminate the Contract in whole or in part:

- (i) if the Contractor fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to Clause 33;
- (ii) if the Contractor fails to perform any other obligation under the Contract; or
- (iii) if the Contractor, in the judgment of the Procuring Entity has engaged in fraud and corruption, as defined in Clause 3, in competing for or in executing the Contract.

- 16.1.2 If the Procuring Entity terminates the Contract in whole or in part, pursuant to this clause, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Contractor shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Contractor shall continue performance of the Contract to the extent not terminated.

**16.2 Termination for Insolvency**

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

**16.3 Termination for Convenience.**

- 16.3.1 The Procuring Entity, by notice sent to the Contractor, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Contractor under the

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Contract is terminated, and the date upon which such termination becomes effective.

16.3.2 The Goods that are complete and ready for shipment within twenty-one (21) days after the Contractor's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may elect:

- (i) to have any portion completed and delivered at the Contract terms and prices; and/or
- (ii) to cancel the remainder and pay to the Contractor an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Contractor.

**17. Good Faith**

- 17.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
- 17.2 The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause 18.

**18. Settlement of Disputes**

- 18.1 The Procuring Entity and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract or its interpretation.
- 18.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual negotiation, then either the Procuring Entity or the Contractor may give notice to the other party of its intention to commence arbitration under the terms of the Arbitration Act [*Chapter 7:15*], as amended.
- 18.3 Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree, and the Procuring Entity shall pay the Contractor any moneys due the Contractor.

**19. Liquidated damages**

Except as provided under GCC Clause 14, if the Contractor fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Procuring Entity may, in accordance with section 88 of the Act, 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

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of the percentage specified in those SCC. Once the maximum is reached, the Procuring Entity may terminate the Contract pursuant to Clause 16 (1).

**PERFORMANCE OF THE CONTRACT**

**20. Scope of Supply, Specifications and Standards**

- 20.1 The Contractor shall supply all the Goods and Related Services included in the Statement of Requirements and the Delivery and Completion Schedule.
- 20.2 Goods supplied and the Related Services performed under the Contract shall not vary from the specifications in the Schedule of Requirements unless:
- (a) the Contractor in accordance with section 62 (1) of the Regulations, has offered more favourable terms and conditions than those stated in the bidding document and the variations have been accepted by the Procuring Entity; or
  - (b) the Procuring Entity and the Contractor, in accordance with section 62 (2) of the Regulations, have negotiated terms that were not specified in the bidding document for the effectiveness of the Contract.
- 20.3 Technical Specifications and Drawings shall conform to the Schedule of Requirements or to any agreed modification and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Goods.
- 20.4 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Procuring Entity.
- 20.5 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Procuring Entity and shall be treated in accordance with Clause 11.

**21. Packing, delivery and documentation**

- 21.1 The Contractor shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 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 Procuring Entity.
- 21.3 The Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Contractor are specified in the SCC.



## **22. Insurance**

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

## **23. Inspections and Tests**

- 23.1 The Contractor shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 23.2 The inspections and tests may be conducted on the premises of the Contractor or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in Zimbabwe or elsewhere as specified in the **SCC**. If conducted on the premises of the Contractor or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.
- 23.3 The Procuring Entity or its designated representative shall be entitled to attend the tests or inspections referred to in Sub-clause 23.2, provided that the Procuring Entity bears all its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 23.4 Whenever the Contractor is ready to carry out any such test or inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test or inspection.
- 23.5 The Procuring Entity may require the Contractor to carry out any test or inspection not required by the Contract but considered by the Procuring Entity to be necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Contractor's reasonable costs and expenses incurred in carrying out such test and/or inspection shall be added to the Contract Price. Further, if such test or inspection impedes the progress of manufacturing and/or the Contractor's performance of its other obligations under the Contract, due allowance shall be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 23.6 The Contractor shall provide the Procuring Entity with a report of the results of any such test or inspection.
- 23.7 The Contractor may reject any Goods or any part thereof that fail to pass any test or inspection or do not conform to the specifications. The Contractor shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to Sub-clause 23.4.
- 23.8 The Contractor agrees that neither the execution of a test or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to Sub-clause 23.6, shall release the Contractor from any warranties or other obligations under the Contract.

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**24. Performance Security**

- 24.1 If specified in the **SCC**, the Contractor shall, within twenty-one (21) days of the notification of contract award or, in the event of Challenge proceedings under Part X of the Act, within twenty-one (21) days of the resolution of the Challenge, provide a performance security for the performance of the Contract in the amount specified in the **SCC**. The format for any performance security shall be as specified in the **SCC**.
- 24.2 The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 24.3 As specified in the **SCC**, the Performance Security, if required, shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the Procuring Entity; shall be in one of the formats stipulated by the Procuring Entity in the **SCC**, or in another format acceptable to the Procuring Entity; shall be provided by an institution acceptable to the Procuring Entity, where the security is issued by a financial institution; and shall be valid for the period prescribed in the **SCC**.
- 24.4 If specified in the **SCC**, the Performance Security may be progressively reduced, in line with the Contractor's progress in delivering or completing the procurement requirement to which the security relates. Any outstanding amount of Performance Security shall be discharged by the Procuring Entity and returned to the Contractor immediately following the date of Completion of the Contractor's performance obligations under the Contract, including any warranty obligations.

**25. Warranty**

- 25.1 The Contractor warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 25.2 Subject to the Contract, the Contractor further warrants that the Goods shall be free from defects arising from any act or omission of the Contractor or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 25.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 25.4 The Procuring Entity shall give notice to the Contractor stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Procuring Entity shall afford all reasonable opportunity for the Contractor to inspect such defects.
- 25.5 Upon receipt of such notice, the Contractor shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Procuring Entity.
- 25.6 If having been notified, the Contractor fails to remedy the defect within the period specified in the **SCC**, the Procuring Entity may proceed to take within a reasonable period such remedial action as may be necessary, at the Contractor's risk and

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expense and without prejudice to any other rights which the Procuring Entity may have against the Contractor under the Contract.

**26. Patent Indemnity**

- 26.1 The Contractor shall, subject to the Procuring Entity's compliance with Sub-clause 26.2, indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including lawyer's fees and expenses, which the Procuring Entity may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:
- (a) the installation of the Goods by the Contractor or the use of the Goods where the Site is located; and
  - (b) the sale in any country of the products produced by the Goods.
- 26.2 Such indemnity shall not cover any use of the Goods or any part thereof for the purpose that is not indicated by or to be reasonably inferred from the Contract, nor shall it cover any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby, in association or combination with any other equipment, plant, or materials not supplied by the Contractor, pursuant to the Contract.
- 26.3 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in Sub-clause 26.1, the Procuring Entity shall promptly give the Contractor notice thereof, and the Contractor may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 26.4 If the Contractor fails to notify the Procuring Entity within twenty-one (21) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.
- 26.5 The Procuring Entity shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.
- 26.6 The Procuring Entity shall indemnify and hold harmless the Contractor and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including lawyer's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring Entity.

**27. Limitation of Liability**

Except in cases of criminal negligence or wilful misconduct:

- (a) the Contractor shall not be liable to the Procuring Entity, whether in contract, delict 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

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exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Procuring Entity; and

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

**28. Extensions of Time**

- 28.1 If at any time during performance of the Contract, the Contractor or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services, the Contractor shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Contractor's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 28.2 Except in case of Force Majeure, as provided under Clause 14, a delay by the Contractor in the performance of its Delivery and Completion obligations shall render the Contractor liable to the imposition of liquidated damages pursuant to Clause 19, unless an extension of time is agreed upon.

**PAYMENT**

**29. Contract Price**

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

**30. Terms of Payment**

- 30.1 The Contract Price, including any Advance Payments, if applicable, shall be paid according to the schedule for delivery and acceptance in the SCC.
- 30.2 The Contractor's request for payment shall be made to the Procuring Entity in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to Clause 21 and upon fulfilment of all other obligations stipulated in the Contract.
- 30.3 Payments shall be made promptly by the Procuring Entity, but in no case later than two months after submission of an invoice or request for payment by the Contractor, and after the Procuring Entity has accepted it.
- 30.4 The currencies in which payments shall be made to the Contractor under this Contract shall be those in which the bid price is expressed.
- 30.5 Unless otherwise provided for in the SCC, in the event that the Procuring Entity fails to pay the Contractor any payment by its due date or within the period set forth in the SCC, the Contractor may raise a complaint with the Authority, which may order the Procuring Entity to settle the outstanding invoice immediately or to pay to the Contractor interest on the amount of such delayed payment at the interest rate set by the Reserve bank of Zimbabwe for the period of delay until

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payment has been made in full, whether before or after judgment or arbitrage award.

**31. Contract Administration Fee**

The Contractor shall pay the Contract Administration Fee set out in Part V of the Fifth Schedule of the Regulations if so indicated in the SCC.

**APPENDIX: INCOTERMS RULES 2010**

**RULES FOR ANY MODE OR MODES OF TRANSPORT**

**EXW Ex Works**

“Ex Works” means that the seller delivers when it places the goods at the disposal of the buyer at the seller’s premises or at another named place (i.e., works, factory, warehouse, etc.). The seller does not need to load the goods on any collecting vehicle, nor does it need to clear the goods for export, where such clearance is applicable.

**FCA Free Carrier**

“Free Carrier” means that the seller delivers the goods to the carrier or another person nominated by the buyer at the seller’s premises or another named place. The parties are well advised to specify as clearly as possible the point within the named place of delivery, as the risk passes to the buyer at that point.

**CPT Carriage Paid To**

“Carriage Paid To” means that the seller delivers the goods to the carrier or another person nominated by the seller at an agreed place (if any such place is agreed between parties) and that the seller must contract for and pay the costs of carriage necessary to bring the goods to the named place of destination.

**CIP Carriage And Insurance Paid To**

“Carriage and Insurance Paid to” means that the seller delivers the goods to the carrier or another person nominated by the seller at an agreed place (if any such place is agreed between parties) and that the seller must contract for and pay the costs of carriage necessary to bring the goods to the named place of destination.

The seller also contracts for insurance cover against the buyer’s risk of loss of or damage to the goods during the carriage. The buyer should note that under CIP the seller is required to obtain insurance only on minimum cover. Should the buyer wish to have more insurance protection, it will need either to agree as much expressly with the seller or to make its own extra insurance arrangements.”

**DAT Delivered At Terminal**

“Delivered at Terminal” means that the seller delivers when the goods, once unloaded from the arriving means of transport, are placed at the disposal of the buyer at a named terminal at the named port or place of destination. “Terminal” includes a place, whether covered or not, such as a quay, warehouse, container yard or road, rail or air cargo terminal. The seller bears all risks involved in bringing the goods to and unloading them at the terminal at the named port or place of destination.

**DAP Delivered At Place**

“Delivered at Place” means that the seller delivers when the goods are placed at the disposal of the buyer on the arriving means of transport ready for unloading at the named

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place of destination. The seller bears all risks involved in bringing the goods to the named place.

**DDP Delivered Duty Paid**

“Delivered Duty Paid” means that the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.

**RULES FOR SEA AND INLAND WATERWAY TRANSPORT**

**FAS Free Alongside Ship**

“Free Alongside Ship” means that the seller delivers when the goods are placed alongside the vessel (e.g., on a quay or a barge) nominated by the buyer at the named port of shipment. The risk of loss of or damage to the goods passes when the goods are alongside the ship, and the buyer bears all costs from that moment onwards.

**FOB Free On Board**

“Free On Board” means that the seller delivers the goods on board the vessel nominated by the buyer at the named port of shipment or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel, and the buyer bears all costs from that moment onwards.

**CFR Cost and Freight**

“Cost and Freight” means that the seller delivers the goods on board the vessel or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel. the seller must contract for and pay the costs and freight necessary to bring the goods to the named port of destination.

**CIF Cost, Insurance and Freight**

“Cost, Insurance and Freight” means that the seller delivers the goods on board the vessel or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel. The seller must contract for and pay the costs and freight necessary to bring the goods to the named port of destination.

The seller also contracts for insurance cover against the buyer’s risk of loss of or damage to the goods during the carriage. The buyer should note that under CIF the seller is required to obtain insurance only on minimum cover. Should the buyer wish to have more insurance protection, it will need either to agree as much expressly with the seller or to make its own extra insurance arrangements.

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## **Special Conditions of Contract**

Procurement Reference Number **COB/WKD/BT/02/2025**

The clause numbers given in the first column correspond with the relevant clause number of the General Conditions of Contract.

<b>GCC reference</b>	<b>Special Conditions</b>
<b>GCC 7.5</b>	<b>Eligible Countries:</b> All countries are eligible.
<b>GCC 8.1</b>	<p><b>Notices:</b> Any notice shall be sent to the following e-mail addresses  <a href="https://egp.praz.org.zw">https://egp.praz.org.zw</a></p> <p>For the Procuring Entity, the address shall be as given in the Contract document and the contact shall be:  <b>City of Bulawayo</b>  Town Clerks Department Room 126  City Hall, Municipal Buildings  Fife Street/ Leopold Takawira Avenue  Bulawayo, Zimbabwe.</p> <p><b>Ref: STATE PROCUREMENT REFERENCE NO.: SUPPLY AND DELIVERY OF TRANSFORMER BATTERIES</b></p> <p><b>For the Contractor,</b> the address shall be as given in the Bid document.</p>
<b>Bidding Procedures</b>	<p><b>Bid validity</b></p> <p>The bid validity shall be ninety [90] days</p>
<b>GCC 22.1</b>	<b>Insurance:</b> The Goods in transit before DDP shall be insured <b>by the contractor</b>
<b>GCC 24.0</b>	<p><b>Performance Security</b></p> <p>The successful bidder, before signing the procurement contract will be required to provide a performance security equivalent to 10% of the total value of the contract.</p>
<b>GCC 25.1</b>	<b>Warrant period:</b> of not less than 12 months
<b>GCC 25.6</b>	<b>Failure to remedy a defect:</b> The period allowed to the Contractor to remedy a defect during the period of the Warranty shall be [30 days] from receipt of notice.
<b>GCC 29.1</b>	<b>Price adjustments:</b> Price adjustments will only be considered in line with the economic environment and changes in statutory requirements.
<b>GCC 30.1</b>	<p><b>Terms of Payment:</b> The structure of payments for Local Companies shall be:</p> <p>(a) <b>On acceptance:</b></p> <p>(b) Currency: payment will be in ZWG based on the ruling Interbank rate at the time of payment.</p> <p>(c) <b>No advance payment</b></p>

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<b>GCC reference</b>	<b>Special Conditions</b>
<b>Bidding Procedures</b>	The contractor must have a workshop in Bulawayo for attending to warrant and technical issues.
<b>Bidding Procedures</b>	<b>Delivery Site:</b> Bulawayo City Council Main Stores, Khami Road Bulawayo
<b>GCC Appendix</b>	<b>Delivery Incoterm</b>  Delivered Duty Paid [DDP]
<b>Bidding Procedures</b>	<b>Bid Securing Declaration</b> The Bidders must include Bid Securing Declaration
<b>GCC 31.1</b>	<b>Contract Administration Fee:</b> Successful bidders will be expected to pay Contract Administration Fee set out in Part V of the Fifth Schedule of the Regulations is before signing of the Contract.



## **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 bidding for any contract with a Procuring Entity in Zimbabwe for a period of time 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, either when we receive 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/YY)

**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 the partners to the Joint Venture that submits the Bid.}*

## **Bank Guarantee for Performance Security**

*[Delete page if no Performance Security is required in the SCC]*

*[This is the format for the Performance Security to be issued by a commercial bank in Zimbabwe in accordance with GCC 18.1]*

Contract No:

Date:

To:

[Name and address of Procuring Entity]

### **PERFORMANCE GUARANTEES No:**

We have been informed that *[name of supplier]* (hereinafter called “the Supplier”) has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called “the Contract”) for the supply of *[description of goods and related services]* under the Contract.

Furthermore, we understand that, according to your conditions, Contracts must be supported by a performance guarantee.

At the request of the Supplier, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil, delay or argument, any sum or sums not exceeding in total an amount of *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Supplier is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until full recovery of the entire sum of money above stated, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee in case of default.

Signature

Signature

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