



# African Development Bank

## **OPEN COMPETITION**

### **INVITATION TO BID**

**SUPPLY, DELIVERY, DESIGN,  
IMPLEMENTATION, TRAINING  
AND MAINTENANCE OF  
SECURE SDWAN FOR THE  
AFRICAN DEVELOPMENT  
BANK'S OFFICES**

**REF: ADB/ITB/TCGS/2023/0189**

**General Services  
and Procurement  
Department**

Version March 2016

# SUMMARY DESCRIPTION

## **PART I – SELECTION PROCEDURES AND REQUIREMENTS**

### **Section 1: Letter of Invitation**

This Section is a letter from the Bank addressed to potential bidders inviting them to submit a proposal for the assignment. The letter includes references to the selection method and applicable guidelines or policies of the Bank that govern the selection and award process.

### **Section 2: Instructions to Bidders**

This Section provides information to help potential bidders prepare their proposals. Information is also provided on the submission, opening and evaluation of proposals, contract negotiation and award of contract.

### **Section 3: ITB Data Sheet**

“ITB Data” contains information specific to the current selection and corresponds to the clauses in “Instructions to Bidders” that call for selection-specific information to be added.

### **Section 4: Statement of Work / Technical Specification / Drawings**

This Section describes the scope of services, objectives, goals, specific tasks required to implement the assignment, and relevant background information; provides details on the required qualifications of the key experts.

### **Section 5: Technical Proposal Questionnaire**

This Section includes the forms for technical proposal and financial proposal forms that are to be completed by potential bidders and submitted in accordance with the requirements of Section 2.

### **Section 6: Eligibility Requirements**

This Section contains information on the Bank’s eligibility criteria and list of member countries.

## **PART II – CONDITIONS OF CONTRACT**

**Section 7:** This Section includes the General Conditions of the Bank that shall not be modified and the Special Contract Conditions.

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## SECTION I – LETTER OF INVITATION

Dear Sir/Madam,

1. The African Development Bank (the “Bank”) invites bids for the provision of goods, works and related services as described in this Invitation to Bid (ITB). To qualify for award, a bidder shall meet the qualification criteria set out in the Section 3.
2. The bids submitted by bidders shall be received by the Bank on or before the date and time and in the manner specified in Section 2. The Bank’s requirement is set out in Section 4.
3. The Bank is an ‘AAA’ rated regional multilateral development finance institution, established in 1963, with a mandate to further economic development and social progress of African countries, individually and collectively. 81 member countries including all the 54 African countries and 27 non-African countries in the Americas, Europe and Asia own the Bank.
4. The Bank's principal functions include: (i) using its resources for the financing of investment projects and programs relating to the economic and social development of its Regional Member Countries (RMCs); (ii) the provision of technical assistance for the preparation and execution of development projects and programs; (iii) promoting investment in Africa of public and private capital for development purposes; and (iv) to respond to requests for assistance in coordinating development policies and plans of RMCs. In its operations, the Bank is also required to give special attention to projects and programs that promote regional integration.
5. The Bank began its operations from its headquarters, in Abidjan, Côte d’Ivoire on July 1, 1966. For purposes of its operations the Bank also maintains field offices in certain of its RMCs.
6. The information contained in the ITB is designed to enable bidders complete and submit bids. Bidders shall read the ITB carefully and ensure bids comply with the instructions provided in the ITB. Bidders are required to complete and submit the Bid Questionnaire (Section 5) in accordance with the Instructions to Bidders (Section 2), Bid Data Sheet (Section 3), Statement of Work/Technical Specification/Drawings (Section 4), Eligibility criteria (Section 6) and General and Specific Conditions (Section 7). The Bank is not bound by any other terms and conditions unless agreed in writing by the Bank.
7. Any eligible bidder interested in doing business with the Bank shall register at: [https://eprocurement.afdb.org/sap/bc/webdynpro/sap/zsup\\_reg\\_submit#](https://eprocurement.afdb.org/sap/bc/webdynpro/sap/zsup_reg_submit#)
8. A copy of all documents referred to in the ITB can be found on the Bank’s website: <https://www.afdb.org/en/about-us/corporate-procurement/procurement-notice/current-solicitations>
9. We look forward to receiving your bid and thank you for your interest in doing business with the Bank.

**Marcelle AKPOSSO**  
Acting Manager  
Corporate Procurement Division

## SECTION 2 - INSTRUCTIONS TO BIDDERS

### **GENERAL**

1. **Eligibility of Bidders, Goods, Services and Works** - Goods, services and works procured by the Bank shall be produced in a member country of the Bank and supplied by bidders from a member country of the Bank as defined in the Presidential Directive concerning the Rules for Corporate Procurement activities of the Bank. The Bank's eligibility criteria as defined in the Presidential Directive are set out in the ITB.
2. **Procurement Ethics, Integrity, Anti-corruption and Fairness**
  - 2.1. It is the Bank's policy that bidders/suppliers to the Bank observe the highest standard of ethics during the procurement process and execution of such contracts. In pursuance of this policy, the Bank shall reject a bid if it determines that the bidder, or any of its personnel, agent, consultant, subcontractor or service provider, has, directly or indirectly, engaged in "Corrupt", "Fraudulent", "Collusive", "Coercive" or "Obstructive" practices in competing for the contract in question. These terms are defined in the General and Specific Conditions. The Bank may also declare the bidder ineligible for participation in future procurement and award of contracts, either indefinitely or for a stated period of time.
  - 2.2. A bidder/supplier who offers any gift of any value to Bank staff will be considered to be influencing the procurement process. The Bank shall reject a bid if it determines that any such gift has been offered.
  - 2.3. All bidders/suppliers are required to comply with the Code of Conduct for Suppliers in the General and Specific Conditions.
3. **Conflict of Interest** - A bidder shall not have a conflict of interest that would call into question its participation in the procurement process and award of contract. Bidders shall disclose any potential or actual conflict of interest in the disclosure form and during execution of any contract. All bidders found to have a conflict of interest may be disqualified.
4. **Joint Venture**
  - 4.1. Where a joint venture or any other form of partnership (JV) approach is proposed, bidders are required to provide full details of the JV and nature of relationship with other members. Bidders forming a JV shall nominate an authorized representative of the JV (duly evidenced by submitting a power of attorney signed by a legally authorized representative of the JV) who shall have the authority to conduct all business for and on behalf of all members and enter into the contract. Each member shall meet the eligibility criteria as defined in the Presidential Directive.
  - 4.2. A JV shall comprise no more than four partners. At least one member shall provide 40% of the contract sum and each of the other members shall provide at least 20% of the contract sum.
  - 4.3. All members shall be jointly and severally liable for the performance of any resulting contract.

### **CLARIFICATION OF THE PROCUREMENT PROCESS**

5. Bidders are solely responsible, at their own cost and risk, for obtaining information that may be necessary for preparing bids and entering into the contract.
6. **Amendment of ITB** – The Bank reserves the right to modify any content of the ITB without incurring any liability to any bidder. Any such amendment shall be posted on the Bank's website. It is the sole responsibility of bidders to ensure they are aware of any amendment and take the amendment into account in preparing bids.
7. **Clarification of ITB**



- 7.1. A bidder requiring any clarification shall notify the Bank in writing at the details provided in the **Bid Data Sheet** and within the period for clarification in the **Bid Data Sheet**. Written copies of the Bank's response (including the questions raised without identifying the source) shall be posted on the Bank's website.
  - 7.2. If a bidder feels that any provision in the ITB will be unacceptable, such issue and any request for change shall be raised at the earliest opportunity in writing at the details provided in the **Bid Data Sheet** and in any event no later than the deadline in the **Bid Data Sheet**. **The Bank shall not consider any request to change the General Conditions.**
  - 7.3. The Bank shall determine, in its sole discretion, to accept or reject any query or request for change. Any response from the Bank shall be binding on bidders.
  - 7.4. A bidder who contacts any member of Bank staff directly or indirectly in relation to the procurement (except staff specified in the **ITB**) shall be disqualified.
  - 7.5. The Bank shall not respond to any query or request received after the deadline in the **Bid Data Sheet**.
8. **Site Visit / Pre-Bid meeting**
- 8.1. If provided in the **Bid Data Sheet**, bidders are invited to attend a site visit and pre-bid meeting. The purpose of the meeting will be to clarify issues and answer questions on any matter relating to the Bank's requirements. The cost of the site visit and pre-bid meeting shall be at the bidder's own expense.
  - 8.2. Bidders are requested to submit any questions in writing to the address in the **Bid Data Sheet**, to reach the Bank no later than one week before the meeting.
  - 8.3. If provided in the **Bid Data Sheet** that attendance at the site visit and pre-bid meeting is mandatory, any bidder wishing to submit a bid shall attend the site visit and pre-bid meeting. The Bank shall not consider a bid from a bidder who does not attend the mandatory site visit and pre-bid meeting.
  - 8.4. Minutes of the meeting (including the text of the questions raised without identifying the source together with the Bank's response) shall be posted on the Bank's website.

### **PREPARATION OF BIDS**

9. **Cost of Bidding** - Bidders shall bear all costs associated with the preparation and submission of bids. The Bank shall not be responsible or liable for any costs regardless of the conduct or outcome of the procurement process.
10. **Language of Bid**
  - 10.1. The bid and all correspondence and documents relating to the bid exchanged by the bidder and the Bank shall be written in the language specified in the **Bid Data Sheet**. A bid submitted in a language not specified in the **Bid Data Sheet** shall be rejected.
  - 10.2. Any printed literature furnished by the bidder written in another language other than the language specified in the **Bid Data Sheet** shall be accompanied by a certified translation in the language in the **Bid Data Sheet** of its pertinent passages in which case, for the purpose of interpretation of the bid, the translation shall govern.
11. **Subcontractors and services providers** – Bidders shall identify any sub-contractors that will play a significant role in the bidder's performance of the contract. The Bank reserves the right to obtain the same level of information from subcontractors as from bidders.
12. **Documents comprising the Bid** – Bids shall comprise the Bid Questionnaire, completed in full and supported with evidence and information requested by the Bank.
13. **Statement of Conformity and Bill of Quantity/Price Schedule** – Bidders shall sign the Statement of Conformity and complete the bill of quantity/price schedule using the forms



provided. The forms shall be completed without alterations to its format and content. No other substitutes shall be accepted.

14. **Publicity Material** – Unless expressly permitted in the ITB, bidders shall not submit brochures, general marketing or promotional material with bids. Publicity brochures shall not be accepted as answers to questions. Bidders shall respond fully to the questions in the ITB.
15. **Meeting the Bank’s requirements**
  - 15.1. Unless otherwise provided, bidders shall meet the Bank’s requirements by the deadline for submission of bids.
  - 15.2. Bidders shall respond in sufficient detail and provide evidence and supporting documentation to enable the Bank determine whether the bidder has the required capability, experience, knowledge and expertise to satisfactorily perform the contract.
16. **Mandatory Requirements** – The ITB may include mandatory requirements. The classification of a requirement as mandatory gives an indication of its significance to the Bank. A bid that does not meet any mandatory requirement shall be rejected as non-responsive.
17. **Samples and Inspection**
  - 17.1. The Bank may request samples at any time during the procurement process. If requested, bidders shall provide samples free of charge. A bidder who fails to provide the required samples shall be disqualified. The Bank makes no guarantee that the samples will be returned or the condition of samples upon completion of evaluation. Samples shall be returned at the bidders own cost.
  - 17.2. If provided in the ITB, the Bank shall conduct an inspection of the goods, services and works during the procurement process either at the bidder’s premises or at the Bank’s offices. Such inspection shall not relieve the bidder from any of its obligations under the contract. The Bank shall notify bidders in writing of the details of any inspection. The Bank shall not be responsible for the expenses incurred by the bidder for such inspection.
18. **Demonstration** – If provided in the ITB, the Bank shall require bidders to provide a live demonstration of the proposed solution. The bidder shall provide the demonstration free of charge and the Bank shall not accept any liability for any damage to or loss of bidders’ property in connection with such demonstration.
19. **Sustainable Procurement (SP)** – the Bank is committed to managing its business and executing contracts in an environmentally and socially responsible manner. Bidders should set out how they will deliver the contract in a sustainable manner. The Bank’s SP guideline is available on its website.
20. **Alternative Bids** - The Bank shall not consider any variation to its requirements (“Alternative Bid”) unless expressly permitted in the **Bid Data Sheet**. If an Alternative Bid is permitted, the Alternative Bid shall be accompanied by a fully compliant bid, i.e. one that meets the minimum technical requirements. The bidder shall quote the price for the fully compliant bid and then separately provide the technical specification, methodology and adjustment in price that can be offered if the Alternative Bid is accepted. The nearest functional equivalent or closest standard shall be offered as an alternative. Only the Alternative Bid of the successful bidder shall be considered.
21. **Acceptance of the General and Specific Conditions** - It shall be clearly understood that by submitting a bid in response to the ITB, a bidder shall be deemed to have accepted the General and Specific Conditions. A bid that does not accept the General and Specific Conditions shall be rejected as non-responsive.



22. **Taxes** - The prices quoted shall be net free and clear of all applicable taxes including withholding tax duties, fees, levies or indirect taxes, such as customs duties, as the Bank, by virtue of its status as an international organization, is exempt from paying any direct or indirect taxes, by virtue of Article 57 of the Agreement establishing the Bank. If the bidder is unable to quote or invoice exclusive of all applicable taxes, such taxes shall be separately set forth on the quote or invoices.

23. **Bid Prices**

23.1. The bidder shall fill in rates and prices for all items described in the Bill of Quantity/Price schedule. The rates and prices quoted by the bidder shall be separately indicated. Items for which no rate or price is entered by the bidder shall not be paid for by the Bank and shall be deemed covered by the other rates and prices in the Bill of Quantity/Price Schedule.

23.2. The rates and prices submitted by bidders shall, except insofar as it is otherwise provided in the contract, include all constructional plant, labour, supervision, materials, erection, maintenance, transportation, insurance, profit, general risks, liabilities and obligations set out or implied in the contract.

23.3. The Bank shall award the contract based on value for money that takes into account the whole life costing (i.e., life-cycle costs of the goods, services and works; maintenance; spare parts; warranty; training; disposal; shipment; insurance) of the requirement.

24. **Currency of Bid** – The prices shall be expressed in the currency in the **Bid Data Sheet**. A bidder shall express all prices in the same currency.

25. **Lots** – If the Bank’s requirement is sub-divided into separate units (“lots”), bidders can submit a bid for one or multiple lots unless otherwise stated in the **Bid Data Sheet**.

26. **Period of Validity of Bids** – Bids shall remain valid for a period not less than the period stated in the **Bid Data Sheet**. Bids valid for a shorter period shall be rejected as non-responsive. The Bank may require bidders to extend the period of validity of bids. If the bidder does not extend the period of validity of bids, the bid may be rejected. A bidder granting the request shall not be required or permitted to modify its bid.

27. **Bid Security**

27.1. If provided in the **Bid Data Sheet**, the bidder shall furnish, as part of its bid, the signed Bid-Securing Declaration form or bid security in the amount, form and valid for the period stated in the **Bid Data Sheet**.

27.2. The bid security shall be in the form of a certified cheque or a bank guarantee from a bank located in a member country of the Bank and acceptable to the Bank. Any proposal not accompanied by a substantially responsive bid security shall be rejected.

27.3. The Bank may require bidders to extend the period of validity of a bid security. If the bidder does not extend the validity of the bid security, the bid shall be rejected unless the bidder submits a new bid security acceptable to the Bank before the expiration of the bid security.

27.4. The bid security of a joint venture shall be issued in the name of the joint venture submitting the bid and shall list all members of the joint venture.

27.5. The bid security shall be returned to bidders in the circumstances specified in the **Bid Data Sheet**.

**SUBMISSION AND OPENING OF BIDS**

28. **Deadline for Submission of Bids**

28.1. The Bank shall receive bids no later than the deadline in the **Bid Data Sheet**. It is the sole responsibility of bidders to ensure timely receipt of bids by the Bank.





- 28.2. The Bank may extend the deadline for submission of bids at any time without incurring any liability to bidders.
29. **Late Bids** – The Bank shall not consider any bid received after the deadline for submission of bids. Any bid received by the Bank after the deadline for submission shall be declared late and rejected by the Bank.
30. **Bids rejected by the Bank** – Bids rejected by the Bank shall be destroyed or returned to bidders, at its own cost, if so requested.
31. **Bids submitted electronically via AfDB e-Procurement portal**
- 31.1. If provided in the **Bid Data Sheet**, bids shall be submitted electronically via AfDB e-Procurement portal.
- 31.2. Bidders can obtain guidance on submitting bids electronically in the user manual in AfDB e-Procurement portal.
- 31.3. The Bank reserves the right to request the original of any form, document or authorization submitted electronically by any bidder.
32. **Bids submitted by mail, courier or hand-delivery**
- 32.1. If provided in the **Bid Data Sheet**, bids shall be submitted by mail, courier or hand delivery.
- 32.2. Bids shall be submitted in a sealed envelope (**one original and four copies and any attachments, appendix and annex thereto must also be submitted in one original and four copies**) and delivered to the address in the **Bid Data Sheet**. The original bid shall clearly mark “Original” and each of the four copies must clearly mark “Copy”.
- 32.3. Each bidder shall seal the original and copies of the bid in an envelope (the “internal envelope”). The internal envelope shall carry the name and address of the bidder and the ITB reference. The internal envelope shall be placed in a large single envelope (the “external envelope”). The external envelope shall be anonymous and **carry the label in the Bid Data Sheet that should be photocopied and placed on the external envelope.**
- 32.4. Any alternative bid shall be prepared, sealed, marked and dispatched as per the instructions in this paragraph and clearly be identified as “Alternative”.
- 32.5. All pages of the bid shall be numbered. Each copy of the bid shall be bound in a single volume where practical. All documentation submitted with the bid shall be bound in a single volume.
- 32.6. The person or persons signing the bid shall initial all pages of the bid where correction has been made.
- 32.7. When delivered by hand, the bid shall be delivered at the address during the working hours of the Bank from 8.00 hrs. to 12.00 hrs. and from 14.00 hrs. to 18.00 hrs., Monday through Friday except for holidays observed by the Bank. Delivery to any other office of the Bank shall be at the risk of the bidder and shall not constitute timely delivery.
33. **Modification / Withdrawal of Bids** - Bidders may modify or withdraw bids prior to the deadline for submission. Bidders shall not be permitted to modify or withdraw bids after the deadline for submission.
- 33.1. **Bids submitted electronically via AfDB e-Procurement portal** - Bidders can obtain guidance on modifying or withdrawing bids in the user manual.
- 33.2. **Bids submitted by mail, courier or hand-delivery** - The bidder’s modification or withdrawal shall be prepared, sealed, marked and dispatched as per the instructions set out in this section and accompanied by a written notice duly signed by an authorized representative. Any modification or withdrawal shall clearly be identified as “Modification” or “Withdrawal”.
34. **Bid Opening** - Bids shall be opened as soon as possible after the deadline for submission. The record of the bid opening shall be made available on the Bank’s website.



## **EXAMINATION OF BIDS**

**35. Confidentiality and Disclosure of Information** - the Bank is committed to make public all information in its possession unless there is a compelling reason for confidentiality in accordance with its policy on Disclosure and Access to Information. Bidders shall notify the Bank if the information provided is confidential and shall not be disclosed to the public. The Bank shall endeavor to maintain confidentiality of confidential information and evaluation of bids. The Bank reserves the right to disclose information in accordance with its policy on Disclosure and Access to Information.

## **36. Clarification of Bids**

36.1. To assist in the examination and evaluation of bids and qualification of bidders, the Bank may, at its discretion:

- 36.1.1. Require any bidder to clarify any part of its bid;
- 36.1.2. Require any bidder to provide further information or documentation;
- 36.1.3. Undertake site visit to any bidder; or
- 36.1.4. Contact referees provided by any bidder.

36.2. Any clarification submitted by a bidder that is not in response to a request by the Bank shall not be considered. No change in the price or substance of the bid shall be sought, offered or permitted. Where a bidder does not provide the information requested the bid shall be evaluated as presented.

## **37. Determination of Responsiveness**

37.1. The Bank's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in the ITB. A substantially responsive bid is one that meets the requirements of the ITB without material deviation, reservation or omissions.

- 37.1.1. "Deviation" is a departure from the requirements specified in the ITB;
- 37.1.2. "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the ITB; and
- 37.1.3. "Omission" is the failure to submit part or all of the information or documentation required in the ITB.

37.2. A material deviation, reservation or omission is one that,

- 37.2.1. if accepted, would:
  - 37.2.1.1. affect in any substantial way the scope, quality or performance of the requirements as specified in the ITB;
  - 37.2.1.2. limit in any substantial way, inconsistent with the ITB, the Bank's rights or the bidder's obligations under the proposed contract; or
  - 37.2.1.3. if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.

37.3. The Bank shall examine bids to determine whether bids are substantially responsive with the requirements. If a bid is not substantially responsive to the requirements of the ITB, it shall be rejected by the Bank and may not subsequently be made responsive by correction of the material deviation, reservation or omission.

## **BID EVALUATION**

**38. Conversion to Single Currency** - For the purpose of evaluation, the Bank shall convert all prices into the Bank's Units of Accounts (UA) by using the Bank's monthly moving average rate for the applicable month (deadline for submission of bids).

**39. Acceptance or Rejection of Bids** - The Bank reserves the right to accept or reject any or all bids, cancel the procurement process and/or reject all bids at any time prior to contract award, without incurring any liability to bidders.

## **AWARD OF CONTRACT**

### **40. Award Methodology**

- 40.1. The Bank shall award the contract to the bidder whose bid meets the qualification criteria, is substantially responsive to the requirements and offers the lowest evaluated bid price.
- 40.2. Unless otherwise provided, the Bank shall evaluate bids in the following successive stages:

<b>Stage of evaluation</b>	<b>Section reference / Purpose</b>	<b>Evaluation methodology</b>
Stage 1	Examination of Bids	<p>The Bank shall examine bids to determine compliance with the requirements of the ITB – this includes checking the validity of bids and completeness of the required documents.</p> <p>The Bank shall reject bids that do not meet the requirements of the ITB.</p> <p>Bids that meet the requirements of the ITB shall be considered for stage 2.</p>
Stage 2	Qualification (Section 5)	<p><b>Pass/Fail</b></p> <p>Bidders must pass each eligibility and qualification criterion to be considered for stage 3. Failure to satisfy any criterion shall result in disqualification of the bidder.</p>
Stage 3	Technical Evaluation (Section 5)	<p>The Bank shall examine the technical bids.</p> <p>Bids that are substantially responsive to the technical requirements and conditions shall be considered for stage 4.</p> <p>Bids that are not substantially responsive to the technical requirements and conditions shall be rejected.</p>
Stage 4	Correction of arithmetic errors	The financial offer shall be checked for completeness and corrected for computational errors.
Stage 5	Price Schedule (Section 5)	<p>Bidders shall be ranked according to price.</p> <p>The bidder offering the lowest evaluated price shall be ranked first.</p>
Stage 6	Final Ranking	The contract shall be awarded to the qualified bidder whose bid is substantially responsive to the requirements and with whom satisfactory price, terms and conditions have been agreed.

### **41. Contract Award**

- 41.1. By issuing this ITB, the Bank is not committed to award a contract for all or part of the requirements.
- 41.2. The Bank reserves the right to award a contract for part of the requirements. Bidders shall indicate if they would not accept a contract for part of the requirements.



- 41.3. If the requirement is divided into lots, the Bank reserves the right to award a contract to a bidder to satisfy the entire requirement.
- 41.4. The Bank reserves the right to increase or decrease the volume of goods, services or works, usually not to exceed 20%, without any change in unit price or other terms and conditions.
42. **Best and Final Offer** – Following evaluation of bids, the Bank may decide to obtain Best and Final Offers from qualified bidders whose bids are substantially responsive with the requirements. If such a decision is made, the Bank shall notify bidders in writing of the process. The Bank may use e-Auction for this process.
43. **Notification of Award** – Following a recommendation to award the contract, the Bank shall issue a notice of consideration for award to the successful bidder and regret letters to unsuccessful bidders.
44. **Debriefing** – Unsuccessful bidders may request debrief within seven (7) days from receipt of the regret letter.
45. **Award Protest Procedure** – The Bank has a complaint procedure as set out in the Presidential Directive. An unsuccessful bidder wishing to make a complaint must inform the Bank within seven (7) days of notification of the Bank's contract award decision.
46. **Contractual Relationship** - The contractual relationship shall be governed by the General and Specific Conditions and shall include the statement of work, technical specification, drawings, successful bidder's technical and financial bid. **No other terms and conditions put forward at any time by the bidder shall form part of the contract.**
47. **Performance Security**
- 47.1. If provided in the **Bid Data Sheet**, the successful bidder shall furnish the performance security within the period, amount and form stipulated in the **Bid Data Sheet**. The performance security shall be in the form of a bank guarantee from a bank located in a member country of the Bank and acceptable to the Bank.
- 47.2. The performance security shall be returned to the bidder as set out in the General and Specific Conditions.
- 47.3. Failure of the successful bidder to comply with the requirements of performance security shall constitute sufficient grounds for cancellation of the award to the bidder without any right of action against the Bank.
- 47.4. In lieu of bank guarantee, the Bank may retain 10% of the contract sum that shall be returned to the bidder as set out in the General and Specific Conditions.
48. **Advance Payment**
- 48.1. If provided in the **Bid Data Sheet**, the Bank shall provide advance payment to the successful bidder, subject to a maximum amount not to exceed 30% of the contract sum. The advance payment request shall be accompanied by an advance payment guarantee from an insurance company or bank located in a member country of the Bank and acceptable to the Bank. The advance payment guarantee shall be in the form specified in the **Bid Data Sheet**.
- 48.2. For the purpose of receiving the advance payment, the bidder shall make an estimate of, and include in its bid, the expenses that will be incurred during the first month beginning with the date of the Bank's notice to proceed or contract signature, whichever is earliest.
- 48.3. The advance payment shall be repaid by deducting proportionate amounts from payments due to the bidder as set out in the General and Specified Conditions.
- 48.4. The advance payment guarantee shall be returned to the bidder as set out in the General and Specific Conditions.



49. **Defects Liability Period and Retention Fee** – If provided in the **Bid Data Sheet**, the Bank shall retain 10% of the contract sum until the end of the defects liability period. This is the pre-determined period after practical completion of the project when the successful bidder is responsible for making good any faults which appear and which are due to defective materials or work. The defects liability period is set out in the General and Specific Conditions. The Bank shall pay the successful bidder the retention fee as set out in the **Bid Data Sheet**.

#### **FURTHER ASSISTANCE**

50. **Authorized Representative** – Bidders shall provide the Bank with up to two authorized representatives. The Bank shall contact bidders through the authorized representative. The Bank shall assume that the representative is authorized to act on behalf of the bidder and bind the bidder to any response.

51. **Assistance** – For assistance on using AfDB e-Procurement portal, bidders shall refer to the user manual available on the Bank's website. Alternatively, bidders can contact [tender\\_assistance@afdb.org](mailto:tender_assistance@afdb.org) and quote the tender reference.

## SECTION 3 – ITB DATA SHEET

	<b>The numbering below refers to the appropriate numbering of the introduction</b>
<b>§ 1</b>	The goods, services and works to be provided: <b>Supply, Delivery, Design, Implementation, Training And Maintenance Of Secure SDWAN For The African Development Bank’s Offices</b> as outlined in Section 4.
<b>§ 1</b>	<p>To qualify for award, bidders (including each partner in a joint venture or partnership, subcontractors) shall meet the following pass/fail qualification criteria:</p> <p>To qualify for award, bidders (including each partner in a joint venture or partnership, subcontractors) shall meet the following pass/fail qualification criteria:</p> <ul style="list-style-type: none"> <li>• <b>Bid Validity period: One Hundred and Twenty (120) days.</b></li> <li>• <b>Appendix 5A (Declaration of conformity):</b> Completed and signed</li> <li>• <b>Appendix 5K (Bid Securing Declaration Form):</b> Completed and signed</li> <li>• <b>Appendix 5L (Letter of bid) :</b> Completed and signed</li> <li>• <b>SDWAN Vendor Partnership:</b> Premium Partner</li> <li>• <b>Eligibility of Bidders, Goods, Services and Works:</b> Goods, services and works procured by the Bank shall be produced in a member country of the Bank and supplied by bidders from a member country of the Bank</li> <li>• <b>Eligibility Criteria:</b> a bidder shall not normally be eligible if any of the situations in the Presidential Directive concerning the rules for corporate procurement activities of the Bank apply.</li> <li>• <b>Financial Standing:</b> An average turnover of at least US\$ 1 million equivalent per annum for the <b>last three years [2022, 2021, 2020 or latest]</b>. A bidder shall demonstrate current soundness of financial position and long-term profitability.</li> <li>• <b>General and Specific Experience:</b> a bidder shall have a minimum of Five (05) years’ experience and successfully or substantially implemented as a prime contractor at least <b>two projects</b> of a similar nature and complexity (the contracts cited should be at least 70% complete) in the last <b>Five (05) years.</b></li> <li>• <b>Historical Contract Performance and Pending Litigation:</b> a bidder shall demonstrate the ability to successfully complete previous contracts and has no pending litigation to impede its ability to perform the contract.</li> <li>• <b>Project Manager</b> shall have minimum 3 years of experience as project manager, Bachelor degree in business management, or engineering or IT related field and PMP or Prince2 certificate in project manager</li> <li>• <b>Service delivery manager</b> shall have minimum of 3 years of experience as Service manager, Bachelor degree in business management, or engineering or IT related field</li> <li>• <b>Technical lead/Implementation Engineers</b> shall have minimum of 5-years of experience in implementation of SDWAN network of similar size as the Bank’s, and SDWAN related certifications of either of two vendors <b>FortiGate SDWAN</b></li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Conflict of Interest:</b> a bidder shall have no actual or potential conflict of interest that would call into question its participation in the procurement process and award of contract.</li> </ul>
<p><b>The numbering below refers to the appropriate numbering of the instructions to bidders</b></p>	
§ 4	<p>Bidders organized in joint venture (JV) will be jointly and severally liable. The JV will be composed of a maximum members of: <b>four (04)</b>.</p> <p>To be qualified under this contract, the tenderers (including each partner of a consortium or a partnership, the subcontractors) must meet the qualification criteria set out in this ITB (<b>Appendix D</b>).</p>
§ 7	<p>Request for clarification and/or request for any change to the ITB shall be sent in writing by electronic mail: <a href="mailto:tender@afdb.org">tender@afdb.org</a>; The request shall be received by the Bank no later than <b>9<sup>th</sup> August 2023 at 17h00 (GMT)</b></p>
§ 8	<p>The Bank shall organize a non-compulsory pre-bid meeting (virtual meeting): <b>NO</b>.</p>
§ 10	<p>The language of proposals and all correspondence is: <b>English</b> This language will govern the contractual/legal relationship between the Bank the contract. Bidders who so wish may bid in French. However, the following forms as well as the proposed contract shall be in English:</p> <ul style="list-style-type: none"> <li>• <b>Appendix 5A (Declaration of Conformity)</b></li> <li>• <b>Appendix 5K (Bid-Securing Declaration Form)</b></li> <li>• <b>Appendix 5L (Letter of bid)</b></li> <li>• <b>Appendix 5M (Bill of Quantity / Price Schedule)</b></li> </ul>
§ 11	<p>Bidders should include in their bids the list of its subcontractors</p>
§ 12	<p>The Bidder must attach the following documents to its bid, establishing that the Equipment and Services comply with the ITB: All the forms in Section 5. Bid Forms, duly completed, signed and stamped.</p> <p>In addition, to determine the responsiveness of the offers, the Bank will verify that the offer include the following documents:</p> <ol style="list-style-type: none"> <li>1. Certified copy of the original Certificate of Incorporation Statutes of the company (articles of incorporation)</li> <li>2. Certified copy of the original, Business license</li> <li>3. Declaration of Conformity form duly completed, signed and stamped (Appendix 5A)</li> <li>4. Bid Securing Declaration Form duly completed, signed and stamped (Appendix 5K)</li> <li>5. Letter of bid duly completed, signed and stamped (Appendix 5L)</li> <li>6. Price Schedule duly completed and signed (Appendix 5M)</li> <li>7. Manuals or technical data sheets for the proposed equipment and technical installations</li> <li>8. Schedule/Schedule for the execution of the project: Bidders shall provide a complete and detailed implementation plan, presenting the series of activities and action plan that will enable the project to be carried out successfully. The response should help determine the critical path.</li> <li>9. Social security contribution certificate: copy of the valid social security contribution certificate.</li> <li>10. Tax clearance certificate: copy of the valid tax clearance certificate.</li> </ol>



	<p>11. Certificate of non-bankruptcy</p> <p>12. Certificate of corporate civil liability insurance</p> <p>13. Methodology: descriptive note of intervention methodology.</p> <p>14. Audited financial statements demonstrating the annual turnover over the last 3 years (2022, 2021, 2020 or the most recent years)</p> <p>15. Three contracts to justify similarity of the Bidder's specific experience</p> <p>16. List and roles of the proposed key personnel: bid must contain CVs and certifications.</p> <p>17. Draft contract initialed by the designated representative of the bidder</p>
§ 20	Alternative bids are accepted: <b>NO</b>
§ 24	The prices shall be expressed in <b>USD or any freely convertible currency</b>
§ 25	The Bank's requirement is divided into lots: <b>NO</b> Bidders can submit a bid for one or multiple lots <b>NOT APPLICABLE</b>
§ 26	The minimum period of validity of bids is <b>one hundred and twenty (120) days</b> from the deadline for submission of bids.
§ 27	Bid security is required <b>NO</b> .
§ 27.1	However, Bidders are required to fill out a Bid-Securing Declaration Form to secure their bid. Any bid not supported by a Bid-Securing Declaration will be automatically disqualified. Bidders should use the form included in Section 5, <b>Appendix 5K</b> .
§ 28	The deadline for submission of bids is <b>25<sup>th</sup> August 2023 at 17h00 pm (Abidjan local time)</b>
§ 31	Bids shall be submitted electronically via the AfDB e-Procurement portal at <a href="https://eprocurement.afdb.org/irj/portal">https://eprocurement.afdb.org/irj/portal</a> : <b>YES</b> <b>In order to submit a bid, it is a requirement to register with the Bank through its website at:</b> <a href="https://eprocurement.afdb.org/sap/bc/webdynpro/sap/zsup_reg_submit?#">https://eprocurement.afdb.org/sap/bc/webdynpro/sap/zsup_reg_submit?#</a>
§ 47	Performance security is required: <b>NO</b>
§ 48	Advance payment will be provided to the successful bidder: <b>NO</b>
§ 49	The Bank shall retain 10% of the contract sum until the end of the defects liability period: <b>NO</b> <i>The amount will be returned to the bidder as set out in the General and Specific Conditions.</i>



## SECTION 4 – STATEMENT OF WORK / TECHNICAL SPECIFICATION / DRAWINGS

### 4.1 PREAMBLE

#### 4.1.1 The Vice President Technology and Corporate Services (TCVP)

The Vice-Presidency, Technology and Corporate Services (TCVP) is responsible for the design, development and delivery of efficient, people-centered, client-oriented, corporate services and information-technology solutions to ensure overall institutional effectiveness in all aspects of the Bank's corporate services. The Complex provides leadership in the formulation and implementation of Bank's strategies, policies, controls and approaches on organizational information technology systems, software applications, cyber security, IT support and infrastructure systems. The Complex is also responsible for management of the Bank's real estate assets, institutional procurement, language services and business continuity.

#### 4.1.2 The Technology and Corporate Services Information Technology Services Department (TCIS)

The Corporate Information Technology Services Department (TCIS) falls under TCVP and is mandated to deliver reliable and innovative IT services and solutions needed to fulfill the Bank's mission anytime, anywhere, on target, on time, and on budget. To support the AfDB's long term strategy with priority programs (high five), the IT department aims to (i) align the IT delivery capability to implement the Development and Business Delivery Model (DBDM); (ii) provide effective support to the decentralization strategy; (iii) Enable organizational effectiveness through efficient use of IT systems; (iv) Maintain financial soundness and business continuity; (v) optimize and transform the AfDB's business process for developing Africa; and (vi) achieve lower total cost of ownership while building capacity via "economies of skills". TCIS is made up of four Divisions, namely:

- Corporate Application Services
- Operations and Regional Coordination Services.
- Infrastructure Services
- Digital Client Services

### 4.2 BACKGROUND

4.2.1 The African Development Bank has 05 Regional Hubs and 32 Bank's Country offices (COs) in different African countries and Japan office; they are connected to the datacenters at the HQ in Abidjan (Cote d'Ivoire) and Pretoria (South Africa) through a three-pronged network connectivity, which includes MPLS, DMVPN and, VSAT. Each Country Office has an Internet connection provided by a local ISP.

4.2.2 There are approximately 3000 Bank users accessing on-premises and cloud-based services. To enable resiliency and high availability, the Bank has adopted a multi-pronged connectivity strategy that includes different combinations of MPLS network, IPLC, VSAT, and Corporate-grade Internet Broadband.

4.2.3 The Bank has two Datacenters located in Abidjan Cote D'Ivoire and Pretoria, South Africa, hosting core banking systems; these Data Center function in an Active-Active fashion while Pretoria equally provides Disaster Recovery Services.

4.2.4 All collaboration and productivity applications are cloud-based (Zoom, WebEx, Teams, O365, OneDrive, SharePoint...), but most of the core banking applications are still hosted in the Bank's datacenters and serve all staff across the Bank locations.

#### **4.3 RATIONALE**

4.3.1 The adoption of Cloud technology is an inevitable path for many organizations, including the African Development Bank. Therefore, a network paradigm shift is likewise inevitable to deliver the expected ability to take full advantage of modern computing. The Bank is moving to Cloud-based Infrastructure-As-A-Service (IaaS) and Software-As-A-Service (SaaS); hence the existing WAN infrastructure has become outdated and needs to be overhauled to support this steady migration to the cloud.

4.3.2 The existing Bank WAN network was built in full mesh DMVPN topology to allow seamless inter-office UC traffic and access to applications within the Bank's corporate data centers. The overlay WAN infrastructure is based on Cisco IWAN with centralized managed IWAN Hub using master controller and hub routers hosted in our main Datacenter. The current infrastructure was not engineered to support performance intransigent cloud-based services.

4.3.3 This Secure SD-WAN project aims at smoothing the Bank migration to Cloud-based Infrastructure-As-A-Service and increasing the end-user experience while accessing SaaS-based applications.

#### **4.4 OBJECTIVES**

4.3.1 The main objective of this term of reference is to solicit proposals for the supply, delivery, installation, and implementation of a Secure SD-WAN solution to achieve:

1. Extension of offices connectivity seamlessly, securely, and intelligently, to public clouds, like AWS and Azure.
2. To achieve predictable WAN performance over a public network while consuming SaaS services.
3. To Natively integrate on-premises DC infrastructure and cloud-based IaaS.

4.3.2 The expected solution entails redesigning the Bank WAN infrastructure and provisioning of FortiGate Secure SD-WAN solution with native cloud on-ramp integration to extend the Bank enterprise network to IaaS market-leader such as AWS and Azure.

4.3.3 For this purpose, the Bank has decided to issue invitations for a competitive bidding process to select a supplier for supply, delivery, installation, integration, and migration of the existing corporate WAN Infrastructure to the Secure SDWAN.

#### **4.5 SCOPE OF WORK**

4.5.1 This procurement aims to provide a fully managed Secure SDWAN infrastructure at the Bank's 03 regional hubs, 32 Country offices, two Data centers in Abidjan and Pretoria, and MS



Azure. The scope includes the following:

- (i) Design, supply, implementation, and maintenance of Secure SDWAN solution for the Bank's 37 offices, and MS Azure.
- (ii) Delivery of Secure SDWAN VNF (Virtual Network Function), and licensing needed to build a Secure SDWAN infrastructure.
- (iii) Deployment and full Integration of Secure SDWAN solution at the HQ Head Quarters in Abidjan, RDGS in South Africa, Regional hubs, and country offices; and MS Azure
- (iv) Cloud-based SDWAN orchestrator
- (v) Managed SaaS optimization (At least 2 Gateways in two different geographic locations)
- (vi) Provide training vendor specific training and knowledge transfer to the engineers and operation staff
- (vii) Provide support of the solution for 3 years

4.5.2 The Bank reserves the right to changes the scope of the delivery, by deducting from the bill of quantity, such changes to be within the general scope of the award. If any such change causes a decrease in the cost of, or the time required for delivery, the Bank shall make an equitable adjustment in the Contract Price, the delivery schedule, or both and shall modify the Contract.

#### 4.6 **DELIVERABLES**

Bidders should provide comfort to the African Development Bank that the Solution meets the requirements specified in the Terms of Reference.

Upon the completion of the project, the solution vendor shall provide a comprehensive report with details of completed implementation of project. The Bank expects to receive from Bidder the following outputs:

- a) High- and low-level design guide with a vision and detail description of the design
- b) A step-by-step implementation guides.
- c) Delivery of appliances at Bank sites as per the address mentioned in below section
- d) Implementation and integration of the solution with the Bank network (physical installation of appliance at the Bank site will be done by the Bank experts)
- e) Maintenance and management of the Secure SD-WAN solution for 5 years
- f) As build design with detailed descriptions
- g) A user guide as well as a technical manual (Datasheet) satisfactory to the African Development Bank.
- h) Key recommendations for the implementation of gaps or workarounds - whether technical or functional - that would have been identified

#### 4.7 **GENERALS REQUIREMENTS**

	<b>Secure SDWAN</b>
	<b>Secure SDWAN Software, hardware and Licenses provisioning, full implementation, maintenance, management and integration</b>

- Provision of fast, scalable, and simplified Secure SD-WAN solution that supports software embedded threat prevention core features from layer 4 to layer 7 such as IPS and core stateful firewall features, in addition to documented SDWAN benefits.
- Design, implementation, maintenance and management of a Secure SDWAN infrastructure at the Bank's HQ, 4 regional offices, 32 Country offices, PCCW Colo, 2 x SaaS gateways, and MS Azure NVA
- Cloud-based SDWAN orchestrator
- High available service, 99.99% and 99.95 Up time at critical1 and critical 2 sites respectively
- 24X7 maintenance support

#### 4.8 TECHNICAL SPECIFICATION

- 4.9.1 AfDB Secure SDWAN will connect staff to AfDB resources hosted in Cloud-based Infrastructure-As-A-Service and increase staff quality of experience while accessing SaaS-based applications.
- 4.9.2 AfDB Secure SDWAN connectivity services will optimally provide Application-Aware routing of SaaS traffic, such as Office 365, Unified Communication as a service (UCaaS), Zoom, WebEx, code4, Cloud ERP from the country offices gateway directly to the gateway with the highest Quality of Experience (QOEX) metric.

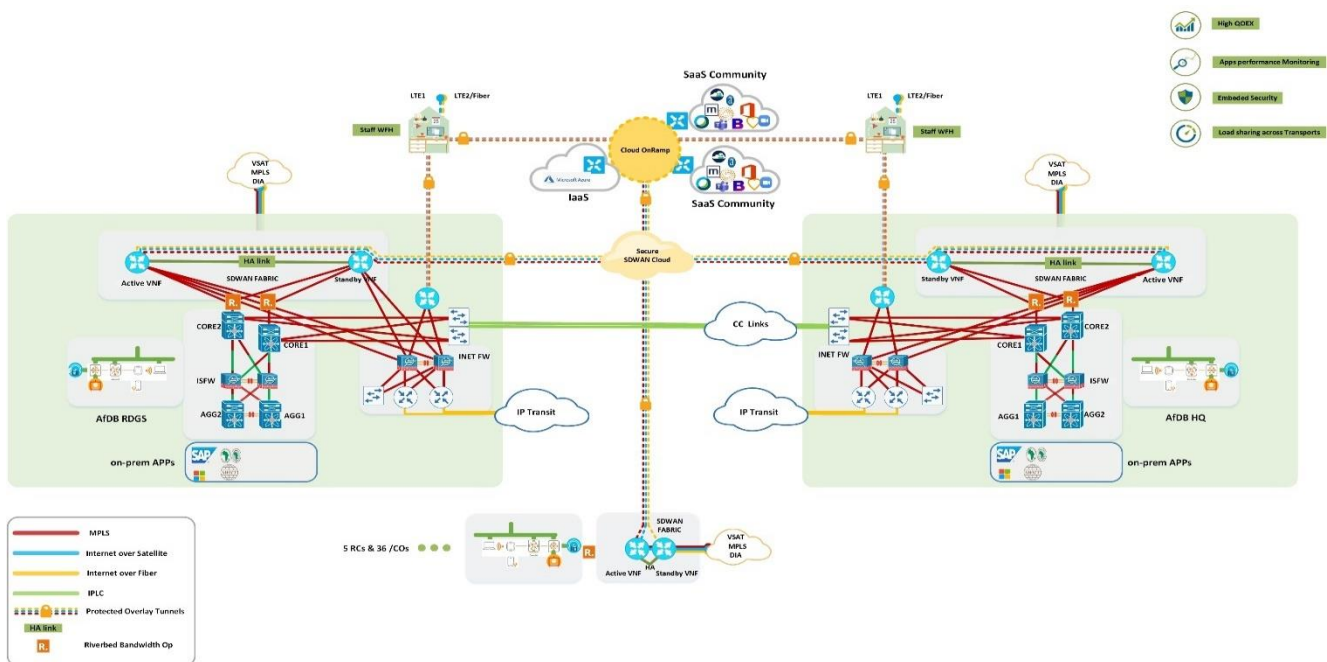


Figure 1: Secure SDWAN target High-Level Design (HLD) Design

Sites Transport and Bandwidth Capacity										
Sites	Metro FO		MPLS BW		VSAT BW	DIA BW		IPLC BW		Aggregated throughput
	ACTIVE Gbps	ACTIVE Gbps	PRIMARY Mbps	SECONDARY Mbps	Down/Uplinks Mbps	PRIMARY Mbps	SECONDARY Mbps	ACTIVE Mbps	ACTIVE Mbps	
<b>PCCW - Frankfurt</b> <ul style="list-style-type: none"> <li>• VSAT HUB</li> <li>Internet Breakout</li> <li>• MPLS Frankfurt Internet breakout</li> </ul>										800 Mbps
						300/300				
						100/100				
<b>CCIA – Cote D'Ivoire</b>	1/1	1/1				400/400	400/400			3.6 Gbps
<b>HQ – Cote D'Ivoire</b>	1/1	1/1	155/155	155/155	On-demand 100/30	400/400	400/400	155/155	155/155	4.8 Gbps
<b>RDGS – South Africa</b>			200/200		On-demand 20/10	2X400/400	2X400/400	155/155	155/155	2.4 Gbps
						400/400	400/400			
<b>RDGE – Kenya</b>			20/20		On-demand 20/10	50/50	50/50			140 Mbps
<b>RDGN – Tunisia</b>			20/20		On-demand 20/10	200/200				440 Mbps
<b>COAO – Angola</b>			4/4		8/4	20/20	20/20			60 Mbps
<b>COEG – Egypt</b>			6/6		8/4	<b>TBC</b>				24 Mbps
<b>COMG – Madagascar</b>			5/5		8/4	8/8				38 Mbps
<b>COMW – Malawi</b>			4/4		8/4	20/20	20/20			60 Mbps
<b>COSN – Senegal</b>			5/5		8/4	30/30				82 Mbps
<b>COSD – South Sudan</b>			4/4		8/4	8/8				36 Mbps
<b>COTZ – Tanzania</b>			8/8		8/4	35/35	35/35			98 Mbps



Sites Transport and Bandwidth Capacity										
Sites	Metro FO		MPLS BW		VSAT BW	DIA BW		IPLC BW		Aggregated throughput
	ACTIVE Gbps	ACTIVE Gbps	PRIMARY Mbps	SECONDARY Mbps	Down/Uplinks Mbps	PRIMARY Mbps	SECONDARY Mbps	ACTIVE Mbps	ACTIVE Mbps	
COGH - Ghana			8/8		8/4	20/20				68 Mbps
COLR – Liberia			4/4		8/4	15/15	15/15			50 Mbps
COBJ – Benin			4/4		8/4	12/12				36 Mbps
COSS – South Sudan			4/4		8/4	10/10	10/10			40 Mbps
COMZ – Mozambique			6/6		8/4	10/10	10/10			44 Mbps
RDNG – Nigeria			10/10		8/4	50/50	50/50			132 Mbps
COZM – Zambia			4/4		8/4	10/10	10/10			40 Mbps
COSL – Sierra Leone			4/4		8/4	20/20	20/20			60 Mbps
COBI – Burundi			6/6		8/4	25/25	25/25			74 Mbps
COBF – Burkina Faso			4/4		8/4	20/20				60 Mbps
COUG – Uganda			6/6		8/4	25/25	25/25			74 Mbps
COET – Ethiopia			5/5		8/4	100/100				232 Mbps
SNAR – Japan			6/6		N/A	20/20				52 Mbps
COCD – DR Congo			6/6		8/4	20/20	20/20			64 Mbps
COTD – Tchad			6/6		8/4	8/8				40 Mbps
COML – Mali			6/6		8/4	20/20	20/20			64 Mbps
CONE – Niger			4/4		8/4	20/20				60 Mbps
COCF – Central Africa			4/4		8/4	TBC				20 Mbps
COGN - Guinea Conakry			4/4		8/4	20/20	20/20			60 Mbps
COMA – Morocco			6/6		8/4	4/4				32 Mbps
COTG – Togo			6/6		8/4	20/20	20/20			64 Mbps
COGA – Gambo			6/6		8/4	30/30	30/30			84 Mbps



Sites Transport and Bandwidth Capacity										
Sites	Metro FO		MPLS BW		VSAT BW	DIA BW		IPLC BW		Aggregated throughput
	ACTIVE Gbps	ACTIVE Gbps	PRIMARY Mbps	SECONDARY Mbps	Down/Uplinks Mbps	PRIMARY Mbps	SECONDARY Mbps	ACTIVE Mbps	ACTIVE Mbps	
<b>CODZ – Tanzania</b>			4/4		8/4	10/10				42 Mbps
<b>RDGC – Cameroon</b>			20/20		8/4	30/30				112 Mbps
<b>CORW – Rwanda</b>			5/5		8/4	25/25	25/25			72 Mbps
<b>COZW – Zimbabwe</b>			4/4		8/4	10/10				40 Mbps
<b>MS IaaS ExpressRoute Microsoft peering</b>			100/100							200 Mbps

Site Aggregated throughput category	Number of Sites
Up to 100 Mbps	28
Up to 200 Mbps	3
Up to 300 Mbps	3
Up to 600 Mbps	1
Up to 1 Gbps	1
Up to 5 Gbps	3

#### 4.9 Technical Specification for Secure SDWAN

The bidders can propose a Secure SD-WAN solution from any of the leaders in WAN edge infrastructure below if it meets the specification's criteria:

- Fortinet

##### 1. S SD-WAN general Specifications

S/N	Equipment & License Specification	Description	Qty	High Availability
3	NVA to be installed directly in MS Azure – 200 Mbps	To be installed in clustering in MS Azure to terminate up to 117 tunnels from up to 40 SD-WAN gateways	2 x Active	Clustering
4	Regional Centers	FG-400F FC-10-0400F-108-02-12 (IPS License) FC-10-0400F-247-02-12 (Forticare support) Interface: 8x 10GE SFP+, 8x GE SFP, 18 x GE RJ45 To be installed in HA pairing at Regional Center	10 Units: 5 x Active 5x Standby	HA Pairing
5	Country offices	FG-200F FC-10-F200F-108-02-12 (IPS licence) FC-10-F200F-247-02-12 (Forticare support licence)  4x 10 GE SFP+, 18x GE RJ45, 8x GE SFP, (1) port USB, (1) port de console  To be installed in HA pairing at Country offices	70 Units: 35 x Active 35x Standby	HA Pairing
6	Equinix SaaS Cloud on-ramp Gateways at two separate Continent	To be installed provisioned in clustering	6 Units  Europe: 3 x Active USA: 3 x Active	Clustering



	PCCW Colo	Data Center sized VNF to be installed in a x86 platform at the PCCW – up to 5 Gbps	2 x Active	Clustering
8	Solution License & Support Specification	License subscription, Maintenance and support of the solution	36 months	

## 2. Secure SD-WAN Detailed Specifications

1.	<p><b>Must support Zero Touch Provisioning</b></p> <ul style="list-style-type: none"> <li>The proposed Secure SDWAN solution must support automatic remote provisioning (no staging needed), self-authentication, and configuration download from the orchestrator on first access to the Internet.</li> </ul>
2.	<p><b>Must support Cloud-based Orchestrator</b></p> <ul style="list-style-type: none"> <li>The proposed solution must support centralized management of SDWAN Gateways from a cloud-hosted orchestrator and provide visibility into application performance and analytics.</li> </ul>
3.	<p><b>Must support Threat Protection (software embedded or via ecosystem service-chaining)</b></p> <p>The proposed solution should include but not limited to the following security features:</p> <ul style="list-style-type: none"> <li>Next-Generation Managed Firewall with UTM features such as Intrusion Prevention System (IPS), Web filtering, Anti-virus, Anti-Spam, Application control.</li> <li>Advanced Malware Protection (AMP) – provides malware detection for latest emerging threats, eliminates threats by stripping active content from files in real-time, protects against latest botnets, and protects.</li> <li>against the latest threats targeting mobile platforms.</li> <li>SSL deep inspection unlocks encrypted sessions, sees into encrypted packets, finds threats, and blocks them.</li> <li>Control outbound and inter-network traffic using firewall rules</li> </ul>
4.	<p><b>Must support Application-aware Routing 7 &amp; Traffic Shaping</b></p> <ul style="list-style-type: none"> <li>Dynamically routed application traffic with application-aware routing, for efficient delivery and improved user experience.</li> <li>Provides the ability to prioritize network traffic so that heavy-use applications or those requiring a significant amount of bandwidth to operate do not impact real UCaaS Real-Time traffic</li> </ul>
5.	<p><b>Must support automatic outage detection and seamless WAN failover of active Unified communications as a service UCaaS Real-Time traffic</b></p> <p>To meet this criterion proposed solution must support the features but not limited to:</p> <ul style="list-style-type: none"> <li>Every Appliance supports multiple WAN uplinks with automatic failover for protection against connection outages.</li> <li>Optional WAN warm spare failover ensures the integrity of service at the appliance level. In the event an appliance goes offline, a secondary device will automatically take over.</li> <li>Routes calls and other priority real-time application traffic over cleanest WAN connection to eliminate dropped calls, choppy sound quality and echoes.</li> </ul>
6.	<p><b>Must support optimized or Direct access to SaaS</b></p> <p>Optimally routing of public cloud application traffic, such as Office 365, UCaaS, and Cloud ERP from the teleworker gateway directly to the cloud application's datacenter.</p>
7.	<p><b>Must support for Priority Routing and Packet loss Avoidance</b></p> <p>The proposed solution should include but not limited to the following Packet loss Avoidance features:</p> <ul style="list-style-type: none"> <li>Routes calls and other priority real-time application traffic over cleanest WAN connection to eliminate dropped calls, choppy sound quality and echoes.</li> </ul>

8.	<b>Must support for High Availability</b>
	The proposed solution must support HA in <ul style="list-style-type: none"> <li>• High Availability in HA pairing (Active/Standby Mode)</li> <li>• High Availability in Clustering (Active/Active Mode)</li> </ul>
9.	<b>Must support Native integration in MS Azure as NVA partner</b>
	Must allow direct deployment into the Azure Virtual WAN hub
10	The Proposed solution must be compatible with the existing infrastructure

The above technical specifications will directly be linked the technical evaluation criteria and thus bidder shall respond to each of the above requirements, by clearly elaborating its proposed solution for the specific requirements. A bidder that does not meet the above specifications and requirements hereunder will not be qualified for the financial evaluation.

#### **4.10 PROFESSIONAL SERVICES**

The bidder backed by the software manufacturer advanced services will be responsible for the complete engineering and implementation cycle of the solution, which implies the high-level design, low level design, network implementation plan and deployment (configuration, integration, migration) of the Secure SDWAN infrastructure, and operational and handover training to the support Bank support team.

#### **4.11 PROJECT GOVERNANCE**

The selected bidder will report to the Division Manager of TCIS3. A Project Committee will be established from both the supplier and the Bank side to oversee supervision and monitoring of the assignment. Role of the Project Committee:

- Produce project implementation plan
- Define milestones and tracker of the main project activities.
- Ensure that implementations are done based on change management best practices.
- Continuously identify risks, issues and bring them to the attention of the Bank and come up with mitigation and remedial measures.
- Setup a regular project progress review meetings and regularly report project status.
- Ensure that the outputs and deliverables are consistent with the overall objectives of the project.
- Ensure the appropriate reviews of issues encountered during the lifespan of the assignment are done.
- Verify that the required approvals and directions for the assignment are obtained at every stage of the assignment.

#### **4.12 TECHNICAL ASSISTANCE AND SUPPORT**

Bidders shall propose a sample maintenance and support contract. Further technical assistance should be easily reachable (phone, email or client web portal) and provide prompt service. We expect technical assistance to be able to respond to technical issues and to provide reliable information on the methodology of implementation and the solution features. Assistance should also help to understand some of risk measures and/or sensitivity analysis.



#### **4.13 TRAINING**

Provide training to **52 staffs** of the Bank, in addition to the practical training during implementation as a component of knowledge transfer. The provider must propose a training plan that will enable the technical staff of the Bank to gain knowledge of the proposed SD-WAN solutions to ensure better ongoing operation. The bidder shall content, duration and schedule of the proposed training

#### **4.14 PERFORMANCE EVALUATION OF THE CONTRACT**

The Agreement to be entered into between the Bank and the contractor will be evaluated twice a year as per Part II of the ITB. The quality of delivery of services will be assessed using performance criteria on which the Contractor agrees. Insufficiencies detected will be immediately reported in writing to the attention of the Contractor, as well as opportunities for improvement in order to meet the standards and market quality. The results below those expected by the Bank and the failure to obtain the minimum required score for each criterion expose the Contractor to sanctions.

#### **4.15 APPROACH AND METHODOLOGY AND PLAN FOR IMPLEMENTATION**

The technical proposal should describe the proposed implementation process i.e. how the solution will be deployed, configured and transitioned into an operational system. Each bidder is required to provide an overview and a brief description of the major tasks involved in the implementation, the overall resources needed to support the implementation effort to demonstrate how the proposed approach and methodology meets or exceeds the requirements. All important aspects should be addressed in sufficient detail and different components of the project should be adequately weighted relative to one another.

- A detailed description of the approach and methodology for how the Bidder will achieve the Terms of Reference of the project, keeping in mind the appropriateness to project environment. Details how the different service elements shall be organized, controlled and delivered.
- The methodology shall also include details of the Bidder's internal technical and quality assurance review mechanisms.
- Explain whether any work would be subcontracted, to whom, how much percentage of the work, the rationale for such, and the roles of the proposed sub-contractors and how everyone will function as a team.
- Description of available performance monitoring and evaluation mechanisms and tools; how they shall be adopted and used for a specific requirement.
- Implementation plan including a Gantt Chart or Project Schedule indicating the detailed sequence of activities that will be undertaken and their corresponding timing.
- Demonstrate how you plan to integrate sustainability measures in the execution of the contract.
- Any other comments or information regarding the project approach and methodology.
- Bidder's Comments and Suggestions on the Terms of Reference: Bidders are requested to provide comments and suggestions on the Terms of Reference, or additional services that will be rendered beyond the requirements of the TOR, if any.

#### **4.16 EXPECTED DELIVERY DATE AND DURATION OF PROJECT**

It is expected that the selected bidder delivers the Secure SDWAN solution within four (4) weeks upon reception award and the notice to proceed and entering into effectiveness of the same.



#### 4.17 SUSTAINABLE PROCUREMENT

The bidder should demonstrate how the contract can be delivered in an environmentally and socially responsible manner.

#### 4.18 POST-QUALIFICATION/DUE DILIGENCE

Prior to award of the contract, the Bank may undertake site visit to any prospective bidder's office and carry out due diligence exercise, which may include, but need not be limited to, all or any combination of the following:

- Verification of accuracy, correctness and authenticity of information provided by the Bidder;
- Validation of extent of compliance to the ITB requirements and evaluation criteria based on the findings of the evaluation team;
- Inquiry and reference checking with Government entities with jurisdiction on the Bidder, or with previous clients, or any other entity that may have done business with the Bidder;
- reference checking with previous clients on the performance on on-going or completed contracts, including physical inspections of previous works, as deemed necessary;
- Physical inspection of the Bidder's offices, branches or other places where business transpires, with or without notice to the Bidder;
- Other means that the Bank may deem appropriate, at any stage within the selection process, prior to awarding the contract.

#### 4.19 GLOSSARY

Acronym	Meaning
<b>VSAT</b>	Very Small Aperture Terminal
<b>MPLS</b>	Multi-Protocol Label Switching
<b>NVA</b>	Network Virtual Appliance
<b>QOEX</b>	Quality of Experience
<b>DMVPN</b>	Dynamic Multipoint Virtual Private Network
<b>HQ</b>	Head Quarter
<b>WAN</b>	Wide Area Network
<b>IaaS</b>	Infrastructure as a Service
<b>SaaS</b>	Software as a Service
<b>VNF</b>	Virtual Network Function
<b>SD-WAN</b>	Software Defined Wide Area Network
<b>SSL</b>	Secure Sockets Layer
<b>UCaaS</b>	Unified communications as a service



## SECTION 5 – BID QUESTIONNAIRE



## Appendix 5A

### STATEMENT OF CONFORMITY

To the African Development Bank  
Abidjan, Cote d'Ivoire

Dear Sir/Madam,

We, the undersigned, declare that:

- (a) We have examined the Invitation to Bid (ITB) No **ADB/ITB/TCGS/2023/0189** and have no reservation to the ITB including addendum issued;
- (b) We have read and understood the general and specific conditions and accept to be bound by the general and specific conditions;
- (c) We offer to provide the goods, services and works in conformity with the ITB and in the rates and prices indicated in the Bill of Quantity/Price Schedule form included in our bid;
- (d) We agree that any other terms or conditions or any general reservation that may be provided on any correspondence emanating from us in connection with the ITB shall not be applicable to any resulting contract;
- (e) If provided in the ITB, the prices quoted will remain fixed for the duration of the contract;
- (f) Our bid shall be valid for the period indicated in the ITB and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (g) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest which will call into question our participation in the procurement process and award of contract;
- (h) We understand that the Bank's policy requires bidders and suppliers to observe the highest standard of ethics, as such we have not offered any gift to Bank staff;
- (i) We understand that if we withdraw our bid after the deadline for submission, the Bank may decide to exclude us from future procurements;
- (j) We, including our subcontractors or suppliers for any part of the contract, have nationalities from member countries of the Bank;
- (k) Our firm, its affiliates or subsidiaries (including any subcontractors or suppliers for any part of the contract) has not been declared ineligible by the Bank;
- (l) We are not under sanction by the World Bank, Asian Development Bank, Inter-American Development Bank or European Bank for Reconstruction and Development.

We undertake that, in competing for (and, if the award is made to us, in executing) the contract, we will strictly observe the laws in force in our country of registration and the country where the contract is performed.

We understand that you are not bound to accept the bid with the lowest evaluated quoted price or any other bid that you may receive.

We confirm that the undersigned are authorized to commit the bidder(s) to the obligations contained in the ITB and the contract.

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signature \_\_\_\_\_

Email \_\_\_\_\_

Duly authorized to sign this proposal for and on behalf of: \_\_\_\_\_

Dated on \_\_\_\_\_ Official Stamp



## Appendix 5B

### BIDDER INFORMATION SHEET

Ref.: ADB/ITB/TCGS/2023/0189

1. Bidder's Legal Name:
2. In case of joint venture or any other form of partnership (JV), legal name of each party:
3. Bidder's actual or intended Country of Registration, Constitution or Incorporation:
4. Bidder's actual or intended Year of Registration, Constitution or Incorporation:
5. Bidder's legal address in Country of Registration, Constitution or Incorporation:
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 Registration of firm named and information on the capital structure. <input type="checkbox"/> In case of JV, letter of intent to form a legally enforceable JV including a draft agreement, or JV agreement <input type="checkbox"/> In case of government owned entity from the Bank's member country, documents establishing legal and financial autonomy and compliance with the principles of commercial law. <input type="checkbox"/> Organizational chart of the company and list of current staff



## Appendix 5C

### PARTY TO JOINT VENTURE INFORMATION SHEET

REF.: ADB/ITB/TCGS/2023/0189

1. Bidder's Legal Name:
2. JV's Party legal name:
3. JV's Party Country of Registration, Constitution or Incorporation:
4. JV's Party Year of constitution or registration into a legally enforceable JV:
5. JV's Party Legal address in Country of Registration, Constitution or Incorporation:
6. JV's Party Authorized Representative Information: Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <ul style="list-style-type: none"><li><input type="checkbox"/> Articles of Registration, Constitution or Incorporation of firm named and information on the capital structure.</li><li><input type="checkbox"/> A letter of intent to form a legally enforceable JV including a draft agreement, or JV agreement and power of attorney nominating an authorized representative of the JV.</li><li><input type="checkbox"/> In case of government owned entity from the Bank's member country, documents establishing legal and financial autonomy and compliance with the principles of commercial law</li><li><input type="checkbox"/> Organizational chart of the company and list of current staff</li></ul>





## Appendix 5D

### QUALIFICATION (PASS/FAIL) ASSESSMENT

REF.: ADB/ITB/TCGS/2023/0189

Bidders shall complete all sections in the questionnaire in sufficient detail and provide evidence and supporting documentation to demonstrate compliance. Bidders shall meet each criterion by the deadline for submission of proposals.

PASS/FAIL CRITERIA	Bidders Compliance Requirements				Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)			Yes	No	
		All partners combined	Each partner	At least one partner			
<b>STATEMENT OF CONFORMITY, BID SECURING DECLARATION FORM AND LETTER OF BID</b>							
A person or persons duly authorized to bind the bidder to the price and contract has completed and signed the statement of conformity and bid submission form in the format provided.  A power of attorney shall be attached, if applicable.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
A person or persons duly authorized to bind the bidder to the price and contract has completed and signed the Bid Securing Declaration form in the format provided.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
A person or persons duly authorized to bind the bidder to the price and contract has completed and signed the Bid Submission form in the format provided.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
Bid validity of 120 days							



PASS/FAIL CRITERIA	Bidders Compliance Requirements				Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)			Yes	No	
		All partners combined	Each partner	At least one partner			
<b>The bidder shall sign and return the documents in the format provided for a PASS.</b>							
<b>ELIGIBILITY CRITERIA</b>							
The bidder is from a member country of the Bank.  If yes, provide evidence, such as, articles of incorporation or registration of firm, memorandum of association (if available), information on the capital structure and legal status of the bidder.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The goods and services offered are produced in a member country of the Bank.  If yes, provide evidence, such as, operating license, information on origin of goods and services.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
<b>The bidder, goods and services offered shall meet the eligibility criteria on the basis of nationality for a PASS.</b>							
The bidder has become bankrupt, is insolvent or is in the process of winding-up; is being administered by an administrator appointed by a competent court of law that has entered into an arrangement with creditors; has suspended business activities; or is in any analogous situation arising from a similar procedure provided for in the relevant national legislation or regulation.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The bidder has not fulfilled obligations relating to the payment of social security contributions, pension fund premiums, payment of taxes or	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			



PASS/FAIL CRITERIA	Bidders Compliance Requirements				Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)			Yes	No	
		All partners combined	Each partner	At least one partner			
similar legal statutory payments under the law of the country in which the bidder is established or where the contract is to be performed.							
The bidder has been convicted of a criminal offence relating to the conduct of its business of profession in the last ten (10) years?	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The bidder has been subject of a judgment for professional misconduct, fraud, corruption, involvement in a criminal organization or any other illegal activity.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The bidder has been debarred or cross-debarred by the Bank on the basis of corrupt, fraudulent, collusive, coercive and obstructive practices.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The bidder, or any of its affiliates, has not been engaged to provide consulting services for the preparation or implementation of the procurement.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
<b>The bidder shall not be subject to any of the situations above for a PASS</b>							
<b>JV (if applicable)</b>							
The bidder has included a JV agreement, or letter of intent to form a legally enforceable JV including a draft agreement.	N/A	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The bidder has nominated an authorized representative of the JV who has the authority to conduct all business for and on behalf of all partners and enter into the contract.  Provide contact details of authorized representative of the JV and power of attorney	N/A	Existing or intended JV must meet requirement	Must meet requirement	N/A			



PASS/FAIL CRITERIA	Bidders Compliance Requirements				Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)			Yes	No	
		All partners combined	Each partner	At least one partner			
signed by a legally authorized representative of the JV.							
<b>The bidder shall provide a JV agreement or letter of intent to form a legally enforceable JV and draft agreement, contact details of the authorized representative of the JV and power attorney for a PASS.</b>							
<b>FINANCIAL STANDING</b>							
The bidder has a minimum average annual turnover of at least <b>USD 1,5 million equivalent for the last three years 2022, 2021, 2020 or the three latest.</b>	Must meet requirement	Existing or intended JV must meet requirement	Must meet at least 20% of the requirement	Must meet 40% of the requirement			
The bidder can demonstrate sound financial performance?  If yes, provide evidence, such as audited balance sheets (including notes and income statements), copies of financial statements or other documents to demonstrate financial performance for the <b>past three years 2022, 2021, 2020 or the three latest.</b>  If the laws of the bidders' country of establishment do not require audits, bidders may submit their balance sheets certified by a registered accountant and supported by copies of tax returns for <b>the past three years 2022, 2021, 2020 or the latest.</b>	Must meet requirement	Existing or intended JV must meet requirement	N/A	Must meet requirement			
The bidder can demonstrate access to and availability of financial resources to meet the overall cash flow requirements for the contract and its current work commitments?	Must meet requirement	Existing or intended JV must meet requirement	N/A	Must meet requirement			



PASS/FAIL CRITERIA	Bidders Compliance Requirements			Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)		Yes	No	
		All partners combined	Each partner	At least one partner		
If yes, provide evidence, such as, liquid assets, unencumbered real assets, lines of credit and other financial means, other than contractual advance payments or other documents to demonstrate financial resources.						
<b>The bidder shall demonstrate current soundness of its financial position and its long-term profitability for a PASS.</b>						
<b>GENERAL AND SPECIFIC EXPERIENCE</b>						
The bidder has been in business for the past <b>Five (05) years</b> .  If yes, provide evidence, such as, information on the bidder's company (description, including a short history, business plan, services offered, organizational chart, number of staff and list of current staff, number of years in business).	Must meet requirement	Existing or intended JV must meet requirement	N/A	Must meet requirement		
The bidder has specific experience in at least <b>two (02)</b> similar contracts as a prime contractor within the past <b>seven (07)</b> years, which have been successfully or substantially completed (the contract shall be at least 70% completed). The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in the RFP.	Must meet requirement	Existing or intended JV must meet requirement	N/A	Must meet requirement		



PASS/FAIL CRITERIA	Bidders Compliance Requirements				Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)			Yes	No	
		All partners combined	Each partner	At least one partner			
If yes, provide description of similar contracts undertaken as a prime contractor (including name of customer) in the <b>last 5 years</b> .							
<b>The bidder shall have been in business for the last five (5) years and has the experience and capability to provide the goods and services required for a PASS.</b>							
<b>HISTORICAL CONTRACT PERFORMANCE AND PENDING LITIGATION</b>							
The bidder has had a contract(s) terminated in the last <b>three (3) years</b> for unsatisfactory performance or default.  Bidders shall complete the litigation history form.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
The bidder is involved in litigation that represents more than <b>50%</b> percent of the bidder's net worth.  Bidders shall complete the litigation history form.							
<b>The bidder shall demonstrate ability to successfully complete previous contracts and has no pending litigation to impede its ability to perform the contract for a PASS.</b>							
<b>CONFLICT OF INTEREST</b>							
The bidder has declared any actual or potential conflict of interest in the conflict-of-interest declaration form.	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A			
<b>The bidder shall have no actual or potential conflict of interest to call into question its participation in the procurement process and award of contract for a PASS.</b>							



PASS/FAIL CRITERIA	Bidders Compliance Requirements				Bidders Response		Comments / Evidence provided
	Single Entity	Joint venture and any other form of partnership (JV)			Yes	No	
		All partners combined	Each partner	At least one partner			
<b>MANUFACTURER'S AUTHORIZATION (SDWAN Vendor)</b>	Must meet requirement	Existing or intended JV must meet requirement	N/A	Must meet requirement			
Authorized reseller and Premium Partner of the proposed SDWAN solution And Or Reseller Agreement and authorization, Or supply, Implement and training agreement and authorization The bidder's local partner (if applicable) shall also provide on the above-mentioned document							
<b>The bidder shall demonstrate that it has authorization experience and capability to provide the goods and services required for a PASS</b>							
<b>Key Personnel</b>							
<ul style="list-style-type: none"> <li>• <b>Project Manager</b> shall have minimum 3 years of experience as project manager, Bachelor degree in business management, or engineering or IT related field and PMP or Prince2 certificate in project manager</li> <li>• <b>Service delivery manager</b> shall have minimum of 3 years of experience as Service manager, Bachelor degree in business management, or engineering or IT related field</li> </ul>							
<b>A bidder shall PASS all above criteria to be considered for the next stage.</b>							
<b>Remarks (Accept/Reject for the next stage)</b>							



**Appendix 5E**

**FINANCIAL CAPACITY**

**REF.: ADB/ITB/TCGS/2023/0189**

[The Bidder’s financial capacity to mobilize and sustain the Services is imperative. In the Proposal, the Bidder is required to provide information on its financial status. This requirement can be met by submission of one of the following: 1) audited financial statements for the last three (3) years, supported by audit letters, 2) certified financial statements for the last three (3) years, supported by tax returns, or if not required by the law of the Bidder’s country, other financial statements acceptable to the Bank. If the Proposal is submitted by a joint venture, all parties of the joint venture are required to submit their financial statements.

Additionally, the following financial data form shall be filled out for the Bidder and all named associates. The Bank reserves the right to request additional information about the financial capacity of the Bidder. A Bidder that fails to demonstrate through its financial records that it has the financial capacity to perform the required Services may be disqualified.]

Financial Information (US\$)	Historical information for the previous three (3) years (most recent to oldest) in USD equivalent		
	Year 2022	Year 2021	Year 2020
Information from Balance Sheet			
(1) Total Assets (TA)			
(2) Current Assets (CA)			
(3) Total Liabilities (TL)			
(4) Current Liabilities (CL)			
Information from Income Statement			
(5) Total Revenue (TR)			
(6) Profits before Taxes (PBT)			
Net Worth (1) – (3)			
Current Ratio (2) / (4)			

**AVERAGE ANNUAL TURNOVER**

Year	Amount and Currency	US\$ equivalent
<b>2022</b>		
<b>2021</b>		
<b>2020</b>		
<b>*Average Annual Turnover</b>		

\*Average annual turnover calculated as total certified payments received for work in progress or completed, divided by the number of years specified

Name of Firm: \_\_\_\_\_



## Appendix 5E BIS

### FINANCIAL RESOURCES

REF.: ADB/ITB/TCGS/2023/0189

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 services requirements of the subject contract as indicated in Section III, Evaluation and Qualification Criteria.

Source of financing	Amount (US\$ equivalent)
1.	
2.	
3.	
4.	

### FINANCIAL PERFORMANCE

Financial ratio	Formula	2022	2021	2020
Net profit margin	Net profit /Total revenues			
Return on assets	Net profit/Total assets			
Return on equity	Net profit/Stockholder's equity			
Quick ratio / Acid-test	Cash+ Marketable securities+ Receivables/Total current liability			
Debt-to-equity	Total debt/Total equity			



**Appendix 5F**

**BIDDER'S GENERAL EXPERIENCE**

**REF.: ADB/ITB/TCGS/2023/0189**

[Using the format below, provide information on each relevant assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under the Terms of Reference included in this RFP. The Proposal must demonstrate that the Bidder has a proven track record of successful experience in executing projects similar in substance, complexity, value, duration, and volume of services sought in this procurement].

**General Experience**

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

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Bidder
_____	_____		Contract name: Brief Description of the Service performed by the Bidder: Name of Client: Address: Name of contact person and Email address:	_____
_____	_____		Contract name: Brief Description of the Service performed by the Bidder: Name of Client: Address: Name of contact person and Email address:	_____
_____	_____		Contract name: Brief Description of the Service performed by the Bidder: Name of Client: Address: Name of contact person and Email address:	_____
_____	_____		Contract name: Brief Description of the Service performed by the Bidder: Name of Client: Address: Name of contact person and Email address:	_____
_____	_____		Contract name: Brief Description of the Service performed by the Bidder: Name of Client: Address: Name of contact person and Email address:	_____



**Appendix 5F BIS**

**BIDDER'S SPECIFIC EXPERIENCE**

**REF.: ADB/ITB/TCGS/2023/0189**

(Please complete one form per assignment)

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

Assignment name:	Approx. value of the contract (in current US\$):
Country: Location within country:	Duration of assignment (months):
Name of client	Total No. of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in current US\$):
<b>Name of contact person:</b>	<b>Email address and Cell phone number of contact person:</b>
Start date (month/year): Completion date (month/year):	No. of professional staff-months provided by associated consultants:
Name of associated consultants, if any:	Name of proposed senior professional staff of your firm involved and functions performed (indicate most significant profiles such as project director/coordinator, team leader):
Narrative description of project:	
Description of actual services provided by your staff within the assignment:	

Name of Bidder: \_\_\_\_\_



## Appendix 5G

### KEY PERSONNEL

REF.: ADB/ITB/TCGS/2023/0189

Key Professional Personnel				
Name of Staff	Organization	Area of Expertise	Position Assigned	Task Assigned

Please insert CV for proposed Key Professional Personnel



**Appendix 5G BIS**

**RESUME OF PROPOSED PERSONNEL**

**REF.: ADB/ITB/TCGS/2023/0189**

(The Bidder shall provide all the information requested below. – Please complete one form per staff)

<b>Position*</b>	
<b>Personnel information</b>	<b>Name*</b> <span style="float: right;"><b>Date of birth</b></span>
	<b>Professional qualifications</b>
<b>Present employment</b>	<b>Name of employer</b>
	<b>Address of employer</b>
	<b>Telephone</b> <span style="float: right;"><b>Contact (manager / personnel officer)</b></span>
	<b>Fax</b> <span style="float: right;"><b>E-mail</b></span>
	<b>Job title</b> <span style="float: right;"><b>Years with present employer</b></span>

Summarize professional experience over the last 20 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	To	Company / Project / Position / Relevant technical and management experience



**Appendix 5H**

**LITIGATION HISTORY**

**REF.: ADB/ITB/TCGS/2023/0189**

Name of Bidder:

Bidders shall provide information on any history of litigation or arbitration resulting from contracts executed in the last **three years** or currently under execution. A separate sheet shall be used for each partner of a joint venture.

Non-Performing Contracts – contracts terminated in the past **three (3) years** for unsatisfactory performance or default

Contract non-performance during the stipulated period

Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
		Name and Address of Purchaser: Contract description: Contract award date: Termination date: Reason for termination:	
		Name and Address of Purchaser: Contract description: Contract award date: Termination date: Reason for termination:	

Pending Litigation

No pending litigation

Pending litigation

Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
_____	_____	Name of Purchaser: Contract description: Address of Purchaser: Contract award date: Matter in dispute:	_____
_____	_____	Name of Purchaser: Contract description: Address of Purchaser: Contract award date: Matter in dispute:	_____

Name: \_\_\_\_\_ In the capacity of: \_\_\_\_\_  
 Signed: \_\_\_\_\_  
 Duly authorized to sign this proposal for and on behalf of:  
 Dated on: \_\_\_\_\_



**Appendix 5I**

**CONFLICT OF INTEREST DISCLOSURE FORM**

Name of Bidder: \_\_\_\_\_ ITB Reference: **ADB/ITB/TCGS/2023/0189**

It is the Bank's policy to ensure fairness and integrity in its procurement process. All bidders (including affiliates, partners in joint venture, suppliers and subcontractors) are required to disclose any actual or potential conflict of interest. Bidders shall respond to the questions below and provide further information pertaining to any relationship/connection with the Bank.

	Bidders Response		Comments /Information provided
	Yes	No	
Are you connected to a person employed by the Bank who is involved in the procurement process? This could be a personal or business relationship.			
Have you been engaged in providing consulting services for the preparation or implementation of an assignment relating to the procurement?			
Are you an employee or stakeholder of the Bank?			
Has the Bank offered you a contract of employment in the last 12 months?			
Are you participating in more than one bid in the procurement process?			
Have you hired any Bank staff involved in the preparation or implementation of the assignment relating to the procurement in the last 12 months?			
Have you held a position in government in the last 3 years? For example, a ministerial position			
Has a member of your family held a position in government in the last three years? This includes your spouse, parent, brother, sister or child.			

We hereby certify that: a) we have read and understood the contents of this disclosure form; and b) we have disclosed all actual or potential conflict of interest. We understand that the Bank shall determine, in its sole discretion, whether any conflict of interest disclosed shall result in rejection of our bid from the procurement process.

Name:  
 In the capacity of:  
 Signed:  
 Duly authorized to sign this proposal for and on behalf of:  
 Dated on:



**Appendix 5J**

**TECHNICAL EVALUATION**

**REF.: ADB/ITB/TCGS/2023/0189**

Bidders (including each partner of a JV, affiliates and suppliers) shall provide the information required in sufficient detail and provide supporting documentation in support of bidders' response. The Bank shall carry out a detailed examination of the bids to determine compliance with the technical requirements and conditions.

The evaluation of the bidder's technical bid shall include an assessment of the bidder's technical capacity to mobilize key equipment and personnel for the contract, consistent with its proposal regarding work methods, scheduling and material sourcing, in sufficient detail, and fully in accordance with the requirements.

1. Bidders shall provide information on their current commitments on all contract that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which a full completion certificate has yet to be issued.

Contact details of client – address /telephone/fax)	Value of outstanding work (current US\$ equivalent)	Estimated completion date	Average monthly invoicing over last six months (US\$/month equivalent)

2. Bidders shall provide a comprehensive description of the proposed major items of equipment for carrying out the works.

Type of equipment and characteristics	Description, make, model, year of manufacture	Condition (new, good, poor) and number available	Owned, leased (from whom) or to be purchased (from whom). Include lease agreements, where relevant

3. Bidders shall provide details of work performed as a prime contractor on works of a similar nature and volume over the **last three years**. Bidders shall complete one table per contract.

Contract Number/Name:	
Contract description:	





Contract Number/Name:		
Country of contract performance:		
Award date:		
Completion date:		
Bidder's role in Contract:	Contractor	Subcontractor
Value of contract:	US\$ _____	US\$ _____
If partner in a JV or subcontractor, specify participation in total contract amount:		
If the contract is not completed, what percentage and total contract value has been completed:		
Provide details of work undertaken by subcontractor, if any, and percentage of total contract value		
Client's Name: Address of Client: Telephone: Fax number: E-mail:		
Description of the similarity of work undertaken to the Bank's requirements: <ul style="list-style-type: none"> <li>- Special contractual / technical requirements:</li> <li>- Type of contract:</li> <li>- Award of contract:</li> <li>- Physical size:</li> <li>- Complexity:</li> <li>- Methods/technology</li> <li>- Other characteristics</li> </ul>		

4. Bidders shall provide a list of the proposed subcontractors and suppliers to be involved in the contract, setting out the subcontractors and suppliers experience in the **last three years** relating to the part of the contract they will be performing.

Section(s) of work to be performed by subcontractor	Value of subcontract	Name and address of subcontractor	Subcontractors experience in similar contracts




5. Bidders shall provide a comprehensive work programme and technical information, including drawings, charts, as necessary, to comply with the requirements. The work programme should not exceed the period for completion of all works.
6. Bidders shall provide a comprehensive method statement showing how it intends to carry out the works to conform to the requirements.
7. Bidders shall provide a comprehensive mobilization schedule detailing the action plan for the period between the award of contract and commencement of work, to include mobilization timetable, risk registers, mobilization and deployment of equipment and personnel.
8. Bidders shall provide a comprehensive schedule detailing the series of events or plan of actions to complete the project. The response shall identify the critical path.
10. Bidders shall provide a detailed site organization plan detailing how it intends to organize a safe and healthy construction site, including traffic management, materials storage and waste management, meeting local administrative and legal requirements, if relevant.
11. Bidders proposals shall be conform to for SD-WAN teleworker appliance as described in the document.
12. Bidders shall provide details on the qualification and experience of key personnel proposed for the administration and execution of the contract, including the proposed Project Manager. Bidders shall complete one table per individual.

Proposed Position:	
Name of Firm:	
Name of Staff:	
Profession:	
Years with Firm in proposed position:	
Nationality:	
Membership in Professional Society/Organization (if appropriate):	
Detailed tasks to be assigned under the Contract:	



<p><u>Key Qualifications</u> - Give an outline of key staff member's experience and training most pertinent to tasks of the assignment. Describe degree of responsibility held on relevant previous assignments and give dates and locations. Use up to half a page.</p>	
<p><u>Education</u> - Summarize college/university and other specialized education, including, names of schools, dates attended and degrees obtained. Use up to a quarter page.</p>	
<p><u>Employment Record</u> - Starting with the present position, list in reverse order every employment held. List all positions held since graduation, including, dates, names of employing organization, title of positions held and location of assignments. For experience in the last ten years, provide types of activities performed and client references, where appropriate. Use up to three-quarters of a page.</p>	
<p><u>Languages</u> - Indicate proficiency in speaking, reading and writing of each language: i.e excellent, good, fair, or poor.</p>	



## Appendix 5K

### BID-SECURING DECLARATION FORM

Date: [insert date (as day, month and year)]  
REF.: ADB/ITB/TCGS/2023/0189

To: **The African Development Bank**  
**Abidjan, Cote d'Ivoire**

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Bank for the period of time of **three (3) years** starting from the bid submission date, if we are in breach of our obligation(s) under the bid conditions, because we:

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

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

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

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

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

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

Corporate Seal (where appropriate)

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



## Appendix 5L

### Letter of Bid

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

Date: \_\_\_\_\_

Invitation for Bid No.: **ADB/ITB/TCGS/2023/0189**

o: African Development Bank, Abidjan, Cote d'Ivoire

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) Clause 6 \_\_\_\_\_;
- (b) We offer to execute in conformity with the Bidding Documents the following Works:  
\_\_\_\_\_;
- (c) The total price of our Bid, excluding any discounts offered in item (d) below is: [amount of foreign currency in words], [amount in figures], and [amount of local currency in words], [amount in figures];
- (d) The discounts offered and the methodology for their application are: \_\_\_\_\_;
- (e) Our bid shall be valid for a period of \_\_\_\_\_ [insert validity period as specified in ITB 26] days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with ITB clause 46, for the due performance of the Contract;
- (g) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries, in accordance with ITB 1;
- (h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 3;
- (i) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 2, other than alternative offers submitted in accordance with ITB 20;
- (j) Our firm, its affiliates or subsidiaries (including any Subcontractors or Suppliers for any part of the contract), has not been declared ineligible by the Bank;
- (k) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (l) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive; and
- (m) If awarded the contract, the person named below shall act as Contractor's Representative:

\_\_\_\_\_  
Name: \_\_\_\_\_  
In the capacity of: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Duly authorised to sign  
the Bid for and on behalf  
of: \_\_\_\_\_  
Date: \_\_\_\_\_  
Email: \_\_\_\_\_



Appendix 5M

**BILL OF QUANTITY/PRICE SCHEDULE**

REF.: ADB/ITB/TCGS/2023/0189

Order	Reference	Designation	Country of Origin	Quantity	Public price	Discount%	Net price without Margin	Net price with margin
		<b>Secure SDWAN</b>						
1	NVA to be installed directly in MS Azure – 200 Mbps	To be installed in clustering at the Data Center to terminate up to 117 tunnels from up 40 SD-WAN gateways		2 x Active				
2	Regional Centers	FG-400F FC-10-0400F-108-02-12 (IPS License) FC-10-0400F-247-02-12 (Forticare support) Interface: 8x 10GE SFP+, 8x GE SFP, 18 x GE RJ45 To be installed in HA pairing at Regional Center		10 Units: 5 x Active 5x Standby				
3	Country offices	FG-200F FC-10-F200F-108-02-12 (IPS licence) FC-10-F200F-247-02-12 (Forticare support licence)  4x 10 GE SFP+, 18x GE RJ45, 8x GE SFP, (1) port USB, (1) port de console		70 Units: 35 x Active 35x Standby				



Order	Reference	Designation	Country of Origin	Quantity	Public price	Discount%	Net price without Margin	Net price with margin
		To be installed in HA pairing at Country offices						
4	Equinix SaaS Cloud on-ramp Gateways at two separate Continent	To be installed provisioned in clustering To be installed in HA pairing at Regional Center sized VNF SD-WAN		6 Units Europe: 3 x Active USA: 3 x Active				
	PCCW Colo	Data Center sized VNF to be installed in a x86 platform at the PCCW – up to 5 Gbps		2 x Active				
<b>Subtotal 1 (equipment)</b>								
<b>License, Services, and fully managed service</b>								
	SDWAN License, Support Specification, fully managed Secure SDWAN infrastructure	License subscription, Maintenance, and support of the solution (annual payment)		36 months				
	Prof Services (Manufacturer Advanced Services)	The bidder backed by the software manufacturer advanced services will be responsible for the complete engineering and implementation cycle of the solution, which implies the high-level design, low level design, network implementation plan and deployment (configuration, integration, migration) of the Secure SDWAN infrastructure, and operational and handover training to the support Bank support team.		Lump sum				
<b>Subtotal 2 (licenses, support and implementation)</b>								



Order	Reference	Designation	Country of Origin	Quantity	Public price	Discount%	Net price without Margin	Net price with margin
<b>Training</b>								
		Online virtual or onsite classroom at the bank office in Abidjan Provide training to 52 staff of the Bank, in addition to the practical training during implementation as a component of knowledge transfer. The training should enable the technical staff of the Bank to gain knowledge of the proposed SD-WAN solutions to ensure better ongoing operation		52				
	ADVANCED SDWAND Training	Advance Training on the proposed SD-WAN solutions for deeper engineering, deployment and integration		52				
<b>Subtotal 3 (Training)</b>								
Total equipment and software (with margin)								
Total profit margin								
Discount offered								
Logistic package (Transport and delivery) DAP AfDB HQ Abidjan Plateau								
<b>Total Net cost (Subtotal 1 + Subtotal 2 + Subtotal 3 + Logistic)</b>								
Expected date of full hardware and software delivery (in days )								
<b>OPTION</b>								
<b>License, Services, and fully managed service</b>								
		SDWAN License, Support Specification, fully managed Secure SDWAN infrastructure License subscription, Maintenance, and support of the solution (annual payment)		36 months				
<b>Grand total (Total Net cost + option)</b>								

**NB: Bidders should provide any breakdown of their pricing calculation.**



## SECTION 6 – PRESIDENTIAL DIRECTIVE CONCERNING THE RULES FOR CORPORATE PROCUREMENT ACTIVITIES OF THE BANK

### ARTICLE 3: ELIGIBILITY

3.1 Goods, Services, Real Estate and Works procured by the Bank shall be produced in a Member Country and supplied by Contractors from a Member Country, as described in paragraphs 3.2 and 3.3, unless a waiver of Article 17(1)(d) of the Agreement establishing the Bank is granted by the Board of Directors.

3.2 The eligibility of a Bidder or Contractor on the basis of nationality shall be determined in accordance with the following rules:

a) Natural Person: a Natural Person is eligible if he or she is a national of a Member Country of the Bank. Where a person has more than one nationality, such a person shall be eligible if the nationality indicated in his or her submission is that of a Member Country of the Bank.

b) Business: a Business is eligible if it satisfies the following criteria:

- it has its registered office or has its principal place of business in a country that is a member of the Bank;
- its legal existence is recognized and is in accordance with the laws of a country that is a member of the Bank; and
- the majority of its capital is held by nationals from a Member Country of the Bank or, if the Business has no capital, more than half of the value of the members' contributions to the Business has been contributed by nationals from a Member Country of the Bank.

3.3 In order to be eligible:

a) Goods to be procured must have a value of which more than half is attributable to production or to originating materials and inputs from one or more eligible Member Countries of the Bank;

b) Works must be performed where more than half of the value of the labour is supplied from one or more eligible Member Country of the Bank, and where the equipment and materials needed for carrying out the Works have a value of which more than half is attributable to production or to originating materials and inputs from one or more Member Countries of the Bank.

3.4 A Natural Person or Business shall not normally be eligible at any stage of a competitive procurement process and contract execution if any of the following situations apply and have been declared or should have been declared by the Bidder:

a) The Natural Person or Business has become bankrupt, is insolvent or, in the case of a Business, is in the process of winding-up; is being administered by an administrator appointed by a competent court of law that has entered into an arrangement with creditors; has suspended business activities; or is in any analogous situation arising from a similar procedure provided for in the relevant national legislation or regulation;

b) The Natural Person or Business has not fulfilled obligations relating to the payment of social security contributions, pension fund premiums, payment of taxes or similar legal statutory payments under the law

of the country in which the Natural Person or Business is established or where the contract is to be performed;

c) The Natural Person or Business has been convicted of a criminal offence relating to the conduct of its business or profession in the last 10 years;

d) The Natural Person or Business has been the subject of a judgment for professional misconduct, fraud, corruption, involvement in a criminal organization or any other illegal activity;

e) The Natural Person or Business has been debarred or cross-debarred by the Bank on the basis of corrupt, fraudulent, collusive, coercive and obstructive practices;

f) The Natural Person or Business has been evaluated as having provided unsatisfactory performance under a previous contract with the Bank within the last 3 years.

3.5 A Natural Person or Business, or any of its affiliates, that has been engaged to provide Consulting Services for the preparation or implementation of an assignment shall be disqualified from subsequently providing Goods, Services, Real Estate or Works (other than a continuation of earlier Consulting Services) for the same assignment.

3.6 In addition to the foregoing paragraphs, Vendors of a particular country or Goods and Work materials manufactured in a particular country may be declared ineligible if:

a) as a matter of law or official regulation, the country where the contract is to be performed prohibits commercial relations with that particular country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of Goods, Services, Real Estate and Works, 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 country where the contract is to be performed prohibits any import of Goods from, or payments to, that particular country or Vendor.

## **DEFINITIONS**

Bank means the African Development Bank, the African Development Fund and the Nigerian Trust Fund collectively, or any of them individually, as the case may be.

Bidder means a Vendor that has responded to a solicitation document issued by the Bank.

Business means any incorporated or unincorporated organization recognized by the laws of a Member Country of the Bank that has the capacity of entering into contracts and of offering Goods, Services, Real Estate and Works.

Contractor means a Vendor who has entered into a contract with the Bank for the provision of Goods, Services, Real Estate or Works.

Goods means tangible items, including assets and expendable items that are purchased, hired, leased or rented by the Bank, A 'Good' may include related Services, such as transportation,

insurance, installation, commissioning, training and initial maintenance, provided that the value of those Services is less than the value of the Goods acquired.

Natural Person means an individual authorized by the laws of a Member Country of the Bank to offer Goods, Services, Real Estate and Works.

Real Estate, also known as real property, means land, buildings and premises that are purchased, built or leased by the Bank.

Services means all services except consulting services. For the purposes of this Directive “Consulting Services” refers to expert intellectual or advisory services.

Vendor means any Natural Person or Business that is in the business of selling or otherwise providing Goods, Services, Real Estate or Works.

Works means the construction, reconstruction, demolition, outfitting, repair or renovation of premises or related infrastructures. Such contracts may include related Services where the value of those Services does not exceed the value of the Works.

## LIST OF MEMBER COUNTRIES OF THE BANK

REGIONAL COUNTRIES			
1. Algeria	2. Angola	3. Benin	4. Botswana
5. Burkina Faso	6. Burundi	7. Cameroon	8. Cape Verde
9. Central African Rep.	10. Chad	11. Comoros	12. Congo
13. Côte d'Ivoire (HQ)	14. Democratic Rep of Congo	15. Djibouti	16. Egypt
17. Equatorial Guinea	18. Eritrea	19. Ethiopia	20. Gabon
21. Gambia	22. Ghana	23. Guinea	24. Guinea Bissau
25. Kenya	26. Lesotho	27. Liberia	28. Libya
29. Madagascar	30. Malawi	31. Mali	32. Mauritania
33. Mauritius	34. Morocco	35. Mozambique	36. Namibia
37. Niger	38. Nigeria	39. Republic of South Africa	40. Rwanda
41. Sao Tome & Principe	42. Senegal	43. Seychelles	44. Sierra Leone
45. Somalia	46. South Sudan	47. Sudan	48. Swaziland
49. Tanzania	50. Togo	51. Tunisia	52. Uganda
53. Zambia	54. Zimbabwe		
NON-REGIONAL COUNTRIES			
1. Argentina	2. Austria	3. Belgium	4. Brazil
5. Canada	6. China	7. Denmark	8. Finland
9. France	10. Germany	11. India	12. Italy
13. Japan*	14. Korea	15. Kuwait	16. Luxembourg
17. Netherlands	18. Norway	19. Portugal	20. Saudi Arabia
21. Spain	22. Sweden	23. Switzerland	24. Turkey
25. United Kingdom	26. United States of America		

## **PART II – CONTRACT CONDITIONS**

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**APPENDIX 7 – SAMPLE CONTRACT**

**AFRICAN DEVELOPMENT BANK**



**GENERAL SERVICES AND PROCUREMENT DEPARTMENT  
CORPORATE PROCUREMENT DIVISION**

**CONTRACT FOR SUPPLY, DELIVERY, DESIGN AND IMPLEMENTATION OF SECURE SDWAN**

**CONTRACT No. ADB/CTR/TCGS/2023/00188**

**BETWEEN**

**THE AFRICAN DEVELOPMENT BANK**

**AND**

.....

**THIS CONTRACT** (hereinafter called the "Contract") is entered into by and between **THE AFRICAN DEVELOPMENT BANK** (hereinafter referred to as the "Bank"), an International Financial Institution having its Headquarters on Avenue Joseph Anoma, 01 BP 1387, Abidjan 01, COTE D'IVOIRE, as one part,

....., a company duly incorporated and existing under the laws ....., with registration number ....., having its registered office address located at ....., (Hereinafter referred to as the "Supplier") of the other part.

**Parties** mean the Bank and the Supplier collectively, and **Party** means any one of them, as the context may indicate.

The Contract includes all the Annexes and Appendices attached hereto and forming an integral part hereof.

## **PREAMBLE**

**WHEREAS** the Bank identified a need, and launched a competitive bidding process for the .....n; Reference n°:REF: ..... (which forms an integral part of this Contract);

**WHEREAS** the Bank has selected the Supplier for the ..... in accordance with the terms and conditions set out under this Contract (the "Services");

**AND WHEREAS** the Supplier has represented and affirmed to the Bank that it has the required qualifications, professional skills, experience, personnel, technical resources and capability to provide the required equipment and perform the required services and has agreed to provide the Services on the terms and conditions set forth in this Contract.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein and intending to be legally bound, the Parties hereby agree as follows:

## **ARTICLE I**

### **Commencement Date and Duration of the Contract**

1.1 The Supplier shall commence implementation of the Services after receiving the Bank's Contract award letter/Notice to Proceed. Performance of the Services shall be done in compliance with the terms of the Service Level Agreement (SLA), and payments for the Services shall be effected upon submission of (i) the required work product, (ii) Supplier's invoice, and (iii) Acceptance test (certification) by the Bank's representative that the Services have been satisfactorily performed in accordance with the terms of this Contract.

1.2.1 The Contract shall be effective as of ..... ("Effective Date") and the duration for the design, supply, delivery, implementation, and training of the project is a maximum of ..... after signing the contract or following notice to proceed. However, the annual maintenance and support is renewable annually subject to satisfactory performance. The overall duration of the annual maintenance support will be five (5) years with effect from the date of Operational Acceptance of a component of the complete Service.

1.2.2 The Contract ending date for all components of the Service will be coterminous starting from the acceptance of the first delivered component.

For purposes of clarity, the following are scope of the complete Service:

- (a) Supply and delivery of ....., and services in the specified Bank offices whose address are indicated in section 4.9 of the terms of References). All deliverables are listed in the price schedule section.
- (b) Provide online training on the proposed solution to the staffs of the Bank (.... staff)
- (c) The bidders shall provide comfort to the African Development Bank that the Solution meets the requirements specified in the Terms of Reference and compatible with the existing infrastructure.
- (d) Provide unrestricted management access to the designated Bank Engineers to the system for installation, configuration, network management, monitoring and diagnosis.

Unless mutually agreed otherwise by Parties in writing, any delay in the implementation of the Services shall not have adverse implications on the commencement date and duration of the Contract.

## **ARTICLE II**

### **The Services, Order of Precedence of Contract Documents, and Undertakings**

- 2.1** The Services to be performed by the Supplier under this Contract are those described in the attached Requirements hereunder as **Appendix A**. The Services shall be provided in accordance with the Service Level Agreement and Maintenance Contract, and the fees shall be made in accordance with the Supplier's proposal.
- 2.2** The following documents shall constitute the Contract between the Bank and the Supplier, and each shall be read and construed as an integral part of the Contract:
  - (a) This Contract.
  - (b) Appendix A: The Bank's Requirements.
  - (c) Appendix B: General Conditions of the Contract (B1) & Special Conditions of Contract (B2)
  - (d) Appendix C: Project Implementation Plan.
  - (e) Appendix D: Maintenance Agreement.
  - (f) Appendix E: Service Level Agreement.
  - (g) Appendix F: The Supplier's Proposal including financial/pricing details.
  - (h) Appendix G: Payment Schedule
  - (i) Appendix H: Price schedule
  - (j) Appendix I: Code of conduct
  - (k) Appendix J: Letter of award

**This Contract supplements or amends the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of this Contract shall prevail over those in the GCC. In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed above.**

- 2.3** The Supplier understands and expressly agrees that the Services under this Contract shall be contingent on achieving Operational Acceptance of the System, such acceptance not to be unreasonably withheld by the Bank.



**2.4** The Services shall be carried out by the personnel of the Supplier agreed with the Bank prior to the Commencement date of this Contract and for the periods of time indicated herein. No substitution for any such personnel and of the billing rates proposed by the Supplier for the replacement personnel shall be made without the Bank's prior written authorization and such authorisation not to be unreasonably withheld.

### **ARTICLE III**

#### **Contract Price and Payment Terms**

(GCC Clause 10 and Clause 11)

**3.1** The Bank shall pay the Supplier the sum of ..... **(USD .....)** for goods and services in the manner as further specified in detail in the Payment Schedule attached as **Appendix G**.

**3.2** The Bank shall not be obligated to make any payment under this Contract except to the extent provided in the Payment Schedule or as otherwise mutually agreed by the Parties in writing. Payments shall be made for the portion of the Contract Price corresponding to the Goods or Services actually Delivered, Installed, and Operationally Accepted upon submission by the Supplier of:

(a) the required work product or deliverable.

(b) the Supplier's invoice; and

(c) certification by the Bank's representative that the Services have been satisfactorily performed in accordance with the terms of this Contract, such certification not to be unreasonably withheld.

**3.3** Payment of undisputed invoices will be effected within **thirty (30) days** from the date of receipt. The Supplier shall not be obligated to provide the Services and shall have the right to suspend performance of Services if the Bank has not satisfied all payment obligations due and outstanding and where such charges are not subject to a valid dispute by the Bank.

### **ARTICLE IV**

#### **Duties of the Supplier**

**4.1** The Supplier shall conduct all contracted activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of information technologies, information systems, network and telecom services, support, maintenance, and other related services, and in accordance with best industry practices. In particular, the Supplier shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

**4.2** The Supplier confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the System provided by the Bank and on the basis of information that the Supplier could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the Supplier relating to the System prior to bid submission. The Supplier acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Contract.

**4.3** The Supplier shall be responsible for provision of all resources, information, and decision making under its control within the time schedule specified in the mutually agreed Project Implementation Plan. Failure to provide such resources, information, and decision-making may constitute grounds for termination of this Contract.

**4.4** The Supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in the Bank's country that are

necessary for its performance of the Contract, including, without limitation, visas for the Supplier's and Subcontractor's personnel and entry permits for all imported equipment of the Supplier. The Supplier shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the Bank under Article 5.3 and that are necessary for the performance of the Contract.

- 4.5** The Supplier shall comply with all laws in force in the country in which the Bank is situated and that are applicable to the Supplier. However, Supplier is not required to provide support or services in any country if in Supplier's reasonable judgment any of the laws described above require Supplier to incur material incremental costs or require Supplier to provide Supplier's Confidential Intellectual Property to any third party, or requires Supplier to make modifications to its products in order to comply with such laws. Subject to the foregoing, the laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Supplier. The Supplier shall indemnify and hold harmless the Bank from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation of such laws by the Supplier or its personnel, including the Subcontractors and their personnel, but without prejudice to Article 4.1, that are claimed against the Bank by a governmental authority with the reasonable right to do so or that are finally upheld against the Bank by an adjudicating authority with competent jurisdiction.
- 4.6** The Supplier shall, in all dealings with its labour and the labour of its subcontractors currently employed or connected with this Contract, pay due regard to all recognized official holidays and all local laws and regulations pertaining to the employment of labour.

#### **ARTICLE V**

##### **Duties of the Bank**

- 5.1** The Bank shall ensure the accuracy of all information and/or data to be supplied by the Bank to the Supplier, except when otherwise expressly stated in this Contract.
- 5.2** The Bank shall be responsible for provision of all resources, information, and decision making under its control within the time schedule specified in the Project Implementation Plan.
- 5.3** If requested by the Supplier, the Bank shall use its best endeavors to assist the Supplier in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of this Contract from all local, state, or national government authorities or public service undertakings that such authorities or undertakings require the Supplier or its subcontractors or the personnel of the Supplier or its subcontractors, as the case may be, to obtain.
- 5.4** The Bank will designate appropriate staff for the training courses (if needed) to be given by the Supplier and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, the Project Implementation Plan, or other parts of the Contract.
- 5.5** The Supplier will assume primary responsibility for performance of the Operational Acceptance Test(s) for the System, with support from the Bank and in accordance with the final agreed Project Implementation Plan. However, this shall not limit in any way the Supplier's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.

#### **ARTICLE VI**

##### **Ownership of Reports, Equipment, Representations and Warranties**

(GCC Clause 14)

- 6.1** Proprietary and intellectual property rights in all documents and reports describing the System configuration, all regular maintenance reports provided, and training materials specifically created for

the Bank by the Supplier pursuant to this Contract, (the "Deliverables") shall be property of the Bank. The Supplier may retain copies of the deliverables provided that any material which contains Bank specific information shall not be used by the Supplier for purposes unrelated to this Contract, without the prior written authorization of the Bank. The Supplier shall retain ownership of all its pre-existing proprietary and intellectual property rights in all pre-existing products and materials, ideas, concepts, analyses, know-how, tools, frameworks, models and industry perspectives used and/or developed by the Supplier in connection with the performance of the Services under this Contract (the "Supplier's Tools"), it being understood that none of the Supplier's Tools shall contain the Bank's Confidential Information. In the event that any of the Deliverables includes any of the Supplier's Tools, the Supplier hereby grants the Bank a non-exclusive, worldwide, royalty-free license to use and copy the Supplier's Tools solely as part of the Deliverables and solely for the Bank's use related to the System.

- 6.2** If a third party asserts a claim against the Bank that any hardware, software, equipment, deliverable, material or other product ("Product") that the Supplier provides to the Bank under this Contract infringes that third party's patent, trade mark, copyright or other intellectual property rights, the Supplier will defend the Bank against that claim at the Supplier's expense and pay all costs, damages, and attorney's fees awarded against the Bank or that are included in a settlement approved in advance by the Supplier, provided that the Bank:
- (a) - promptly notifies the Supplier in writing of the claim, and
  - (b) - subject to the privileges, immunities and exemptions accorded to the Bank under the Agreement Establishing the African Development Bank, reasonably cooperates with the Supplier in, the defense and any related settlement negotiations.

If such a claim is made, the Bank shall inform the Supplier for the Supplier to either (i) obtain a license to enable the Bank to continue to use the Product concerned, in accordance with the terms of this Contract, or (ii) modify the infringing Product to avoid infringement, or (iii) replace the Product, without additional charges to the Bank, with one that is compatible, functionally equivalent and non-infringing.

- 6.3** The Bank acknowledges that any Software supplied by the Supplier to the Bank hereunder is subject to the proprietary rights of the Supplier and/or Supplier's vendor (the "Licensor"). The Supplier or its Licensor, as the case may be, will retain title to all of the Software. The Bank shall only be liable to pay the Supplier for the Services provided to the Bank pursuant to the terms of this Contract. All hardware and equipment paid for by the Bank shall become property of the Bank. For avoidance of doubt, all software provided under this Contract is licensed not sold and all Intellectual Property rights in such software are retained by the Supplier or its Licensor. The software may be disclosed to, and reproduced for use by, the Bank's employees working in its field offices or other facilities in member countries during the period of subscription and in compliance with the licensor's terms of use.
- 6.4** The Supplier represents and warrants that it has full power and authority to grant the rights granted by this Contract to the Bank, without exception, with respect to the hardware, software and equipment supplied under this contract without further consent of any other person. As of the Commencement Date, the Supplier represents and warrants that it is not aware of any threatened or pending legal action with respect to any hardware, software, equipment and documentation provided by the Supplier under this Contract regarding infringement or other violation of any copyright, trademark, patent, or other intellectual or proprietary or other rights of any third party.
- 6.5** No Party shall at any time without written authorization from the other Party, communicate to any third party any Confidential Information disclosed to it for the purpose of, or obtained in the course of, performing its obligations under this Contract. For purposes of this paragraph, "Confidential

Information” means (a) any information of Supplier or Bank that, if disclosed in writing, is marked “confidential” or “proprietary” at the time of disclosure, or, if disclosed orally, is identified as “confidential” or “proprietary” at the time of disclosure, and is summarized in a writing sent by the disclosing Party to the other Party within thirty (30) days of such disclosure; or (b) any information that, under the circumstances of disclosure, a person exercising reasonable business judgment would understand to be confidential or proprietary. Without limiting the foregoing, Supplier Confidential Information includes its software.

- 6.6** The obligations under Article 6.5 of this Contract will not be deemed to have been breached to the extent that Confidential Information: (a) is disclosed solely in order to comply with obligations, or exercise rights, under this Contract; or (b) is in the public domain other than due to a breach of Article 6.5; or (c) is independently and legally developed or acquired without the obligation of confidentiality; or (d) is legally required to be disclosed by operation of law or judicial process, provided that the Party required to make such disclosure has given the other Party prompt prior notice of any such request for disclosure to allow the other Party a reasonable opportunity to obtain a protective order. Where a Party discloses Confidential Information to another person or entity pursuant to Article 6.5 above, the disclosing Party will (a) notify the receiving person that the information is Confidential Information, and (b) not provide the Confidential Information unless the receiving person agrees to comply with the terms and conditions set forth in Article 6.5 above. In every instance, the disclosing Party shall notify the other Party (a) prior to making any such disclosure and (b) promptly of any breach of its confidentiality obligations when it has learned of such a breach.
- 6.7** The Parties agree that during the term of this Contract and for 5 years thereafter each Party and any entity affiliated with such Party, as well as any personnel or affiliate of such Party, shall not disclose or use any Confidential Information of the disclosing Party on behalf, or for the benefit of any third party.
- 6.8** The Supplier warrants that the hardware, software and equipment supplied under this Contract shall be free from defect in the design, engineering, materials and workmanship that prevent the System and/or any of its components from fulfilling the technical requirements or that limit in a material way the performance, reliability, or extensibility of the System and/or Subsystems.
- 6.9** In addition, the Supplier warrants that: all hardware components to be incorporated into the System (i) form part of the Supplier’s and/or subcontractor’s current product lines, (ii) have been previously released to the market, and (iii) those specific items identified in the Bank’s Revised Requirements and minutes of the contract negotiation (the “Requirements”) have been in the market for at least the minimum periods specified in the Requirements. The maintenance and support Period shall commence from the date of Operational Acceptance of the System (or of any major component or Subsystem for which separate Operational Acceptance is provided for in the Contract) and shall extend for Sixty (60) months (as defined in price schedule)
- 6.10** If during the Warranty Period any defect should be found in the design, engineering, materials, and workmanship of the hardware, software and other equipment supplied by the Supplier, the Supplier shall promptly, in consultation and agreement with the Bank regarding appropriate remedying of the defective parts, hardware and software, and at its sole cost, repair, replace, or otherwise make good such defect as well as any damage to the system caused by such defect.
- 6.11** Title and risk of loss or damage thereof to any equipment that the Bank is purchasing from Supplier under this Contract shall pass to the Bank on the date of Operational Acceptance of such equipment.
- 6.12** Neither Party shall do any act or permit any act to be done by any person under its control which is an infringement of any intellectual property rights of any other person in the provision and/or utilization of the Product(s) and/or Services under this Contract.

**6.13** To the extent applicable, the Supplier shall use its best efforts to ensure that all warranties provided by subcontractors and equipment manufacturers (if any) are assigned to the Bank. If any warranty cannot be so assigned, the Supplier shall use its best efforts to make that warranty available for the Bank's benefit. If applicable, the Supplier shall deliver a copy of each written warranty provided by subcontractors and equipment manufacturers to the Bank.

**ARTICLE VII**  
**Records and Reports**

- 7.1** The Supplier shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs and the basis thereof. The Supplier shall, on reasonable request, provide to the Bank or its designated representative the accounting information of the Supplier in relation to this Contract for a period of up to one year from the expiration or termination of this Contract.
- 7.2** The Supplier shall furnish to the Bank such information related to the Services as the Bank may reasonably request from time to time.
- 7.3** The Supplier shall submit to the Bank operating, maintenance and warranty instructions/manuals and training materials for hardware, equipment and software supplied under this Contract as specified in the Bank's Requirements and minutes of the contract negotiation, in the English language, number of copies and within the time agreed in the Project Implementation Plan.

**ARTICLE VIII**  
**Assignment**  
(GCC Clause 17)

Neither Party may assign this Contract without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any prohibited assignment or sublicense shall be null and void. The foregoing notwithstanding, upon written notice to the other Party, either Party may assign or otherwise transfer this Contract to (i) its Affiliate or (ii) the surviving entity as a result of a merger, acquisition or other consolidation, asset purchase of all or substantially all of the assets of such Party, or in connection with any other transaction resulting in more than 50% of such Party's voting securities being held by the surviving entity, provided that such acquiring entity agrees in writing it will be bound by the terms and conditions of this Contract.

**ARTICLE IX**  
**Insurance**  
(GCC Clause 27)

- 9.1** The Supplier shall take out and maintain full coverage insurance against loss of or damage to equipment purchased in whole or in part with funds provided under this Contract until title to such equipment has been transferred to the Bank. The Supplier shall take out and maintain full coverage insurance against loss of or damage to their property, including papers and documents necessary for the Services.

**9.2** The Supplier shall take out and maintain full coverage insurance against claims by third Parties resulting from acts performed in carrying out the Services under this Contract, including Workers' Compensation Insurance covering all of the Supplier' personnel employed to perform Services pursuant to this Contract in accordance with any applicable Workers' Compensation statutes including Employers' Liability Coverage.

**9.3** The Supplier shall obtain Third-Party Liability Insurance which covers the amount of this contract without deductible for loss of or damage to property, and (ii) without any deductible for bodily injury. The insured Parties shall be only the Supplier, the Bank and the Subcontractors. The Insurance shall cover the period between the date of commencement of the Contract and the date the Contract expires. At any time prior to or after the commencement of work, the Bank may require the Supplier to produce evidence that a proper and valid insurance policy has been taken.

## **ARTICLE X**

### **Tax Exemptions and Indemnification of the Bank**

**10.1** The Bank is exempt from all taxation, customs duties and other such imposts in its member countries in accordance with Article 57 of the Agreement establishing the African Development Bank. The Supplier shall not claim from the Bank any taxes, levies, license fees or any other such charges in relation to this Contract which are paid or may be payable to the municipal/local Council or any other responsible Authority in relation to this Contract and or the Services provided under this Contract. The Bank shall provide the Supplier with documentation reasonably necessary to support any such tax exemptions. If Supplier improperly charges Bank for any such taxes, the Supplier hereby authorizes the Bank to deduct the amount of any tax or other impost included on any invoice presented by the Supplier in connection with this Contract, without any cost to the Bank.

**10.2** Nothing contained in this Contract shall be construed as establishing or creating any relationship between the Bank and the Supplier other than that of independent contractor. Accordingly, each Party shall accept no liability in contract or in tort or any responsibility for the acts, omissions, errors or negligence of the other Party. Neither Party shall be liable to the other Party for any lost profits, indirect, consequential, incidental, punitive and special damages.

**10.3** The Supplier undertakes to indemnify and hold harmless the Bank from and against any action and all losses, liabilities, costs, claims, damages and expenses ("Losses") which the Bank may incur in relation to personal injury or property damage arising from the Supplier's performance of its obligations under this Contract, including third party claims. The Supplier shall pay the Bank for all costs, charges and expenses which the Bank may pay or incur in connection with investigating, disputing or defending against any such action or Losses provided that Bank: (a) promptly notifies Supplier in writing of the claim; (b) subject to the rights, immunities, privileges or exemption accorded to the Bank under the Agreement Establishing the African Development Bank, grant Supplier sole control of the defense and settlement of the claim; and (c) provides Supplier, at Supplier's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

**10.4** Supplier will defend or settle any action brought against Bank to the extent that it is based upon a claim that the Software, as provided by Supplier to Bank under this Agreement and used within the scope of this Agreement, infringes any patent or any copyright or misappropriates any trade secret, and will pay any costs, damages and reasonable attorneys' fees attributable to such claim that are awarded against or payable in settlement by Bank, provided that Bank: (a) promptly notifies Supplier in writing of the claim; (b) subject to the rights, immunities, privileges or exemption accorded to the Bank under the Agreement Establishing the African Development Bank, grants Supplier sole control

of the defense and settlement of the claim; and (c) provides Supplier, at Supplier's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

- 10.5 Sole remedy. The provisions of this Article 10 set forth supplier's sole and exclusive obligations, and Bank's sole and exclusive remedies, with respect to infringement or misappropriation of intellectual property rights of any kind.
- 10.6 Limitation of liability. Except as provided in article 10.3, notwithstanding anything to the contrary, Supplier's total liabilities to the Bank for losses, damages, claims, fines, penalties, and expenses under this Contract, from all causes of action and under all theories of liability, shall in no event exceed ..... (**USD .....**). In no event shall either Party be liable for any incidental, special, punitive, or consequential damages, including but not limited to lost data or lost profits, lost goodwill, business interruption, loss revenue, lost contract however arising, even if it has been advised of the possibility of such damages, regardless of the form of action, whether based in contract, tort, or any other legal theory. The Parties agree that these limitations will survive and apply even if any limited remedy specified in this Contract is found to have failed of its essential purpose. The Parties expressly acknowledge and agree that Supplier has set its prices and entered into this Contract in reliance upon the limitations of liability specified herein, which allocate the risk between Supplier and Bank and form an essential basis of the bargain between the Parties.
- 10.7 The provisions set out in this Article shall survive the expiration or termination of this Contract.

**ARTICLE XI**  
**Force Majeure**

- 11.1 Neither Party to this Contract shall be responsible for any delay or failure to perform its obligations under this Contract if the delay or failure is attributable to Force Majeure. "Force Majeure" means any event or condition which (a) wholly or partially delays or prevents the affected Party from performing any of its obligations under this Contract, (b) is unforeseeable and unavoidable, (c) is beyond the reasonable control of the Party invoking force majeure, and (d) occurs without the fault or negligence of such Party, including without limitation lawfully declared industrial disputes of any kind, war declared or undeclared, rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, terrorist acts, blockade, disturbance, a natural disaster such as lightning, earthquake, storm, flood, explosion or meteor, fire, epidemics, law or any power lawfully exercised by a government agency, any change in any Applicable Law, inability or delay in granting governmental or other approvals, consents, permits, licenses or authorities, or a telecommunication network outage or degradation. Applicable Law means any laws, statutes or ordinances and any regulations, rules, practice notes, circulars and any other notification issued by any government entity, taxing authority, or regulatory authority pursuant to such laws, statutes and ordinances that apply to the Product(s), Services or Parties in any relevant jurisdiction.
- 11.2 The Party affected by Force Majeure shall give prompt written notice to the other Party specifying the nature and probable duration of the Force Majeure, and the extent of its effects on such Party's performance of its obligations under this Contract. During the continuance of such Force Majeure, the obligations of the Parties shall be suspended to the extent necessitated by such Force Majeure.
- 11.3 In the event of a Force Majeure which delays or prevents performance of the whole or any part of this Contract for more than thirty (30) days, either Party shall have the right, by notice in writing to the other Party, to terminate this Contract without liability to the other Party.

**ARTICLE XII**  
**Authorized Representatives, Notices and Requests, and Language of the Contract**  
(GCC Clause 2, Clause 3, and Clause 15)

**12.1** Any action required or permitted to be taken and any document required or permitted to be executed under this Contract may be taken or executed on behalf of the Supplier by Supplier's General Manager or his duly designated representative.

**12.2** Any notice or request required or permitted to be given or made in this Contract shall be in writing. Such notice or request shall be deemed to be duly given or made when it has been delivered by hand, registered mail, or facsimile to the Party to which it is required to be given or made, at such Party's address specified below or at such other address as the Party shall have specified in writing to the Party giving such notice or making such request.

**For the Bank:** Division Manager  
Corporate Procurement Division (TCGS.2)  
**AFRICAN DEVELOPMENT BANK**  
Avenue Jean-Paul II  
01 B.P. 1387 Abidjan 01  
Côte d'Ivoire  
Email : tender@afdb.org

**For the Supplier:**

Tel : +

**12.3** The language of the Contract, all correspondences and communications, and all other documentation to be prepared and supplied under the Contract not otherwise specified in the Bank's Revised Requirements and minutes of the contract negotiation, shall be in English.

### **ARTICLE XIII** **Suspension and Termination**

**13.1** The Bank, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances, by giving a fifteen (15) days prior written notice of termination and its reasons therefore to the Supplier:

- (a) if the Supplier becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Supplier takes or suffers any other analogous action in consequence of debt;
- (b) if the Supplier assigns or transfers the Contract or any right or interest in violation of this Contract; or
- (c) if the Supplier, in the reasonable judgment of the Bank, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, including but not limited to willful misrepresentation of facts concerning ownership of intellectual property rights in, or proper authorization and/or licenses from the owner to offer, the hardware, software, or materials provided under this Contract.

For the purposes of this Clause:

"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution,



and includes, inter alia, bribery and extortion or coercion which involves any threat of injury to any person, property or reputation; and

“Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Bank and includes collusive practices among bidders or between bidders and any Bank employee or agent (prior to or after bid submission) designed to establish bid prices at artificial or non-competitive levels.

“Coercive practice” is an act or omission that impairs or harms, or threatens to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of a party.

“Collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

“Obstructive Practice” means deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the Bank’s inspection and audit rights

- (d) If the Supplier is in material breach of its obligations under this Contract and has not remedied the same within thirty (30) days of being given notice of the breach by the Bank.

**13.2** The Bank may terminate this Contract for its convenience at any time upon not less than ninety (90) days’ written notice to the Supplier. In the event of such termination, the Parties shall mutually agree on the charges to be paid to the Supplier, provided however, that in the event the Bank and the Supplier cannot agree on such termination charges, the Bank shall not be able to terminate the Contract for its convenience.

**13.3** (a) The Supplier shall promptly notify the Bank in writing of any action or the occurrence of any event beyond the reasonable control of the Supplier which makes it impossible for the Supplier to carry out its obligations under this Contract. Upon confirmation in writing by the Bank of the existence of any such situation or event or upon failure of the Bank to respond to such notice within fifteen (15) days of receipt thereof, the Supplier shall be relieved from liability for failure to carry out such obligations. In case of disagreement between the Parties as to the existence of such situation or event, the matter shall be submitted to arbitration in accordance with provisions of Article 14 of this Contract.

(b) Upon such confirmation or failure to respond by the Bank or award by the arbitrators in favour of the existence of such situation or event, the Supplier may terminate this Contract by not less than thirty (30) days’ notice thereof in writing to the Bank.

(c) Upon giving such notice of termination to the Bank, the Supplier shall proceed in the same manner as set forth in Article 11.3 of this Contract.

**13.4** Upon termination of this Contract pursuant to the provisions of Articles 11 and 13.5 hereof, no payment shall be due to the Supplier except for any hardware, software, equipment, deliverables and Services satisfactorily supplied or performed in accordance with the provisions of this Contract, expenditures reasonably incurred hereunder in good faith prior to the date of such termination or incidental to the prompt and orderly termination of the Services.

13.5. The Supplier may terminate the Contract upon not less than Forty-Five (45) days written prior notice following the Bank's material breach of this Contract, which shall include but not be limited to non-payment by the Bank to the Supplier.

#### **ARTICLE XIV**

##### **Dispute Resolution; Governing Law and Immunity**

(GCC Clause 4 and Clause 5)

14.1 The Bank and the Supplier shall make every effort to resolve any disagreement or dispute arising between them under or in connection with this Contract amicably by direct informal negotiation. The Party asserting the existence of a disagreement or dispute shall, promptly upon becoming aware of such disagreement or dispute, notify the other Party in writing (such writing being referred to herein as the "Notice of Dispute") specifying the nature of the disagreement or dispute, and shall also provide such other information about the disagreement or dispute as the other Party may reasonably require.

14.2 If, after thirty (30) days from the commencement of such informal negotiations, the Parties have been unable to amicably resolve the dispute or disagreement, either Party shall have the right to initiate arbitration proceedings in accordance with the UNCITRAL Arbitration Rules as at present in force. The arbitral tribunal shall consist of one (1) arbitrator selected by agreement of the Parties. If the Parties are unable to agree on the arbitrator, the London Court of International Arbitration (LCIA) shall act as the appointing authority. The arbitration shall take place in London. The language to be used in the arbitral proceedings shall be English. The resulting award shall be final and binding on the Parties and shall be in lieu of any other remedy.

14.3 The Arbitrator shall abide by the rules of Ethics for international Arbitrators established by the International Bar Association. The authority of the Arbitration Tribunal to grant relief is subject to the terms of this Arbitration clause, the terms of this Contract, and the law governing the Contract. The Arbitration Tribunal shall have no authority to award exemplary, punitive, or special damages or any other damages excluded by this Contract.

14.4 This Contract shall be governed and interpreted in accordance with English Law, excluding its conflicts of law provisions.

14.5 Nothing in this Contract shall operate or be construed as a waiver, renunciation or other modification of any right, privilege, immunity and exemption accorded to the Bank under the Agreement establishing the African Development Bank, international conventions or any other applicable law.

14.6 The provisions of this Article shall survive the termination of this Contract.

#### **ARTICLE XV**

##### **Modification or Amendment**

15.1 Except by mutual agreement in writing between the Parties, no change, modification or amendment shall be made to this Contract.

15.2 Notwithstanding the foregoing clause, the Bank may at any time order or require changes in the scope of the Services. If such changes add to, or reduce, the cost of the Services, the Contract Amount shall be adjusted accordingly, following mutual agreement between both Parties.

#### **ARTICLE XVI**

##### **Scope of the System, Time for Commencement and Operational Acceptance**

(GCC Clause 6, Clause 7, and Clause 24)

- 16.1** The Supplier's obligations under the Contract will include the recurrent cost items as identified in Appendix F to the Contract. The Supplier agrees to make spare parts available as required for the operation and maintenance of the System for a period of not less than Sixty (60) months beginning from the date of Operational Acceptance. (as provided in the price schedule)
- 16.2** The Supplier shall commence work within fifteen (15) days from the date of acceptance of the Bank's Notice to Proceed for the System.
- 16.3** Commissioning and Operational Acceptance for the System will occur as specified in the Bank's Revised Requirements and minutes of the contract negotiation, and/or the agreed and finalized Project Implementation Plan for the System.

## **ARTICLE XVII**

### **Guarantees and Securities**

(GCC Clause 12 and Clause 25)

- 17.1** The Supplier shall complete the supply, installation, commissioning, and achievement of Operational Acceptance of the System within the time periods specified in Appendix C – Project Implementation Plan, the Notice to Proceed for the System, and pursuant to the Bank's Revised Requirements and minutes of the contract negotiation.
- 17.2** Liquidated damages shall be assessed at 0.10% per day for not meeting the milestones specified in Appendix C except those arising from Force Majeure or Article 13.5. The maximum liquidated damages shall be 3% of the Contract Price, or relevant part of the Contract Price if the liquidated damages apply to a subsystem. Liquidated damages shall be assessed only with respect to achieving Operational Acceptance of the System. The maintenance and support Period (N) shall begin from the date of Operational Acceptance of the System and run for a period of sixty(-60) months.(as per pricing schedule)
- 17.3** The Supplier shall provide, prior to any advance payment under the Contract, an Advance Payment Security in an amount and currency mutually agreed upon by the Parties.

## **ARTICLE XVIII**

### **Project Implementation Plan**

(GCC Clause 16)

- 18.1** Chapters in the Project Implementation Plan shall address the following subjects:
- (a) Project Organization and Management Plan;
  - (b) Delivery and Installation Plan;
  - (c) Pre-Commissioning and Operational Acceptance Testing Plan;
  - (d) Warranty Service Plan;
  - (e) Post Warranty Service Plan (if applicable); and
  - (f) Technical Support Plan.
- 18.2** Within seven (7) days from the Effective Date of the Contract, the Supplier will provide a draft Project Implementation Plan to the Bank to be used for discussion and planning purposes until the Notice to Proceed for the System is issued by the Bank. Following receipt of the Notice to Proceed for the System, the Supplier shall present a formal Project Implementation Plan to the Bank. The Bank shall, within seven (7) days of receipt of the Project Implementation Plan, notify the Supplier of any aspects in which it considers that the Project Implementation Plan does not adequately ensure that the proposed program of work, proposed methods, and/or proposed Information Technologies will satisfy

the Technical Requirements and/or the Contract (in this Clause 18.2, "non-conformities"). The Supplier shall, within five (5) days of receipt of such notification, correct the Project Implementation Plan and resubmit to the Bank which shall in turn notify the Supplier of remaining non-conformities if any.

**18.3** The Supplier or Local Agent (must be appointed and notified to the Bank with details of terms of reference) shall submit to the Bank the following reports:

(a) Weekly progress reports, summarizing:

- (i) results accomplished during the prior period;
- (ii) cumulative deviations to date from schedule of progress milestones as specified in the agreed and finalized Project Implementation Plan;
- (iii) corrective actions to be taken to return to the planned schedule of progress, proposed revisions to planned schedule;
- (iv) other issues and outstanding problems, proposed actions to be taken;
- (v) resources that the Supplier expects to be provided by the Bank and/or actions to be taken by the Bank in the next reporting period;
- (vi) other issues or potential problems the Supplier foresees that could impact on project progress and/or effectiveness.

The following reports may be requested

- (\*) inspection and quality assurance reports.
- (\*) training participants test results; and
- (\*) weekly log of service calls and problem resolutions

## **ARTICLE XIX**

### **Design and Engineering**

(GCC Clause 18)

**19.1** The Supplier shall prepare and furnish to the Project Manager the following documents for which the Supplier must obtain the Project Manager's approval before proceeding with work on the System or any Subsystem covered by the documents.

- (a) Project progress follow up tracker.
- (b) Project progress report submitted on monthly basis.
- (c) High and low-level design of the network
- (d) Other documents to be determined by the Project manager before commencement of work.

## **ARTICLE XX**

### **FRAUD AND CORRUPTION**

20.1 The Supplier represents and warrants that no employee of the Bank involved in the award of this Agreement, has received, or will receive, directly or indirectly, any benefit or advantage from the Supplier, or any of the Supplier's Associates, resulting from the award of this Agreement or its performance.

20.2 If the Supplier or any of the Supplier's Associates is found to have engaged in any corrupt or fraudulent practice in connection with this Agreement, the Bank may, in its sole discretion, do any or a combination of the following: (i) declare void or terminate this Agreement without liability for payment of the fees or any part thereof; (ii) declare the Supplier ineligible to contract with the Bank or to enter into contracts financed by the Bank; and (iii) pursue legal proceedings against the Supplier.

20.3 For the purposes of this Agreement:

- (a) A “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (b) A “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (c) A “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (d) A “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- (e) “Obstructive practice” means:
  - (i) Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede Licensee’s investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - (ii) Acts intended to materially impede the exercise of the Licensee’s inspection and audit rights.

**IN WITNESS WHEREOF** the Parties hereto, each acting through its authorized representative, have caused this Contract to be duly executed on the respective dates specified below. **FOR THE AFRICAN DEVELOPMENT BANK**

\_\_\_\_\_  
.....  
.....

**Corporate Procurement Division  
Real Estate Management, Procurement and General Service Department (TCGS)**

\_\_\_\_\_  
**Date**

.....  
\_\_\_\_\_  
.....  
.....

\_\_\_\_\_  
**Date**

**APPENDIX A**  
**THE BANK'S REQUIREMENTS**

## Appendix B-1 : General Conditions of Contract

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## Appendix B-1 - General Conditions of Contract

### A. CONTRACT AND INTERPRETATION

#### 1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated below.

(a) *contract elements*

- (i) "Contract" means the agreement entered into between the Purchaser and the Supplier, together with the Contract Documents. The agreement and the Contract Documents shall constitute the Contract, and the term "the Contract" shall in all such documents be construed accordingly.
- (ii) "Contract Documents" means the following documents:
  - (a) The General Conditions of Contract (GCC)
  - (b) The Technical Requirements (Including Implementation Schedule)
  - (c) The Supplier's Bid and the Price Schedules Forms including any amendments to these Documents.
- (iii) "Implementation Schedule" means the Implementation Schedule Chapter of the Technical Requirements.
- (iv) "Contract Price" means the Total Bid Price specified in the Supplier's Bid Form.
- (v) "Bidding Documents" refers to the collection of documents issued by the Purchaser to instruct and inform potential suppliers of the processes for bidding, selection of the winning bid, and Contract formation, as well as the contractual conditions governing the relationship between the Purchaser and the Supplier.

(b) *entities*

- (i) "The Purchaser" or "the Bank" means the entity, the African Development Bank, purchasing the Information System.
- (ii) "Project Manager" means the person appointed by the Purchaser in the manner provided in GCC Clause 15.1 (Project Manager) and named as such in the **Contract** to perform the duties delegated by the Purchaser.
- (iii) "Supplier" means the person(s) whose bid to perform the Contract has been accepted and is named as such in the Contract Agreement and includes the legal successors or permitted assigns of the Supplier.
- (iv) "Supplier's Representative" means any person nominated by the Supplier and named as such in the Contract Agreement and approved by the Purchaser in the manner provided in GCC Clause 15.2 (Supplier's Representative) to perform the duties delegated by the Supplier.

"Subcontractor," means any person to whom any of the obligations of the Supplier, including preparation of any design or supply of any Information Technologies or other Goods or Services, is subcontracted directly or indirectly by the Supplier and includes its legal successors or permitted assigns.



“Purchaser’s Group” means the Purchaser, a subsidiary undertaking or holding company for the time being of the Purchaser, or a subsidiary or subsidiary undertaking for the time being of a holding company of the Purchaser.

(c) subject

“Information System,” also called “the System,” means all the Information Technologies, Materials, and other Goods to be supplied, installed, integrated, and made operational (exclusive of the Supplier’s Equipment), together with the Services to be carried out by the Supplier under the Contract.

“Subsystem” means any subset of the System identified as such in the Contract that may be supplied, installed, tested, and commissioned individually before Commissioning of the entire System.

“Information Technologies” means all information processing and communications-related hardware, Software, supplies, and consumable items that the Supplier is required to supply and install.

“Goods” means all equipment, machinery, furnishings, Materials, and other tangible items that the Supplier is required to supply or supply and install under the Contract, including, without limitation, the Information Technologies and Materials, but excluding the Supplier’s Equipment.

“Services” means all technical, logistical, management, and any other Services to be provided by the Supplier under the Contract to supply, install, customize, integrate, and make operational the System. Such Services may include, but are not restricted to, activity management and quality assurance, design, development, customization, documentation, transportation, insurance, inspection, expediting, site preparation, installation, integration, training, data migration, Pre-commissioning, Commissioning, maintenance, and technical support.

“The Project Plan” means the document to be developed by the Supplier and approved by the Purchaser, pursuant to GCC Clause 16 and the Contract, based on the requirements of the Contract and the Preliminary Project Plan included in the Supplier’s bid. For the sake of clarity, “the Agreed and Finalized Project Plan” refers to the version of the Project Plan approved by the Purchaser, in accordance with GCC Clause 16.2. Should the Project Plan conflict with the Contract in any way, the relevant provisions of the Contract, including any amendments, shall prevail.

“Software” means part of the System which are instructions that cause information processing Subsystems to perform in a specific manner or execute specific operations.

“System Software” means Software that provides the operating and management instructions for the underlying hardware and other components, and is identified as such in the Contract Agreement and such other Software as the parties may agree in writing to be Systems Software. Such System Software includes, but is not restricted to, micro-code embedded in hardware (i.e., “firmware”), operating systems, communications, system and network management, and utility software.

“General-Purpose Software” means Software that supports general-purpose office and software development activities and is identified as such in the Contract Agreement and such other Software as the parties may agree in writing to be General- Purpose Software. Such General-Purpose Software may include, but is not restricted to, word processing, spreadsheet, generic database management, and application development software.

“Application Software” means Software formulated to perform specific business or technical functions and interface with the business or technical users of the System and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Application Software.

“Standard Software” means Software identified as such in of the Contract Agreement and such other Software as the parties may agree in writing to be Standard Software.

“Custom Software” means Software identified as such in the Contract Agreement and such other Software as the parties may agree in writing to be Custom Software.

“Source Code” means the database structures, dictionaries, definitions, program source files, and any other symbolic representations necessary for the compilation, execution, and subsequent maintenance of the Software (typically, but not exclusively, required for Custom Software).

“Materials” means all documentation in printed or printable form and all instructional and informational aides in any form (including audio, video, and text) and on any medium, provided to the Purchaser under the Contract.

“Standard Materials” means all Materials not specified as Custom Materials.

“Custom Materials” means Materials developed by the Supplier at the Purchaser’s expense under the Contract and identified as such in the Contract Agreement and such other Materials as the parties may agree in writing to be Custom Materials. Custom Materials includes Materials created from Standard Materials.

“Intellectual Property Rights” means any and all copyright, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.

“Supplier’s Equipment” means all equipment, tools, apparatus, or things of every kind required in or for installation, completion and maintenance of the System that are to be provided by the Supplier, but excluding the Information Technologies, or other items forming part of the System.

(d) activities

“Delivery”/“Delivered” means the transfer of the Goods from the Supplier to the Purchaser in accordance with the Incoterms specified in the Contract.

“Installation”/“Installed” means that the System or a Subsystem as specified in the Contract is ready for Commissioning as provided in GCC Clause 24.

“Pre-commissioning” means the testing, checking, and any other required activity that may be specified in the Technical Requirements that are to be carried out by the Supplier in preparation for Commissioning of the System as provided in the General Conditions of Contract (hereafter GCC) Clause 24.

“Commissioning” means operation of the System or any Subsystem by the Supplier following Installation, which operation is to be carried out by the Supplier as provided in GCC Clause 24.1, for the purpose of carrying out Operational Acceptance Test(s).

“Operational Acceptance Tests” means the tests specified in the Technical Requirements and Agreed and Finalized Project Plan to be carried out to ascertain whether the System, or a specified Subsystem, is able to attain the functional and performance requirements specified in the Technical Requirements and Agreed and Finalized Project Plan, in accordance with the provisions of GCC Clause 24.2.

“Operational Acceptance”/“Operationally Accepted” means the acceptance by the Purchaser of the System (or any Subsystem(s) where the Contract provides for acceptance of the System in parts), in accordance with GCC Clause 24.3.

(e) place and time

(i) “Purchaser’s Country” is the host country of the Bank.

(ii) “Supplier’s Country” is the country in which the Supplier is legally organized, as named in the Contract Agreement.

“Project Site(s)” means the place(s) specified in the Contract for the supply and installation of the System.

“Eligible Country” means the Bank’s member countries eligible for participation in procurements financed by the African Development Bank. The Bank maintains a list of members countries which Bidders, Goods, and Services are eligible to participate in procurement financed by the Bank.

“Effective Date” means the date of fulfillment of the following:

The Contract has been duly signed for on behalf of the Purchaser and Supplier.

“Contract Period” is the time period during which this Contract governs the relations and obligations of the Purchaser and Supplier in relation to the System, as specified in the Contract.

“Defect Liability Period” (also referred to as the “Warranty Period”) means the period of validity of the warranties given by the Supplier commencing at date of the Operational Acceptance Certificate of the System or Subsystem(s), during which the Supplier is responsible for defects with respect to the System (or the relevant Subsystem[s]) and other related services.

(viii) “The Post-Warranty Services Period” means the number of years defined in the Contract (if any), following the expiration of the Warranty Period during which the Supplier may be obligated to provide Software licenses, maintenance, and/or technical support services for the system, either under this Contract or under separate contract(s).

(ix) “The Coverage Period” means the Days of the Week and the hours of those Days during which maintenance, operational, and/or technical support services (if any) must be available.

## 2. Interpretation

### 2.1 Language

2.1 .Unless otherwise agreed, all Contract Documents, all correspondence, and communications to be given shall be written in the language specified in the Contract, and the Contract shall be construed and interpreted in accordance with that language.

## 2.2 Independent Supplier

The Supplier shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the Contract.

All employees, representatives, or Subcontractors engaged by the Supplier in connection with the performance of the Contract shall be under the complete control of the Supplier and shall not be deemed to be employees of the Purchaser, and nothing contained in the Contract or in any subcontract awarded by the Supplier shall be construed to create any contractual relationship between any such employees, representatives, or Subcontractors and the Purchaser.

## 2.3 Incoterms

The meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by the current edition of Incoterms published by the International Chamber of Commerce, Paris, France.

## 2.4 Joint Venture or Consortium

If the Supplier is a Joint Venture or consortium of two or more persons, all such firms shall be jointly and severally bound to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one of such persons to act as a leader with authority to bind the Joint Venture or consortium. The composition or constitution of the Joint Venture or consortium shall not be altered without the prior consent of the Purchaser.

## 3. Notices

Unless otherwise stated in the Contract, all notices to be give under the Contract shall be in writing and shall be sent by personnel delivery, special express courier, facsimile to the address of the relevant party as specified in the Contract, with the following provisions.

Any notice sent by facsimile shall be confirmed within three (3) days after dispatch by notice sent by special courier, or delivered personally, except as otherwise specified in the Contract

## 4. Governing Law

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

## 5. Settlement of Disputes

### 5.1 Amicable settlement

5.1.1 If any dispute of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the System, the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, within fourteen (14) days after one party has notified the other in writing of the dispute or difference, then the dispute can be referred to arbitration.

## 5.2 Arbitration

5.2.1 The interested party must give notice to the other party of its intention to commence arbitration, as provided below, as to the matter in dispute.

5.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Clause 5.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after Installation of the Information System.

5.2.3 Arbitration proceedings shall be conducted: (i) in accordance with the UNCITRAL arbitration rules, (ii) in the place specified in the Contract, and (iii) in the language in which this Contract has been executed.

5.2.4 Decisions that, according to: i) UNCITRAL arbitration rules, need to be made by an appointing authority, shall be made by (ii) the Appointing Authority as specified in the Contract.

5.3 Notwithstanding any reference to arbitration in this clause,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree;
- (b) the Purchaser shall pay the Supplier any monies due to the Supplier;
- (c) the submission of any dispute between the parties shall not be construed as constituting a waiver, renunciation, or other modification of any right, immunity, privilege or exemption accorded to the Bank under the Agreement Establishing the African Development Bank, the Agreement Establishing the Temporary Relocation Agency of the African Development Bank and the African Development Fund in Tunisia, or any applicable law.

## **B. SUBJECT MATTER OF CONTRACT**

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### **6. Scope of the System**

6.1 Unless otherwise expressly limited in the Contract or Technical Requirements, the Supplier's obligations cover the provision of all Information Technologies, Materials and other Goods as well as the performance of all Services required for the design, development, and implementation (including procurement, quality assurance, assembly, associated site preparation, Delivery, Pre-commissioning, Installation, Testing, and Commissioning) of the System, in accordance with the plans, procedures, specifications, drawings, codes, and any other documents specified in the Contract and the Agreed and Finalized Project Plan.

6.2 The Supplier shall, unless specifically excluded in the Contract, perform all such work and / or supply all such items and Materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Operational Acceptance of the System as if such work and / or items and Materials were expressly mentioned in the Contract.

6.3 The Supplier's obligations (if any) to provide Goods and Services identified in the Related Services Price Schedule and Maintenance Cost Schedule Forms of the Supplier's bid, such as consumables, spare parts, and technical services (e.g., maintenance, technical assistance, and

operational support), are as specified in the Contract, including the relevant terms, characteristics, and timings.

## **7. Time for Commencement and Operational Acceptance**

- 7.1 The Supplier shall commence work on the System within the period specified in the Contract, and without prejudice to GCC Clause 25.2, the Supplier shall thereafter proceed with the System in accordance with the time schedule specified in the Implementation Schedule in the Technical Requirements Section and any refinements made in the Agreed and Finalized Project Plan.
- 7.2 The Supplier shall achieve Operational Acceptance of the System (or Subsystem(s) where a separate time for Operational Acceptance of such Subsystem(s) is specified in the Contract) within the time specified in the Contract and in accordance with the time schedule specified in the Implementation Schedule in the Technical Requirements Section and any refinements made in the Agreed and Finalized Project Plan, or within such extended time to which the Supplier shall be entitled

## **8. Supplier's Responsibilities**

- 8.1 The Supplier shall conduct all contracted activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of information technologies, information systems, support, maintenance, training, and other related services, or in accordance with best industry practices. In particular, the Supplier shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.
- 8.2 The Supplier confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the System provided by the Purchaser and on the basis of information that the Supplier could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the Supplier relating to the System as at the date twenty-eight (28) days prior to bid submission. The Supplier acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Contract.
- 8.3 The Supplier shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach a mutually Agreed and Finalized Project Plan (pursuant to GCC Clause 16.2) within the time schedule specified in the Implementation Schedule in the Technical Requirements Section. Failure to provide such resources, information, and decision-making may constitute grounds for termination pursuant to the Contract.
- 8.4 The Supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in the Purchaser's Country that are necessary for the performance of the Contract, including, without limitation, visas for the Supplier's and Subcontractor's personnel and entry permits for all imported Supplier's Equipment. The Supplier shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the Purchaser under GCC Clause 9.3 and that are necessary for the performance of the Contract.
- 8.5 The Supplier shall comply with all laws in force in the Purchaser's Country. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Supplier. The Supplier shall indemnify and hold harmless the Purchaser from and against any and all liabilities, damages, claims, fines, penalties, and expenses of

whatever nature arising or resulting from the violation of such laws by the Supplier or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Clause 9.1.

- 8.6 The Supplier shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs, and all local laws and regulations pertaining to the employment of labor.
- 8.7 Where any payments to be made by the Bank are based on actual costs incurred (e.g., termination charges), the Supplier shall permit the Bank to inspect the Supplier's accounts and records relating to such actual costs of the Supplier and to have them audited by auditors appointed by the Bank, if so required by the Bank.

## **9. Purchaser's Responsibilities**

- 9.1 The Purchaser shall ensure the accuracy of all information and/or data to be supplied by the Purchaser to the Supplier, except when otherwise expressly stated in the Contract.

The Purchaser shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach an Agreed and Finalized Project Plan (pursuant to GCC Clause 16.2) within the time schedule specified in the Implementation Schedule in the Technical Requirements Section.

If requested by the Supplier, the Purchaser shall use its best endeavors to assist the Supplier in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of the Contract from all local, state, or national government authorities or public service undertakings that such authorities or undertakings require the Supplier or Subcontractors or the personnel of the Supplier or Subcontractors, as the case may be, to obtain.

- 9.4 The Purchaser will designate appropriate staff for the training courses to be given by the Supplier and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, Contract, the Agreed and Finalized Project Plan, or other parts of the Contract.
- 9.5 The Supplier assumes primary responsibility for the Operational Acceptance Test(s) for the System, in accordance with GCC Clause 24.2, and the Purchaser shall be responsible for the continued operation of the System after Operational Acceptance. However, this shall not limit in any way the Supplier's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.

## **C. PAYMENT**

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### **10. Contract Price**

- 10.1 The Contract Price shall be as specified in the Appendix H to the Contract.
- 10.2 The Contract Price shall be a firm lump sum not subject to any alteration, except:
- (a) in the event of a change in the System;

(b) in accordance with the price adjustment formula (if any) specified in the Contract.

10.3 The Contract Price of individual or of Sub-systems delivered, installed, and made operational adheres to the following terms:

(a) Foreign Goods. Goods supplied from outside the host country are priced on a DDU (Delivered Duty Unpaid) basis. The named place of destination and other specific requirements for the contract of carriage shall be as specified in Contract.

(b) Domestic Goods.

Goods offered from within the host country shall be priced free of customs duties and all taxes levied by the host country. The place of delivery is as specified in Contract.

10.4 Services required by the Contract (such as inland transport and cargo insurance for domestic goods; software development; system installation, customization, integration, commissioning, and testing; training; technical support; and other services necessary for proper installation and operation of the Information System as mutually agreed in the Contract), shall be priced free of all taxes levied by the host country.

10.5 The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

## 11. Terms of Payment

11.1 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the System or Subsystem(s), delivered, pre-commissioned, installed, and Operationally Accepted, and by documents submitted pursuant to GCC Clause 19.1.1 and upon fulfillment of other obligations stipulated in the Contract. The Contract Price shall be paid as specified in the Contract.

11.2 No payment made by the Purchaser herein shall be deemed to constitute acceptance by the Purchaser of the System or any Subsystem(s).

11.3 Not applicable.

11.4 All payments shall be made in the currency(ies) specified in the Contract, pursuant to GCC Clause 10.

11.5 Unless otherwise specified in the Contract, payment of the Contract Price for Goods and Services supplied from outside the Purchaser's Country shall be made to the Supplier through a confirmed irrevocable sight letter of credit to be issued by the Bank, the terms and conditions of which will be agreed prior to issuance. It is agreed that the letter of credit will be subject to the latest revision of Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, Paris.

## 12. Securities

12.1 Issuance of Securities

The Supplier shall provide the securities specified below in favor of the Purchaser at the times and in the amount, manner, and form specified below.



## 12.2 Advance Payment Security:

12.2.1 The Supplier may, if it wishes and provided the performance security has been submitted and other Contract conditions fulfilled, receive an advance payment of no more than ten (10) percent of the Contract Price against delivery of an Advance Payment Security as specified in the Contract.

12.2.2 The security shall be in the form provided in the Bidding Documents (FORM 12) or in another form acceptable to the Purchaser. The amount of the security shall be reduced in proportion to the value of the System executed by and paid to the Supplier from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the Purchaser. The security shall be returned to the Supplier immediately after its expiration.

## 12.3 Performance Security (not applicable)

12.3.1 The Supplier shall, within thirty (30) days of the notification of Contract award or another time period as otherwise mutually agreed between the Parties, provide a security for the due performance of the Contract in the amount and currency specified in the Contract.

12.3.2 The security shall be in the form of a bank guarantee or standby irrevocable sight letter of credit, in favor of the Bank, issued by an eligible banking institution acceptable to the Bank. The letter of credit shall be confirmed in the Bank's host country by a reputable bank, acceptable to the Bank. The format of the security shall be substantially in accordance with the sample form of Performance Security (FORM 11) included in these Bidding Documents.

12.3.3 The security shall automatically become null and void once all the obligations of the Supplier under the Contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the Supplier no later than thirty (30) days after its expiration.

12.3.4 The security shall be reduced:

- (a) pro rata by the portion of the Contract Price payable for any Subsystem(s) that has achieved Operational Acceptance, if permitted by the Contract, on the date of such Operational Acceptance;
- (b) by the amount specified in the Contract, to reflect Operational Acceptance of the entire System, on the date of such Operational Acceptance, and provide for reduced coverage during the Warranty Period and Post Warranty period.

## 13. Taxes and Duties

Except for the tax exemptions and privileges the Purchaser and/or its operations is entitled to, or as otherwise specifically provided in the Contract, the Supplier shall bear and pay all taxes, duties, levies, and charges assessed on the Supplier, its Subcontractors, or their employees by all municipal, state, or national government authorities, both within and outside the Purchaser's Country, in connection with the Goods and Services supplied under the Contract.

Notwithstanding GCC Clause 13.1 above, the Purchaser shall bear and promptly pay all customs clearance costs, sales or other indirect taxes or duties incurred and/or imposed by law in the Purchaser's Country on the importation or otherwise to the Goods supplied under the Contract.

## **D. INTELLECTUAL PROPERTY**

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### **14. Software License Agreements and Confidential Information**

14.1 Except to the extent that the Intellectual Property Rights in the Software vest in the Purchaser, the Supplier hereby grants to the Purchaser license to access and use the Software, including all inventions, designs, and marks embodied in the Software. Such license to access and use the Software shall:

(a) be:

(i) valid throughout the territory of the Purchaser's Country and in any other country where the Purchaser maintains an office or rent facilities for its operations (or such other territory) as specified in the Contract)

(ii) subject to additional restrictions (if any) as specified in the Contract.

permit the Software to be:

reproduced for safekeeping or backup purposes;

disclosed to, and reproduced for use by, support service suppliers and their subcontractors, (and the Purchaser may sublicense such persons to use and copy for use the Software) to the extent reasonably necessary to the performance of their support service contracts, subject to the same restrictions as are set forth in this Contract;

(iii) disclosed to, and reproduced for use by, the Purchaser or by the Purchaser's Group and by such other persons as are specified in the Contract (and the Purchaser may sublicense such persons to use and copy for use the Software), subject to the same restrictions as are set forth in this Contract.

14.2 The Purchaser and the Supplier ("the Receiving Party") shall each keep confidential and shall not, without the prior written consent of the other party to this Contract ("the Disclosing Party"), divulge to any third party any documents, data, or other information of a confidential nature ("Confidential Information"), whether such information has been furnished or generated or discovered prior to, during, or following termination of the Contract. The provisions of this Clause 14.2 shall survive the termination, for whatever reason, of the five-year contractual relationships or any longer period as may be specified in the Contract.

## **E. SUPPLY, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM**

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### **15. Representatives**

#### **15.1 Project Manager**

The Project Manager is named in the Contract. The Purchaser may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of such change to the Supplier without delay.

#### **15.2 Supplier's Representative**

15.2.1 The Supplier's Representative is named in the Contract.

15.2.2 Subject to the extensions and/or limitations specified in the Contract (if any), the Supplier's Representative shall have the authority to represent the Supplier on all day-to-day matters relating to the System or arising from the Contract. The Supplier's Representative shall give to the Project Manager all the Supplier's notices, instructions, information, and all other communications under the Contract.

## 16. Project Implementation Plan

16.1 In close cooperation with the Purchaser and based on the Preliminary Project Implementation Plan included in the Supplier's bid, the Supplier shall develop a Project Plan encompassing the activities specified in the Contract. The contents of the Project Plan shall be as specified in the Contract and/or Technical Requirements.

16.2 The Supplier shall formally present to the Purchaser the Project Plan in accordance with the procedure specified in the **Contract**.

16.4 The Supplier shall undertake to supply, install, test, and commission the System in accordance with the Agreed and Finalized Project Plan and the Contract.

16.5 The Progress and other reports specified in the **Contract** shall be prepared by the Supplier and submitted to the Purchaser in the format and frequency specified in the Technical Requirements or agreed.

## 17. Subcontracting

17.1 If applicable, a List of Approved Subcontractors attached to the Contract shall specify critical items of Goods or Services and a list of Subcontractors for each item that are considered acceptable by the Purchaser.

## 18. Design and Engineering

### 18.1 *Technical Specifications and Drawings*

18.1.1 The Supplier shall execute the basic and detailed design and the implementation activities necessary for successful installation of the System in compliance with the provisions of the Contract or, where not so specified, in accordance with good industry practice. The Supplier shall be responsible for any discrepancies, errors or omissions in the specifications, drawings, and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of inaccurate information furnished in writing to the Supplier by or on behalf of the Purchaser.

18.1.2 The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification, or other document, or any modification of such design, drawings, specification, or other documents provided or designated by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Project Manager.

### 18.2 *Approval/Review of Technical Documents by Project Manager*

18.2.1 The Supplier shall prepare and furnish to the Project Manager the documents as specified in the **Contract** for the Project Manager's approval or review. Any part of the System covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval of these documents.

18.2.2 The Project Manager's approval, with or without modification of the document furnished by the Supplier, shall not relieve the Supplier of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager or inaccurate information furnished in writing to the Supplier by or on behalf of the Purchaser.

## **19. Procurement, Delivery, and Transport**

19.1 Unless otherwise specified in the **Contract**, the Supplier will provide the Purchaser with shipping and other documents, as specified below:

- 1) *For Goods supplied from outside the Purchaser's Country:*  
Upon shipment, the Supplier shall notify the Purchaser by facsimile or electronic mail, with the full details of the shipment. The Supplier shall, within 24 hours after shipment, transmit by facsimile or electronic mail copy of the airway bill or clean on board Bill of lading and a copy of the invoice to the Purchaser. The full set of original documents will be handled as per the terms and conditions of the letter of credit specified in GCC 11.5.

### *19.2 Customs Clearance*

- (a) The Purchaser shall bear responsibility for customs clearance of goods into the host country in accordance with the *Incoterms* used for pricing of foreign goods.

## **20. Product Upgrades**

20.1 At any point during performance of the Contract, should technological advances be introduced by the Supplier for Information Technologies originally offered by the Supplier in its bid and still to be delivered, the Supplier shall be obligated to offer to the Purchaser the latest versions of the available Information Technologies having equal or better performance or functionality at the same or lesser unit prices.

20.2 At any point during performance of the Contract, for Information Technologies still to be delivered, the Supplier will also pass on to the Purchaser any cost reductions and additional and/or improved support and facilities that it offers to other clients of the Supplier in the Purchaser's Country.

20.3 During performance of the Contract, the Supplier shall offer to the Purchaser all new versions, releases, and updates of Standard Software, as well as related documentation and technical support services, within thirty (30) days of their availability from the Supplier to other clients of the Supplier, and no later than three (3) months after they are released in the country of origin. In no case will the prices for these Software exceed those quoted by the Supplier in the Recurrent Costs Form in its bid.

20.4 During the Warranty Period unless otherwise specified in the Contract, the Supplier shall provide and install at no additional cost (i.e. labor, software and incidental costs) to the Purchaser all new versions, releases, and updates for all Software that are used in the System, within thirty (30) days of their availability from the Supplier, and no later than three (3) months after they are released in the country of origin of the Software. The Purchaser shall allow the introduction of all new versions, releases or updates of the Software provided that the new version, release, or update does not adversely affect current System operation or performance or require extensive reworking of the System. In cases where the new version, release, or update adversely affects current System operation or performance, or requires extensive reworking of the System, the Supplier shall continue to support and maintain the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update.

## **21. Implementation, Installation and Other Services**

- 21.1 The Supplier shall provide all Services specified in the Contract and Agreed and Finalized Project Plan in accordance with the highest standards of professional competence and integrity.
- 21.2 Prices charged by the Supplier for Services, if not included in the Contract, shall be agreed upon in advance by the parties (including, but not restricted to, any prices submitted by the Supplier in the Recurrent Cost Schedules of its Bid) and shall not exceed the prevailing rates charged by the Supplier to other purchasers in the Purchaser's Country for similar services.

## **22. Inspections and Tests**

The Purchaser or an Agent duly authorized by the purchaser shall have the right to inspect and/or test at its own cost, any components of the System, as specified in the Technical Requirements, to confirm their good working order and/or conformity to the Contract at supplier's facilities prior to shipment, at the point of delivery and/or at the Project Site.

## **23. Installation of the System**

- 23.1 As soon as the System, or any Subsystem, has, in the opinion of the Supplier, been delivered, pre-commissioned, and made ready for Commissioning and Operational Acceptance Testing in accordance with the Technical Requirements the Contract and the Agreed and Finalized Project Plan, the Supplier shall so notify the Purchaser in writing.
- 23.2 The Project Manager shall, within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 23.1, either issue an Installation Certificate or notify the Supplier in writing of any defects and/or deficiencies, including, but not limited to, defects or deficiencies in the interoperability or integration of the various components and/or Subsystems making up the System. The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies that the Project Manager has notified the Supplier of.

## **24. Commissioning and Operational Acceptance**

### *24.1 Commissioning*

24.1.1 commissioning of the System (or Subsystem if specified in the Contract) shall be commenced by the Supplier:

- a) immediately after the Installation Certificate is issued by the Project Manager or as otherwise specified in the Technical Requirement or the Agreed and Finalized Project Plan.

### *24.2 Operational Acceptance Tests*

- 24.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the Supplier, but shall be conducted with the full cooperation of the Purchaser during Commissioning of the System (or Subsystem[s] if specified in the Contract), to ascertain whether the System (or major component or Subsystem[s]) conforms to the Technical Requirements and meets the standard of performance quoted in the Supplier's bid, including, but not restricted to, the functional and technical performance requirements. The Operational Acceptance Tests during Commissioning will be conducted as specified in the **Contract**, the Technical Requirements and/or the Agreed and Finalized Project Plan.

At the Purchaser's discretion, Operational Acceptance Tests may also be performed on replacement Goods, upgrades and new version releases, and Goods that are added or field-modified after Operational Acceptance of the System.

### 24.3 *Operational Acceptance*

24.3.1 Subject to GCC Clause 24.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the System, when

- (a) the Operational Acceptance Tests, as specified in the Technical Requirements, and/or Contract and/or the Agreed and Finalized Project Plan have been successfully completed; or
- (b) the Purchaser has put the System into production or use for fifteen (15) consecutive days. If the System is put into production or use in this manner, the Supplier shall notify the Purchaser and document such use.

24.3.2 At any time after any of the events set out in GCC Clause 24.3.1 have occurred, the Supplier may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate.

24.3.3 After consultation with the Purchaser, and within seven (7) days after receipt of the Supplier's notice, the Project Manager shall:

- (a) issue an Operational Acceptance Certificate; or
- (b) notify the Supplier in writing of any defect or deficiencies or other reason for the failure of the Operational Acceptance Tests; or
- (c) issue the Operational Acceptance Certificate, if the situation covered by GCC Paragraph 24.3.1 (b) arises.

24.3.4 The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Operational Acceptance Test that the Project Manager has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Purchaser, and the Purchaser, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the System or Subsystem. Upon the successful conclusion of the Operational Acceptance Tests, the Supplier shall notify the Purchaser of its request for Operational Acceptance Certification, in accordance with GCC Clause 24.3.3. The Purchaser shall then issue to the Supplier the Operational Acceptance Certification, in accordance with GCC Paragraph 24.3.3 (a) or notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause 24.3.4 shall be repeated, as necessary, until an Operational Acceptance Certificate is issued.

24.3.5 If the System or Subsystem fails to pass the Operational Acceptance Test(s) in accordance with GCC Clause 24.2 and 24.3.1 through 24.3.4, then the Purchaser may consider terminating the Contract, pursuant to GCC Clause 29.2.2;

24.3.6 If within fourteen (14) days after receipt of the Supplier's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the System or Subsystem shall be deemed to have been accepted as of the date of the Supplier's said notice.

#### 24.4 *Partial Acceptance*

- 24.4.1 If specified in the Contract, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem(s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Operational Acceptance Test, shall apply to each such major component or Subsystem individually, and Operational Acceptance Certificate(s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in GCC Clause 24.4.2.
- 24.4.2 The issuance of Operational Acceptance Certificates for individual major components or Subsystems pursuant to GCC Clause 24.4.1 shall not relieve the Supplier of its obligation to obtain an Operational Acceptance Certificate for the System as a whole (if specified in the Contract) once all major components and Subsystems have been supplied, installed, tested, and commissioned.
- 24.4.3 In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue an Operational Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The Supplier shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the Purchaser or Supplier.

### F. GUARANTEES AND LIABILITIES

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#### 25. **Operational Acceptance, Time Guarantee, Defect Liability and Maintenance Commitment**

- 25.1 The Supplier guarantees that it shall complete the supply, Installation, Commissioning, and achieve Operational Acceptance of the System (or Subsystems, if specified in the Contract) within the time periods specified in the Implementation Schedule in the Technical Requirements Section and/or the Agreed and Finalized Project Plan pursuant to GCC Clause 7.2, or within such extended time to which the Supplier shall be entitled.
- 25.2 If the Supplier fails to supply, install, commission, and achieve Operational Acceptance of the System (or Subsystems if specified in the Contract) within the time for achieving Operational Acceptance specified in the Implementation Schedule in the Technical Requirement or the Agreed and Finalized Project Plan, or any extension of the time for achieving Operational Acceptance previously granted, the Supplier shall pay to the Purchaser liquidated damages at the rate specified in the **Contract** as a percentage of the Contract Price.
- 25.3 Unless otherwise specified in the **Contract**, liquidated damages payable under this GCC Clause 25.2 shall apply only to the failure to achieve Operational Acceptance of the System (and Subsystems) as specified in the Implementation Schedule in the Technical Requirements and/or Agreed and Finalized Project Plan. This Clause 25.3 shall not limit, however, any other rights or remedies the Purchaser may have under the Contract for other delays.
- 25.4 The Supplier warrants that the Services and Goods supplied under this Contract shall be free from defect in the design, engineering, materials and workmanship that prevent the System and/or any of its components from fulfilling the Technical requirements or that limit in a material fashion the performance, reliability, or extensibility of the System and/or Subsystems. The also warrants that the Information Technologies, Materials, and other Goods supplied under the Contract are new, unused, and incorporate all recent improvements in design that materially affect the System's or Subsystem's ability to fulfill the Technical Requirements.

- 25.4.1 Maintenance: Supplier commits to ensure the following activities over the Warranty and Post Warranty Period Technical Support: Supplier shall provide all support related services stipulated in the maintenance contract and service level agreement and elsewhere in this Contract.
- 25.5 In addition, the Supplier warrants that: (i) all Goods components to be incorporated into the System from part of the Supplier's and/or Subcontractor's current product lines, (ii) they have been previously released to the market, and (iii) those specific items identified in the Contract (if any) have been in the market for at least the minimum periods specified in the Contract.
- 25.6 The Warranty Period shall commence from the date of Operational Acceptance of the System (or of any major component or Subsystem for which separate Operational Acceptance is provided for in the Contract) and shall extend for the length of time specified in the Contract.
- 25.7 If during the Warranty and Post Warranty Periods any defect, as described in GCC Clause 25.4 and/or the corresponding Contract, should be found in the design, engineering, Materials, and workmanship of the Information Technologies and other Goods supplied or of the Services provided by the Supplier, the Supplier shall promptly, in consultation and agreement with the Purchaser regarding appropriate remedying of the defective parts, hardware and software; and at its sole cost, repair, replace, or otherwise make good such defect as well as any damage to the System caused by such defect. Supplier shall also replace, as part of its maintenance duty under this warranty, parts which have become non-performing as a result of normal wear and tear.
- 25.8 The Purchaser shall give the Supplier a notice promptly following the discovery of such defect, stating the nature of any such defect together with all available evidence.
- 25.9 The Supplier may, with the consent of the Purchaser, remove at its cost any Information Technologies and other Goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site.
- 25.10 The Supplier commits to fully comply with the terms and conditions of the Maintenance Contract and Service Level Agreement. The terms of the Maintenance Contract and Service Level Agreement (also referred to as SLA) shall apply during the Warranty Period called for in this Contract.
- 25.11 The Post Warranty Period shall commence automatically on the Day the Warranty Period expires. The start of the Post Warranty period coincides with the entry in force of the Maintenance Contract, which shall extend for the length of time specified in the Contract.

## **26. Functional Guarantees**

- 26.1 The Supplier guarantees that, once the Operational Acceptance Certificate(s) has been issued, the System represents a complete, integrated solution to the Purchaser's requirements set forth in the Technical Requirements and it conforms to all other aspects of the Contract. The Supplier acknowledges that GCC Clause 24 regarding Commissioning and Operational Acceptance governs how technical conformance of the System to the Contract requirements will be determined.

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## **G. RISK DISTRIBUTION**

### **27. Insurances**

- 27.1 The Supplier shall at its own expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurance set forth below



with a reputable insurance company. The identity of the insurers and the form of the policies shall be subject to the approval of the Purchaser, who should not unreasonably withhold such approval.

## 27.2

- (a) **Cargo Insurance During Transport**  
as applicable, 110 percent of the price of the Information Technologies and other Goods in the currency of the contract, covering the Goods from physical loss or damage during shipment through receipt at the Project Site. The insurance should cover ALL RISKS including War, strikes, civil commotion etc.
- (b) **Installation "All Risks" Insurance**  
as applicable, 110 percent of the price of the Information Technologies and other Goods covering the Goods at the site from all risks of physical loss or damage (excluding only perils commonly excluded under "all risks" insurance policies of this type by reputable insurers) occurring prior to Operational Acceptance of the System.
- (c) **Third-Party Liability Insurance**  
On terms as specified in the Contract, covering bodily injury or death suffered by third parties (including the Purchaser's personnel) and loss of or damage to property, such as the Bank's property including the Information System and any subsystem that have been accepted by the Purchaser, the building housing the Bank's site and all equipment and appurtenances thereto, occurring in connection with the supply and installation of the Information System.

27.2 The Purchaser shall be named as named principal in the certificate of insurance loss-payee under all insurance policies taken out by the Supplier pursuant to GCC Clause 27.1, except for the Third-Party Liability, and the Supplier's Subcontractors shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 27.1 except for Cargo Insurance during Transport of goods to be supplied under the contract. All insurers' rights of subrogation against such loss-payee and co-insured for losses or claims arising out of the performance of the Contract shall be waived under such policies.

27.3 The Supplier shall deliver to the Purchaser certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect during the performance of this Contract.

## **28. Force Majeure**

28.1 "Force Majeure" shall have the meaning as defined in the Contract.

28.2 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.

28.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance.

## **29. Not Used**

## **30. Assignment**

30.1 Supplier shall, without the express prior written consent of the Bank, assign to any third party the Contract or any part thereof, or any right, benefit, obligation, or interest therein or thereunder, except that the Supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under this Contract.

## Appendix B-2 : Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the GCC. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

### A. CONTRACT AND INTERPRETATION

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#### 1. Interpretation (GCC Clause 2)

GCC 2.1	The language of the Contract, all correspondence and communications to be given, and all other documentation to be prepared and supplied under the Contract not otherwise specified in the Technical Requirements shall be: <b>English</b>
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#### 2. Notices (GCC Clause 3)

GCC 3	<p><b>For The Purchaser</b></p> <p>Notices for the Purchaser shall be delivered to:</p> <p>Division Manager, Corporate Procurement Division African Development Bank, Avenue Jean-Paul II, 01 B.P. 1387 Abidjan 01 Côte d'Ivoire Email: <a href="mailto:tender@afdb.org">tender@afdb.org</a></p> <p><b>For The Supplier</b></p> <p>Notices for the Supplier shall be delivered to:</p> <p>..... Email address: .....</p>
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#### 3. Governing Law (GCC Clause 4)

GCC 4	The Contract shall be interpreted in accordance with the laws of: <b>England</b> excluding its conflicts of law provisions.
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#### 4. Settlement of Disputes (GCC Clause 5)

GCC 5.2.3 (ii)	Arbitration proceedings shall be conducted in <b>London</b> , under the auspices of the <b>London International Court of Arbitration</b> .
GCC 5.2.4 (i)	The rules of procedure for Arbitration are as specified above in connection with GCC Clause 5.2.3 (i).
GCC 5.2.4 (ii)	The London International Court of Arbitration shall serve as the Appointing Authority under the UNCITRAL arbitration rules.

## B. SUBJECT MATTER OF CONTRACT

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### 5. Scope of the System (GCC Clause 6)

GCC 6.3	The Supplier's obligations under the Contract will include the costs for supply and installation of equipment, license, support and professional services as identified in the Supplier's financial proposal.
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### 6. Time for Commencement and Operational Acceptance (GCC Clause 7)

GCC 7.1	The Supplier shall commence work on the System within: <b>As specified in the agreed and finalized Project Plan.</b>
GCC 7.2	Operational Acceptance will occur <b>as specified in the agreed and finalized Project Plan.</b>

## C. PAYMENT

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### 7. Contract Price (GCC Clause 10)

GCC 10.1	The Contract price shall be the price indicated in the Pricing Schedule.
GCC 10.2 (b)	Adjustments to the Contract Price shall be as follows: Prices quoted by the Bidder shall be: "fixed" for goods and services supplied during the implementation and the Warranty Period; and for goods and services during the Post Warranty and support Period.
GCC 10.3 (a)	(a) Foreign Goods The named place of destination shall be The African Development Bank Avenue Joseph Anoma, Plateau – Abidjan Cote d'Ivoire Contract of carriage shall be as per Incoterms used in price schedule.
GCC 10.3 (b)	Goods delivered from within the host Country: African Development Bank Avenue Joseph Anoma Plateau – Abidjan Cote d'Ivoire

### 8. Terms of Payment (GCC Clause 11)

GCC 11.1	Subject to the provisions of GCC Clause 11 (Terms of Payment), the Purchaser shall pay the Contract Price to the Supplier upon delivery and acceptance of the below cost elements in the manner specified in the voice and payment schedule: <ul style="list-style-type: none"><li>- Hardware and software licenses</li><li>- Training and knowledge transfer</li><li>- Professional services for installation and configuration</li></ul>
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	- Maintenance and support for 05 years
GCC 11.5	No other specification.

**9. Securities (GCC Clause 12)**

GCC 12.2	The Supplier shall provide, prior to an advance payment under the signed contract, an Advance Payment Security in the amount and currency of the Advance Payment specified in GCC Clause 12.2.1 above.
GCC 12.3.1	Not applicable
GCC 12.3.4 (b)	Not applicable

**D. INTELLECTUAL PROPERTY**

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**10. Software License Agreements and Confidential Information (GCC Clause 14)**

GCC 14.1 (a) (i)	As stated in GCC
GCC 14.1 (a) (ii)	Use of the software shall be subject to the following additional restrictions: <b>none</b> .
GCC 14.1 (b) (iv)	In addition to the persons specified in GCC Clause 14.1 (b) (iii), the Software may be disclosed to, and reproduced for use by, the African Development Bank's staff working in its regional offices or other facilities in member countries.
GCC 14.2	As stated in GCC 14.2.

**E. SUPPLY, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM**

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**11. Representatives (GCC Clause 15)**

GCC 15.1	The Bank Corporate IT Services Officer
GCC 15.2.1	The Supplier ..... Tel : +..... Telephone number:..... Email address: f
GCC 15.2.2	Not Applicable

**12. Project Plan (GCC Clause 16)**

GCC 16.1	Chapters in the Project Plan shall address the following subject: (a) Project Organization and Management Plan
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	<ul style="list-style-type: none"> <li>(b) Delivery and Installation Plan</li> <li>(c) Training Plan</li> <li>(d) Pre-commissioning and Operational Acceptance Testing Plan</li> <li>(e) Warranty Service Plan</li> <li>(f) Post-Warranty Service Plan (if applicable)</li> <li>(g) Technical Support Plan</li> </ul>
GCC 16.2	The Project Plan is as set out in the Contract.
GCC 16.5	<p>The Supplier or his Representative (must be appointed and notified to the Purchaser with details of terms of reference) shall submit to the Purchaser the following reports:</p> <ul style="list-style-type: none"> <li>(a) Weekly progress reports, summarizing: <ul style="list-style-type: none"> <li>(i) results accomplished during the prior period;</li> <li>(ii) cumulative deviations to date from schedule of progress milestones as specified in the Agreed and Finalized Project Plan;</li> <li>(iii) corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule;</li> <li>(iv) other issues and outstanding problems; proposed actions to be taken;</li> <li>(v) resources that the Supplier expects to be provided by the Purchaser and/or actions to be taken by the Purchaser in the next reporting period;</li> <li>(vi) other issues or potential problems the Supplier foresees that could impact on project progress and/or effectiveness.</li> </ul> </li> </ul>

**13. Subcontracting (GCC Clause 17)**

GCC 17	No Special Conditions of Contract applicable to GCC Clause 17.
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**14. Design and Engineering (GCC Clause 18)**

GCC 18.3.1	As specified in the Contract
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**15. Procurement, Delivery, and Transport (GCC Clause 19)**

GCC 19.1.1	As specified in the GCC.
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**16. Product Upgrades (GCC Clause 20)**

GCC 20.4	As specified in the GCC.
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**17. Commissioning and Operational Acceptance (GCC Clause 24)**

GCC 24.2.1	As specified in the Technical Requirements and/or Agreed in the Finalized Project Plan.
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## F. GUARANTEES AND LIABILITIES

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### 18. Operational Acceptance and Time Guarantee (GCC Clause 25)

GCC 25.2	Liquidated damages shall be assessed at <b>0.10% per day</b> . The maximum liquidated damages are <b>3% of the Contract Price</b> , or relevant part of the Contract Price if the liquidated damages apply to a Subsystem.
GCC 25.6	The maintenance and support Period shall begin from the date of Operational Acceptance of the System or subsystem and extend for <b>60 months</b> .
GCC 25.11	The Post Warranty Period (M) shall begin automatically on the last day of the Warranty Period and extend for <b>60 months</b> .

## G. RISK DISTRIBUTION

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### 19. Insurances (GCC Clause 27)

GCC 27.1 (c)	The Supplier shall obtain Third-Party Liability Insurance which covers the amount of this contract without any deductible for loss of or damage to property and unlimited for bodily injury. The Insurance shall cover the period from beginning at the date of commencement of the contract and ending at the date the Contract expires. At any time prior to or after the commencement of work, the Purchaser may require the Supplier to produce evidence that a proper and valid insurance policy has been taken out.
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## APPENDIX C - PROJECT IMPLEMENTATION PLAN



## APPENDIX D - MAINTENANCE AGREEMENT

**WHEREAS** the Bank and the Supplier have concluded a Contract for .....

**AND WHEREAS** the Bank and the Supplier have agreed, in accordance with the said Contract, that the Supplier shall provide certain services, including routine maintenance support and routine assistance in respect of firmware, software, hardware and infrastructure, as well as provide software and firmware updates and upgrades for the System for the duration of the Contract.

**NOW THEREFORE**, the parties hereto agree as follows:

### **1. SCOPE AND TERM OF SERVICE AGREEMENT**

1.1 The purpose of this Appendix is to describe the Supplier's responsibilities in the maintenance of hardware equipment and software and provide support for the ..... The Supplier shall perform the services and carry out its obligations with due diligence, efficiency and economy, in accordance with standards specified in the Service Level Agreement attached as Appendix E to the Contract. The Supplier shall observe sound management practices and employ as appropriate advanced technology and safe methods of work. In respect of this Appendix, the Supplier shall always act as a faithful adviser to the Bank and shall always support and safeguard the Bank's legitimate interests in any dealings with sub-contractors or third parties.

1.2 This Appendix shall remain valid for a period of Sixty (60) months commencing on the day following the Operational Acceptance in accordance with the Contract.

1.3 The Supplier warrants that it is qualified by the manufacturer, in case of third-party products, to supply and provide maintenance services, technical or help desk support, new version upgrade and/or other services related to the Hardware and Software installed by the Supplier. The Supplier further warrants that its work will not negatively affect the performance of the system.

### **2. MONTHLY RECURRENT FEES - PAYMENT TERMS**

2.1 In consideration of the provision of services hereunder, the Bank agrees to pay to the Supplier an amount detailed in the Payment Schedule Appended to the Contract.

### **3. OBLIGATIONS OF THE SUPPLIER**

#### **3.1 SOFTWARE MAINTENANCE AND ENHANCEMENT**

##### **3.1.1 SERVICES**

###### **- Support and Routine Assistance**

The Supplier's software support personnel shall be available to assist and consult with the staff of the Bank 24 hours a day, seven days a week. The Supplier and/or Local Representative Agent shall provide necessary support services to answer questions and to assist the Bank in resolving problems related to the use and operation of the Software supplied and installed by the Supplier. The Supplier and/or Local Representative Agent shall be responsible for training Bank's Staff to operate new and/or upgraded Software.

###### **- Software Errors and Corrections**

During the term of this Appendix, Supplier agrees to correct errors or defects in the software licensed to the Bank and to supply such corrections to the Bank at no additional charge. The Bank agrees to report promptly to the Supplier any and all errors or defects in the software, which it may discover. The Supplier shall correct the errors or defects in the software promptly after they are discovered by the Bank or are reported by the Supplier. Corrections to software shall be provided to the Bank on CD-ROM or as a download via the internet, or in the form of specific instructions to be performed by the Bank through on-site intervention or electronic access to the Bank's computers/software system.

- **Enhancement and New Releases of Software and Documentation**

The Supplier shall provide, and Bank shall install, at no additional cost to the Bank all new versions, releases, and updates for all security related software that are used in the System, within thirty (30) days of their availability from the Supplier to other clients and no later than three (3) months after they are released in the country of origin of the Software. New releases of the Software shall be supplied on CD ROM or as a download via the internet. Appropriate documentation and installation instructions with respect to new releases shall also be provided. The Bank agrees, with the effective telephone support of the Supplier, to install each new release of Software as soon as possible.

**3.2 HARDWARE MAINTENANCE AND ENHANCEMENT**

**3.2.1 SERVICES**

The Supplier and/or Local Representative Agent shall provide the following maintenance and support services to the Hardware:

- **Support and Routine Assistance**

The Supplier's support staff shall provide telephone support services to answer questions and to assist the Bank, either on the phone, through on-site intervention or client web portal, in resolving problems related to the use and operation of the Hardware. The Bank shall return to Supplier within five (5) business days, at Supplier's cost, such defective Hardware. The Supplier shall be responsible for training the Bank's personnel to use the Hardware in case of System and/or Hardware upgrade. Support shall be provided via telephone, email, on-site intervention and client web portal where necessary.

**4. CONTRACT AMENDMENTS**

No variation in or modification of the terms of this Agreement shall be made except by written amendment signed by the Parties.

**5. SUBCONTRACTS**

The Supplier hereby notifies the Bank that it will be awarding a subcontract to (not applicable)- The Supplier shall notify the Bank in writing of any additional subcontracts awarded under the Contract, if any. For avoidance of doubt, subcontracting shall not relieve the Supplier from any liability or obligation under the Contract.

**6. ENTRY INTO FORCE**

This Appendix shall be effective on the day following the Operational Acceptance date.

## APPENDIX E - SERVICE LEVEL AGREEMENT

This appendix provides a template for the SLA, which will serve as the basis for the SLA agreed to by the parties.

### 1. SERVICE LEVEL AGREEMENT

This document describes Service levels for Hosted services provided to the Bank during the period covered by the service agreements in force between the Bank and the vendor. This document also provides metrics used to measure the level of performance in delivering hosted services to the bank. The document describes escalation procedures, and methods associated with application of Service Level Agreement (SLA) as a tool for managing predictable delivery of services to the Bank.

#### 1.1. CHARACTERISTICS FOR PROBLEM CATEGORIZATION

##### 1.1.1. Severity Codes

The following characteristics are used to identify the severity of a problem report:

- Business and financial exposure
- Work outage
- Number of clients affected
- Workaround
- Acceptable resolution time

It is not necessary (nor is it likely) to have perfect match of each characteristic to categorize a problem report at a particular severity level. A given problem must be judged against each of the characteristics to make an overall assessment of which severity level best describes the problem.

##### 1.1.2. Levels of Service

The service levels offered by the Vendor to the Bank are described below. The Vendor's goal must be to meet, and even exceed, when possible, the levels of services described below:

##### 1.1.3. Levels of Service

The service levels offered by the Vendor to the Bank are described below. The Vendor's goal must be to meet, and even exceed, when possible, the levels of services described below:

Problem Severity Level	Description
<b>Severity Level 1-Emergency</b>	Mission critical: your business-critical process(s) are unable to function – The System is not functioning and at least one your business-critical process is catastrophically affected. There is no workaround that is acceptable, thereby preventing a department or workgroup from performing a mission critical business function(s).
<b>Severity Level 2 -High</b>	Significant impact to mission critical business process(s) – A major problem impedes the ability to perform mission business critical function(s) due to major functionality not working. A temporary work-around that is acceptable to you is available.
<b>Severity Level 3 -Medium</b>	Not able to accomplish all functions - Minor function(s) not working causing non-critical work to back up.
<b>Severity Level 4 -Low</b>	Inconvenience – The System is causing a minor disruption in the way tasks are performed but does not stop workflow. Able to accomplish all functions, but not as efficiently as normal. May include cosmetic issues - especially in constituent facing applications.

**1.1.4. Levels of Effort**

The level of effort expected of the Vendor shall be exercised in full, either through corrective maintenance activities or through preventative maintenance activities.

**1.1.5. Service level indicator**

The following measures will be used to determine the level of service performance

Measure	Metric	standard	comments
Availability	System is available for use	99.5% Availability excluding scheduled maintenance	
Problem Management	Severity Level 1 Problem Resolved	100% resolved within 4 hours	
	Severity Level 2 Problem Resolved	100% resolved within 12 hours	
	Severity Level 3 Problem Resolved	80% resolved within 1 working days. 100% resolved within 2 working days	
	Severity Level 4 Problem Resolved	80% resolved within 5 working days. 100% resolved within 7 working days	
Vendor Help Desk	Help Desk call wait time	At least 99% of Help Desk calls are answered in 2 minutes or less( a call pick-up system may be used)	
	Help Desk call busy signal	Less than 1% of calls get a busy signal	
Support calls for Severity Level 1 and Level 2	Support call Severity Level 1 and Level 2 callback time	Vendor must respond back to Bank in 30 minutes or less from the time the Bank made the call	
Data Retention	Monthly copy of Bank data for retention	If need, vendor must provide Bank a monthly copy of data in a format designated by Bank	

**1.2. OPTIONAL SERVICES**

The Bank may from time to time request the vendor to provide additional services over and above those covered under the scope of this agreement. Such services shall not be subject to the terms of this Service Level Agreement, unless such services are incorporated into this document and associated service agreement via addendum or via publication of a revision to this document and associated service agreement.

**1.3. LIMITATION**

As maintenance windows can skew the result of Service Level Indicators, maintenance of systems by the vendor, will need to be communicated, so that the measures can be adapted accordingly. These include both scheduled maintenance windows and emergency maintenance case. To ensure the validity of the metrics, maintenance times will be excluded during measurement and reporting on service level attainment.

**1.4. REMEDY FOR NON-PERFORMANCE**

If the Bank and the vendor determine in their reasonable judgment that vendor’s service to the bank was unsatisfactory based on the service level indicators, Vendor will credit the customer’s account as specified under each service description. Resolution of any disputes regarding vendor’s obligations resulting non-performance shall be governed under procedure outlined in the Service Agreements between vendor and the Bank. The Bank will communicate scheduled service outages to the vendor, the purpose of correctly identifying service periods subject to measurement against Service Level Indicators. Such service outages might include scheduled maintenance, as well as outages scheduled with little advance notice such as those associated with update of server virus definitions.

## **1.5. OTHER SERVICES**

The following hardware and software application-related services shall also be provided:

### **1.5.1. Application monitoring**

The Vendor will make every effort to conduct, upon the Bank's request, periodic monitoring of the system performance to determine whether there is deterioration and advise the Bank on the same.

### **1.5.2. Transition of new or modified applications**

When a new or modified application is ready to be transitioned into support, planning and coordination of the necessary activities between the Bank's Corporate Application Service and the Vendor's support team will be conducted by the Bank's Corporate Application Service. Other requirements include:

Support will commence for new or modified software immediately after deployment.

The Vendor shall make available to the Bank the required support resources (human and other) to provide knowledge transfer for a period of 30 days after deployment of new software and/or upgrade.

### **1.5.3. Status reporting**

Monthly status reports will be completed by the Bank's Corporate Application Service and submitted to the Vendor for all items covered by the Maintenance Contract. The monthly Status reports will be discussed by the Bank's Corporate Application Service or the Bank's Chief Information Security Officer with the Vendor's support management to ensure that the Vendor is aware of the support issues and risks faced by the Bank.

### **1.5.4. Knowledge management**

Recording, storing, and retrieval of information to assist in the resolution of problems will be established by the Vendor and maintained by the Bank.

## **1.6. PROCESSES AND PROCEDURES RELATED TO THIS SLA**

### **1.6.1. Request for Support**

A request for support is defined as a request to fix a defect in existing software application and/or hardware or a malfunction in the security system as a whole. Such requests may be executed by e-mail, fax or phone call. In the latter case the Bank's security unit must summarize in writing for its file, the conversation held with the Vendor and/or its Local Agent. The support request sent to the Vendor shall clearly mention the severity level and security codes of the problem.

### **1.6.2. Call Management Process**

The Vendor shall set up within its organization a unit in charge of recording and tracking all problem reports, inquiries, or other types of calls received from the Bank.

### **1.6.3. Evaluation Reporting**

The Bank will provide regular reporting to the Vendor to indicate how the latter is performing vis-a-vis the related target performance. These reports are expected to be produced by the Bank's operational unit and will provide details on the Vendor's performance against SLA targets.

### **1.6.4. Evaluation Criteria**

Reporting against the SLA resolution targets will focus on the time to resolve operating problems. This evaluation will only address the support requests

**APPENDIX F**  
**THE SUPPLIER'S PROPOSAL INCLUDING FINANCIAL/PRICING DETAILS**

## APPENDIX G - INVOICE & PAYMENT SCHEDULE

Description	Payment schedule
Hardware and Software and licenses	Will be paid after confirmation of onsite delivery and of goods receive acceptance certificate signed by both parties
Training and knowledge transfer	Will be paid after delivery of the training and knowledge transfer
Professional services for installation and configuration	Will be paid after successful deployment of the solution. Certificate of acceptance should be signed by both parties
Maintenance and support for 5 years	Will be paid in accordance with the pricing schedule. Supplier performance should be evaluated.

- All invoices shall be sent via email to [invoice@afdb.org](mailto:invoice@afdb.org) and by postal mail or courier to the following:

Attention: Director, TCIS BILLING  
 AFRICAN DEVELOPMENT BANK  
 Avenue Joseph Anoma, 01 BP 1387  
 Abidjan 01, COTE D'IVOIRE  
 Email : [TCIS\\_billing@afdb.org](mailto:TCIS_billing@afdb.org)

- If any invoice submitted by Supplier has not been calculated correctly or if the invoice contains any other error or inadequacy, the Bank shall be entitled to withhold payment in respect of the portion of such invoice that is in dispute and shall notify Supplier as soon as reasonably practical. For the avoidance of doubt, the portion of the invoice that is not in dispute shall be paid in accordance with the payment terms in this Contract and the Bank shall have no other right to withhold or set off any payment for any invoice. The parties shall work together to resolve the error or inadequacy. Supplier shall submit a revised invoice and if correct, Bank will ensure that payment is made within 30 days from the date of receipt of the revised invoice.
- Payments shall be made in U.S. dollars by Bank Transfer (SWIFT) or such other method that may be agreed between the parties from time to time to the Supplier's account:

.....  
 .....

## APPENDIX H - PRICE SCHEDULE / RATES



## APPENDIX I – CODE OF CONDUCT

# AFRICAN DEVELOPMENT BANK CORPORATE PROCUREMENT DIVISION



## CODE OF CONDUCT

### FOR THE BANK SERVICE PROVIDERS, SUPPLIERS AND CONTRACTORS

**The African Development Bank:** The African Development Bank (The Bank) is built around strong values and ethical culture. These values are founded on ethical standards such as *respect for essential human rights, social justice and human dignity, and respect for the equal rights of men and women*, to which the Bank's business partners are expected to adhere.

1. **International Labour Conventions and Recommendations:** The International Labor Standards (i.e., Conventions and Recommendations) as established by the International Labor Organization (ILO), have served as the foundation on which much of this Code of Conduct is based. It is the Bank's expectation that any supplier providing products or services to the Bank will, in addition to the values of the Bank Charter, adhere to the principles concerning International Labor Standards.
2. **Scope of Application:** The purpose of this Code of Conduct (the "Code") is to outline the key principles of conduct expected from all Potential suppliers, service providers, suppliers and contractors, that are registered with the bank or with whom it does business ("You", "Your") and the Bank ("Us", "We", "Our").
  - 2.1. The principles and spirit of the Code also applies to Your suppliers, subcontractors, employees, parent, subsidiary, affiliate entities and any other third party ("They", "Them") with whom You assign any part of Your obligations. It is Your responsibility to ensure that the Code is communicated to Them and They are aware and comply with the principles and spirit of the Code for the contracts that the Bank signs with You.
  - 2.2. Failure to comply with certain provisions may also preclude suppliers from being eligible for a contract award, as reflected in the solicitation documents. Prospective suppliers are invited to review the specific terms and conditions of contract, procurement policies of the Bank, and this Code of Conduct in order to ascertain their current and future eligibility.
  - 2.3. As a contractor, You and Us agree to respect the principles and spirit of the Code. You should be aware that any violation of the Code may be considered as breach of these Code of Conduct and Your obligations that could result in actions being invoked by Us, including the right of termination of the contract and any other relationship without notice and/or without compensation at Your risk and expense, moving in to undertake investigations if necessary and, recovery of any assets that will be due to Us.
3. **Management, Monitoring and Evaluation:** The provisions as set forth in this Code of Conduct provide the minimum standards expected of suppliers to the Bank. The Bank expects suppliers to strive to exceed both international and industry best practices. The Bank also expects that its suppliers encourage and work with their own suppliers and subcontractors to ensure that they also

strive to meet the principles of this Code of Conduct. The Bank recognizes that reaching some of the standards established in this Code of Conduct is a dynamic rather than static process and encourages suppliers to continually improve their workplace conditions accordingly. The Bank shall conduct sensitization to all staff and suppliers to enhance their awareness and compliance with this Code.

## **YOUR OBLIGATION**

### **4. Labour:**

**4.1. Forced or Compulsory Labour: The Bank expects its suppliers to prohibit forced or compulsory labour in all its forms<sup>1</sup>.**

**4.2. Child Labour:** The Bank expects its suppliers not to employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons.<sup>2</sup>

**4.3. Discrimination:** The Bank expects its suppliers to ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, color, gender, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of a contract takes place<sup>3</sup>. The BANK expects its suppliers to take all appropriate measures to ensure that neither themselves nor their parent, subsidiary, affiliate entities or their subcontractors are engaged in any gender-based or other discriminatory employment practices, including those relating to recruitment, promotion, training, remuneration and benefits.

**4.4. Wages, Working Hours and Other Conditions of Work:** The Bank expects its suppliers to ensure the payment of wages in legal tender, at regular intervals no longer than one month, in full and directly to the workers concerned. Suppliers should keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and suppliers should inform the Bank and the workers concerned of such deductions at the time of each payment. The wages, hours of work and other conditions of work provided by suppliers must be complying with the proposal agreed by the Bank and should never be less favorable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out<sup>4</sup>The Bank is entitled to verify the wages, working hours and Other Conditions of Work applied by its providers.

**4.5. Health and Safety:** The Bank expects its suppliers to ensure, so far as is reasonably practicable, that: (a) the workplaces, machinery, equipment and processes under their control are safe and without risk to

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<sup>1</sup> This principle is set out in the ILO fundamental conventions, No. 29, Forced Labor, 1930, its Protocol of 2014 and No. 105, Abolition of Forced Labor, 1957.

<sup>2</sup> These principles are set out in the ILO fundamental Conventions, No. 138, Minimum Age, 1973 and No. 182, Worst Forms of Child Labor, 1999 and in the UN Convention on the Rights of the Child.

<sup>3</sup> These principles are set out in the ILO fundamental Conventions, No. 100, Equal Remuneration, 1951 and No. 111, Discrimination (Employment and Occupation), 1958.

<sup>4</sup> These principles are set out in ILO Conventions No. 95, Protection of Wages, 1949 and No. 94, Labor Clauses (Public Contracts), 1949 and in a number of Conventions addressing working time (see: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang--en/index.htm>)

health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health<sup>5</sup>.

- 4.6. **Human Rights:** The Bank expects its suppliers to support and respect the protection of internationally proclaimed human rights and to ensure that they are not complicit in human rights abuses<sup>6</sup>.
- 4.7. **Harassment, Harsh or Inhumane Treatment:** The Bank expects its suppliers to create and maintain an environment that treats all employees with dignity and respect. The Bank further expects that its suppliers, their parent, subsidiary and affiliated entities as well as any subcontractors, will neither use or engage in, nor allow their employees or other persons engaged by them to use or engage in, any: threats of violence, verbal or psychological harassment or abuse, and/or sexual exploitation and abuse.
- 4.8. **Sexual exploitation:** Sexual exploitation and abuse violate universally recognized international legal norms and standards and have always been unacceptable behavior and prohibited conduct for the Bank. Prior to entering into agreements with the Bank, suppliers are informed of the standards of conduct with respect to the prohibition of sexual exploitation and abuse, expected by the BANK. Such standards include, but are not limited to, the prohibition of: (1) engaging in any sexual activity with any person under the age of 18, regardless of any laws of majority or consent, (2) exchanging any money, employment, goods, services, or other things of value, for gender, and/or (3) engaging in any sexual activity that is exploitive or degrading to any person. The Bank expects its suppliers to take all appropriate measures to prohibit their employees or other persons engaged by the suppliers, from engaging in sexual exploitation and abuse. The BANK also expects its suppliers to create and maintain an environment that prevents sexual exploitation and abuse. Bank contracts will contain provisions concerning a supplier's obligation to take appropriate measures to prevent sexual exploitation and abuse. The failure by a supplier to take preventive measures against sexual exploitation or abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or abuse has occurred, constitute grounds for termination of any agreement with the Bank.
- 4.9. **Inhumane treatment:** No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated by the Bank, nor is there to be the threat of any such treatment.
- 4.10. **Mines<sup>7</sup>:** The BANK expects its suppliers not to engage in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.

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5 These principles are set out in the ILO Conventions, Recommendations and Codes of Practice (see: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-and-health/lang--en/index.htm>).

<sup>6</sup> These principles are derived from Universal Declaration of Human Rights (UDHR) and are set out in the United Nations Global Compact (see [http://www.unglobalcompact.org/Issues/human\\_rights/index.html](http://www.unglobalcompact.org/Issues/human_rights/index.html))

<sup>7</sup> This prohibition arises out from the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Treaty, the Anti-Personnel Mine Ban Convention). The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction is the cornerstone of the international effort to end the suffering and casualties caused by anti-personnel mines. The Convention was adopted on 18 September 1997 and it entered into force on 1 March 1999. To date, 164 States have formally agreed to be bound by the Convention.

The Convention provides a framework for mine action, seeking both to end existing suffering and to prevent future suffering. It bans the use, stockpiling, production and transfer of anti-personnel mines. In addition, States that accede to the Convention accept that they will destroy both stockpiled and emplaced anti-personnel mines, and assist the victims of landmines (<https://www.apminebanconvention.org/overview-and-convention-text/>).

## 5. Environment:

- 5.1. **Environmental:** The Bank expects its suppliers should have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment. Suppliers should wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices.
- 5.2. **Chemical and Hazardous Materials:** Chemical and other materials posing a hazard if released to the environment are to be identified and managed to ensure their safe handling, movement, storage, recycling or reuse and disposal.
- 5.3. **Wastewater and Solid Waste:** Wastewater and solid waste generated from operations, industrial processes and sanitation facilities, for Bank related projects, are to be monitored, controlled and treated as required prior to discharge or disposal.
- 5.4. **Air Emissions:** Air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations are to be characterized, monitored, controlled and treated as required prior to discharge or disposal.
- 5.5. **Minimize Waste, Maximize Recycling:** Waste of all types, including water and energy, are to be reduced or eliminated at the source or by practices such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials.

## 6. Ethical conduct:

- 6.1. **Corruption:** The Bank expects its suppliers to adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or kickback.
- 6.2. **Conflict of Interest:** Bank suppliers are expected to disclose to the Bank any situation that may appear as a conflict of interest, and disclose to the Bank if any Bank official or professional under contract with the Bank may have an interest of any kind in the supplier's business or any kind of economic ties with the supplier.
- 6.3. **Gifts and Hospitality:** The Bank has a "zero tolerance" policy on gifts and hospitality and does not accept any type of gift or any offer of hospitality. The Bank will not accept any invitations to sporting or cultural events, offers of holidays or other recreational trips, transportation, or invitations to lunches or dinners. The Bank expects its suppliers not to offer any benefit such as free goods or services, employment or sales opportunity to a Bank staff member in order to facilitate the suppliers' business with the Bank.
- 6.4. **Post employment restrictions:** Post-employment restrictions may apply to Bank staff in service and former Bank staff members who participated in the procurement process, if such persons had prior professional dealings with suppliers. Bank suppliers are expected to refrain from offering employment to any such person for a period of one year following separation from service.
- 6.5. **Money laundering:** The Bank expects its suppliers to comply with Legislation, regulations<sup>8</sup> and the best international standards for combating money laundering and terrorism financing. Money laundering is defined as the process where the identity of the proceeds of crime are so disguised that it gives the appearance of legitimate income. Criminals specifically target financial services firms through which they attempt to launder criminal proceeds without the firm's knowledge or suspicions. The Bank encourages suppliers to adopt AML/CFT compliance strategies to avoid such situations.

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<sup>8</sup> (SCA-licensed entities with the provisions of Federal Law No. (4) of 2002 Concerning Combating Money Laundering Crimes and Terrorism Financing; the amendments thereof; and the regulations issued thereunder and with the SCA Board Chairman's Resolution No. (17/R) of 2010 Concerning Anti-Money Laundering and Counter-Terrorism Financing Procedures and the amendments thereof.

6.6. **Due Diligence:** The Bank suppliers are not expected to have or be involved in any integrity issues that may bring the Bank into disrepute. The Bank will therefore undertake due diligence on its suppliers and will adhere to standards required maintain its reputation and integrity.

6.7. **Social Corporate Liability:** The Bank suppliers are encouraged to promote the social responsibilities of business and their contribution to the decent work agenda shall be regarded by the Bank as a central part of Banks efforts to promote economic and social progress<sup>9</sup>.

## You undertake to:

### 7. Act in good faith:

7.1. execute Your obligations with the highest professional standard to the industry standards and practices in which you operate and in accordance with the provisions of the contract;

7.2. refrain from any action that may represent reputational risk to Us.

### 8. Fulfil an advisory and partnership role:

8.1. exercise due care, diligence and skill in providing expert and advisory services, when required, on the implementation and performance of the goods, services and/or works under the contract.

### 9. Maintain Confidentiality and Security of Information:

9.1. take appropriate steps to safeguard and maintain confidentiality of Our confidential information, including maintaining it in confidence, in a secure location and not disclosing it to third parties (not assigned to the contract) without Our prior written consent, during the contract period and after its conclusion;

9.2. not use Our name and logo for any purpose without Our prior written consent;

9.3. observe the utmost discretion in all matters relating to Us, Our business and activities.

### 10. Take appropriate steps to manage any of conflict of interest:

10.1. disclose any actual or potential conflict of interest;

10.2. disclose any interest Our staff or agent may have in Your business or any other economic ties with You.

### 11. Be transparent:

11.1. implement an open book approach;

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9 "Corporate Social Responsibility is one of the important ways today in which enterprises affirm their principles and values, both in their own internal processes and operations and in their interaction with other actors.

While enterprises are increasingly reflecting the principles that underpin international labour standards in their CSR policies, for the ILO it is important to emphasise the voluntary nature of CSR" (cf. [https://www.ilo.org/empent/Informationresources/WCMS\\_101253/lang--en/index.htm](https://www.ilo.org/empent/Informationresources/WCMS_101253/lang--en/index.htm)).

- 11.2. provide any information and/or documentation relating to the contract upon request, in a timely manner;
- 11.3. place at Our disposal any accounting or financial information relating to the contract upon request;
- 11.4. fully cooperate and provide assistance in any investigation relating to the contract that We commission or conduct (including audits or investigation relating to fraudulent and corruptive practices).

**12. Ensure the probity and integrity of Your staff working on Our contracts:**

- 12.1. employ staff who meet minimum requirements in relation to criminal conviction, security clearance and qualification;
- 12.2. replace any staff, as soon as possible, who are unsatisfactory to carry out the services under the contract;
- 12.3. ensure Your staff, whilst on Our premises, are aware of Our code of conduct for staff and conduct themselves in the same manner as Our staff are expected to conduct themselves.

**13. Submit to Audit:**

- 13.1. permit Us to inspect Your accounts and records relating to Your performance of the contract and have them audited by auditors appointed by Us.

**14. Endeavour to improve services and deliver value for money:**

- 14.1. actively seek to optimise service delivery through savings and efficient cost management through the life of the contract;
- 14.2. proactively pursue continuous improvement of services to reduce waste and improve efficiency across Our organization;
- 14.3. support Our “Green” initiatives.

**OUR OBLIGATION**

**We will:**

- 14.4. carry out Our obligations with due care and skill and in accordance with the contract;
- 14.5. make all payments due as soon as possible;
- 14.6. work with You to optimise service delivery;
- 14.7. make you aware of Our policies which you are required to comply;
- 14.8. provide all documentation You require to perform Your obligations as soon as possible.

**Contacts: Any questions related to this Code of Conduct can be addressed to the African Development Bank Corporate Procurement Division (CHGS.2) at email: [corporateprocurement@afdb.org](mailto:corporateprocurement@afdb.org).**

**APPENDIX J - LETTER OF AWARD**

## APPENDIX K - CONTRACTOR PERFORMANCE EVALUATION FORM

<b>SERVICE PROVIDER</b>		
<b>PURPOSE OF CONTRACT</b>		
<b>CONTRACT REFERENCE</b>		
<b>DATE OF EFFECTIVENESS</b>		
<b>EXPIRATION DATE</b>		
<b>EVALUATION PERIOD</b>		
<b>TOTAL MAXIMUM POINTS</b>	-	
<b>OVERALL EVALUATION SCORE</b>	-	
<b>OVERALL SCORE IN %</b>		
<b>PERFORMANCE LEVEL</b>		<u>Very Good</u> : 90% and above <u>Good</u> : 80% to 89% <u>Satisfactory</u> : 70% to 79% <u>Poor</u> : 50% to 69% <u>Unsatisfactory</u> : 50% and below
<b>EVALUATED BY</b>		
<b>APPROVED BY</b>		
<b>CERTIFIED BY CHGS.2</b>		

Evaluation criteria	Coefficient (1-3)	Rating (1 -10)	Total Score	Max. Possible Score	COMMENTS
<b>I. PROVIDER'S CAPACITY</b>					
1. CONTRACT SUPERVISION QUALITY			-	-	
2. COMPLIANCE WITH RULES			-	-	
3. COMPLIANCE WITH TIMEFRAMES			-	-	
4. SUPPLY			-	-	
5. HUMAN RESOURCES			-	-	
6. TECHNICAL RESOURCES			-	-	
7. MATERIAL RESOURCES			-	-	
8. APPROPRIATE MEASURES PROPOSED			-	-	
9. ANTICIPATION AND PROACTIVE HANDLING OF PROBLEMS			-	-	
10. PLANNING			-	-	
11. COMPLIANCE WITH LOCAL LAWS			-	-	
12. COMPLIANCE OF SERVICES			-	-	
13. IDENTIFICATION OF SERVICE PROVIDER'S STAFF (uniform, badge ETC)			-	-	
14. MANAGEMENT EFFECTIVENESS			-	-	
15. COST CONTROL			-	-	
16. COMPLIANCE WITH STANDARDS			-	-	
17. CAPACITY TO UPDATE SYSTEM INSTALLED			-	-	



18. TIME FLEXIBILITY			-	-	
19. COMPLIANCE WITH CONTRACT CLAUSES			-	-	
20. COMPLIANCE WITH TOR/TECHNICAL SPECIFICATIONS			-	-	
21. RESPECT FOR THE ENVIRONMENT			-	-	
22. INNOVATION OF SERVICES			-	-	
23. SKILLS TRANSFER, TRAINING			-	-	
<b>II. STAFF</b>					
1.AVAILABILITY OF CONTACT PERSON			-	-	
2. NAME OF CONTACT PERSON			-	-	
3. PERFORMANCE, QUALIFICATION, COMPETENCE OF STAFF			-	-	
4. PUNCTUALITY			-	-	
5. PROFESSIONALISM			-	-	
6. CAPACITY TO ADAPT			-	-	
7.RESPONSIVENESS			-	-	
8. COMPLIANCE WITH INSTRUCTIONS			-	-	
9. CONFIDENTIALITY			-	-	
10. TIMELINESS			-	-	
11. RESPECT OF THE WORK ENVIRONMENT			-	-	
12. QUALITY OF COLLABORATION			-	-	
13. UNDERSTANDING OF WORK SOFTWARE			-	-	
14. CONDUCT/BEHAVIOUR			-	-	
15. WORKING LANGUAGE			-	-	
<b>III. SERVICES</b>					
1. QUALITY OF SERVICE			-	-	
2. AVAILABILITY OF SERVICE			-	-	
3. CLEANLINESS			-	-	
4. QUANTITY			-	-	
5. VARIETY			-	-	
<b>TOTAL</b>			-	-	

## APPENDIX 7B - GENERAL CONDITIONS OF FOR PURCHASE OF GOODS AND SERVICES

(Version 14/04/2017)

### 1.1 Constitution of Agreement

1.1.1 For the purpose of these General Terms and Conditions for the Purchase of Goods and Services (the "GTC"), the "Bank" shall mean the African Development Bank and "Supplier" shall mean the party to the Agreement offering goods or services to the Bank.

1.1.2 The Agreement may include Special Conditions, Terms or Reference or any other documents expressly provided as being an integral part of the Agreement. Any reference to "Agreement" in these GTC also refers to the Agreement's complementary documents.

1.1.3 The submission of any bid shall constitute acceptance of the GTC, except to the extent they may be modified by Special Conditions included in the Agreement.

### 1.2 Representations

1.2.1 The Supplier represents and warrants that:

- (i) The Supplier has title to the goods and is fully qualified to sell, lease, or license such goods or that is has all required skills, experience, authorizations, licenses and permits necessary for the performance of the Services, as applicable;
- (ii) The Supplier is not prohibited from bidding for a public procurement under the laws of the jurisdiction under which the Supplier operates;
- (iii) The Supplier warrants that it has not been debarred from supplying goods or services by any international organization;
- (iv) The Supplier ensures that wages of his personnel, their hours of work and the other labor conditions are at least as favorable as those established for work of the same character in the trade or industry concerned in the area where the work is carried out; and
- (v) The Supplier conforms to all relevant laws and regulations of the country where the goods are to be delivered and where the services are to be performed.

1.2.2 The Supplier declares that it is fully cognizant of g and undertakes to comply with the Code of Conduct of the Bank regarding suppliers that is attached to the Agreement.

1.2.3 The Supplier acknowledges that the Bank is entitled to verify the accuracy and veracity of the statements listed in paragraph 1.2.1 above. The Supplier shall facilitate the verification of the statements and shall complete any formality and provide any documents as may be required by the Bank.

### 1.3 Performance of Agreement

1.3.1 The Supplier shall not assign, transfer or subcontract any of its obligations under this Agreement, unless authorized in writing by the Bank. It shall be solely responsible for the performance of the Agreement in every respect.

1.3.2 Unless otherwise specified by or agreed with the Bank, the Supplier shall indicate the Agreement number on all invoices, shipping documents, packing slips, packages and correspondence, which shall be addressed to the Bank unless otherwise stated.

1.3.3 The Supplier shall immediately report to the Bank in writing any problems encountered which may jeopardize the performance of the Agreement.

1.3.4 The Supplier shall not engage in engaged in Corrupt, Fraudulent, Coercive, Collusive or Obstructive practices in connection with the Agreement, the Bank may at its discretion, do any one or combination of the following: (i) void or terminate the Agreement; (ii) declare the Supplier ineligible to enter into contracts in connection with matters financed by the Bank; or (iii) pursue legal proceedings against the Supplier. For the purposes of this paragraph:

- (i) "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the procurement process or in Agreement execution.
- (ii) "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract or Purchase Order to the detriment of the Bank, and includes collusive practice among Bidders, or between bidders and Bank staff (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Bank of the benefits of free and open competition.
- (iii) "Coercive practice" is an act or omission that impairs or harms, or threatens to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of a party;
- (iv) "Collusive practice" is an arrangement between two or more parties designed to achieve an improper

purpose, including influencing improperly the actions of another party.

- (v) "Obstructive Practice" means deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the Bank's inspection and audit rights;

1.3.5 Trade terms shall have the meanings assigned to them in the latest edition of INCOTERMS.

1.3.6 The Supplier shall be responsible for obtaining and renewing at its own cost and in due time such approvals, consents, governmental and regulatory authorizations, licenses and permits as may be required or deemed necessary by the Bank to perform this Agreement.

#### 1.4 Environmental Protection

1.4.1 The Supplier shall ensure that the work performed under the Agreement meets the legal requirements in force on the environment, safety, human health and preservation. It must be able to justify compliance at any time during the performance of the Agreement and during the warranty period upon request of the Bank.

1.4.2 In case the legal requirements referred to in paragraph 14.1 above evolves during the performance of the Agreement, any changes requested by the Bank to comply with the new requirements shall be effected through an amendment of the Agreement.

#### 1.5 Liability, Immunities and Applicable Law

1.5.1 The financial liability of the Bank under the Agreement shall not exceed the total amount specified in the Agreement.

1.5.2 Nothing in the Agreement or relating thereto shall be construed as constituting a waiver of the privileges or immunities of the Bank.

1.5.3 The Agreement shall be governed by, enforced and construed in accordance with the laws of England.

#### 1.6 Insurance

1.6.1 Prior to the commencement of the work under this Agreement, the Supplier shall obtain and maintain at its own expense for the duration of this Agreement, appropriate insurance coverage with appropriate loss limits, including any such insurance as required by the law of the country of incorporation or license and by the country where the goods are to be delivered or where the services are to be performed. Upon request, the Supplier shall

provide the Bank with certificates of insurance for this insurance coverage.

#### 1.7 Documents

1.7.1 The Supplier shall furnish all documents and technical information, including any information necessary for the maintenance or operation of the goods, that the Bank may deem necessary, in the language requested.

#### 1.8 Changes to Agreement and Amendments

1.8.1 The Bank may, at any time, by written order designated or indicated to be a change order, make changes to the Agreement or any part thereof within the general scope of the Agreement, provided the stage reached in the performance of the Agreement so allows.

1.8.2 If any such change increases or decreases the cost of and/or the time required for the performance of any part of the Agreement, an equitable adjustment shall be made in the Agreement price or time schedule or both, and this Agreement shall accordingly be amended. No change in, modification of, or revision to this Agreement shall be valid unless in writing and signed by an authorized representative of the Bank.

1.8.3 The parties may agree to amend this Agreement, provided that such amendment is mutually agreed to in writing by the parties.

#### 1.9 Taxes

1.9.1 Supplies for the Bank are exempted from taxes and customs duty in accordance with Article 57 of the Bank's Charter. Accordingly prices shall be quoted or invoiced free and clear of all applicable taxes, including value added tax, sales tax, duties, fees, levies or surcharges imposed by, or pursuant to the laws, statutes or regulations of any governmental agency or authority.

1.9.2 If a Supplier is unable to quote or invoice exclusive of all applicable taxes, such taxes shall be separately set forth on the quote or invoices and the Supplier shall provide to the Bank any additional information or document as may be required by the Bank for obtaining the requisite exemption.

#### 1.10 Payment terms

1.10.1 In no event shall the Bank be required to pay for any goods or services not expressly identified in the Agreement.

1.10.2 Prices indicated in the Supplier's bid shall be deemed to be firm, complete and not subject to revision. The prices are deemed to include all fees and charges, ordinarily included with the goods and services, including those relating to packaging, storage, insurance and transport to point of delivery and all other expenses necessary for the execution of this Agreement.

1.10.3 If the Agreement includes maintenance services, the prices for maintenance are deemed to include:

- (i) The value of parts or components and the costs of equipment, ingredients and labor necessary for the performance of the maintenance services;
- (ii) The travel allowances and expenses necessitated by changes to the goods at the initiative of the Supplier after approval of the Bank.

Except as otherwise provided in the Agreement, payment will normally be made by bank transfer within 30 days after receipt and acceptance of goods or from receipt of a properly signed invoice whichever is later. Invoices must be sent in duplicate (one original and one copy) at the address specified in the Agreement.

1.10.4 Invoices shall contain the following information: Agreement number, description of goods or services, quantities, indicating bank address and account number, unit price per item, agreed additional costs, total price, make, model and serial number or part number of goods supplied. The bank address and account number where payment is required should also be indicated on the Invoice.

1.10.5 Irrespective of their nature, all claims of the contractual parties, other than warranty claims, arising from or in any way connected with the Agreement, shall be asserted within 6 months after its termination.

1.10.6 Unless otherwise provided in the Agreement, the Bank shall pay only for goods received and for services rendered.

**1.11 Inspection, Acceptance or Rejection**

1.11.1 The Bank shall have 30 calendar days after proper receipt of the goods or services purchased to inspect them and either to accept or reject them as non-conforming with the Agreement.

1.11.2 Rejected goods will be returned to the Supplier, transportation charges collect, or held by the Bank for disposition at the Supplier's risk and expense.

1.11.3 Based on an inspection of a valid sample, the Bank may reject the goods or services in whole or in part. If goods delivered or services performed by the Supplier are found to be defective, the Bank shall have the right to require the correction thereof by the Supplier. The Bank may charge the Supplier for the cost of inspecting or re-inspecting rejected goods and/or services.

1.11.4 The Supplier agrees that the Bank's payment under this Agreement shall not be deemed acceptance of any goods or services delivered hereunder. Failure to reject the goods or services within 30 days shall be deemed acceptance. However, acceptance whether express or implied, shall not relieve the Supplier of its warranty obligations or liability for latent defects.

**1.12 Warranty**

1.12.1 The Supplier warrants that all goods supplied under the Agreement are:

- (i) In conformity with the specifications, drawings, Terms of Reference or any other description of the goods or services that has been provided by the Bank;
- (ii) In conformity with national or international technical, safety, health and environmental protection standards or recommendations;
- (iii) Free from any defects in design, workmanship or materials.

1.12.2 All warranties specified in this Agreement shall be in addition to any other warranties, express, statutory or implied. This warranty shall survive the Bank's inspection, acceptance and payment, and the Bank's continued use of the goods or services after notifying the Supplier of their failure to conform to the Agreement or breach of warranty will not be considered a waiver of the Bank's right to a remedy.

1.12.3 Unless otherwise provided in the Agreement, the warranty period for all goods and service, as applicable, shall be at least 12 months from the date of acceptance pursuant to article 1.11. The Supplier shall carry out all work, such as modifications and repairs, necessary to comply with the terms of the Agreement, or replace any part that is not complying with these terms during the warranty period. All costs (including transportation) arising in connection with this obligation will be borne by the Supplier.

1.12.4 If the Supplier fails to comply with the above requirements, the Bank may, after notice to the Supplier, take action at the Supplier's expense which, in the opinion of the Bank is necessary.

**1.13 Suspension**

1.13.1 The Bank may at any time suspend the performance of this Agreement or any part thereof for its convenience by a written notice specifying the part to be suspended, the effective date and the anticipated period of suspension. The Bank shall not be responsible for the cost of the Supplier's further performance of the suspended part after the Supplier has been notified to suspend performance.

1.13.2 Suspension of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of either party to this Agreement.

**1.14 Termination**

1.14.1 The Bank may terminate this Agreement, in whole or in part, at any time for its convenience by giving the Supplier a notice of such a termination stating that termination is for the Bank's convenience, the extent to which performance under this Agreement is terminated, and the effective termination date.

1.14.2 If the Supplier has abandoned or repudiated this Agreement, has without valid reason failed to commence work under this Agreement or has violated any of the terms of this Agreement, the Bank will notify the Supplier in writing describing the failure or violation and give the Supplier a reasonable opportunity to remedy the

default within a period of at least three (3) days. The Bank may, by written notice, without prejudice to any other remedy it may be entitled to, terminate this Agreement in whole or in part if the Supplier fails to remedy such default within the period specified.

1.14.3 Notwithstanding paragraph 1.14.2 above, the Bank shall have the right, in its sole discretion, to terminate the Agreement for default, without having to give the Supplier an opportunity to remedy, if the Supplier is in violation of paragraphs 1.3.1 or 13.4 of this Agreement, or if the Supplier becomes insolvent or bankrupt or ceases paying its debts generally as they mature.

1.14.4 If the Bank has failed to pay the Supplier any sum due under this Agreement within the specified period or if the Supplier is unable to carry out any of its obligations under this Agreement for any reason attributable to the Bank, then the Supplier may give a notice to the Bank of such events, and if the Bank has failed to pay the outstanding sum or to remedy the situation within forty-five (45) days of such notice, the Supplier may by a further notice to the Bank forthwith terminate this Agreement.

1.14.5 Upon receipt of the notice of termination under paragraphs 1.14.1, 1.14.2, 1.14.3 or 1.14.4, the Supplier shall, either immediately or upon such date as is specified in the notice of termination cease all further work under this Agreement, except for such work as the Bank may specify in the notice of termination for the sole purpose of protecting that part of the goods already delivered or of services already rendered or except for any work required in order to leave the site in a clean and safe condition. Subject to paragraph 1.14.6, the Supplier shall be entitled to be paid the Price specified in the Agreement attributable to the portion of the Agreement executed as at the date of termination, including all services provided and goods delivered, and reasonable costs, if any, incurred in leaving the site in a clean and safe condition. In case of partial termination of this Agreement, the Supplier shall continue performance of this Agreement to the extent not terminated.

1.14.6 In the event of termination for default pursuant to paragraphs 1.14.2 and 1.14.3, the Bank may procure, upon such terms and in such manner as it may deem appropriate, goods similar to those not delivered and the Supplier shall be liable for any excess costs or damage caused to the Bank by the Supplier's default. The Bank reserves the right to offset costs, incurred by it in relation to the termination of the Agreement, from any monies due.

1.14.7 In the event of termination for convenience pursuant to paragraph 1.14.1, the Bank will, in addition to the amounts payable under paragraph 1.14.5, pay to the Supplier an equitable adjustment, not to exceed the total Agreement price, to compensate the Supplier for:

- (i) the services accepted by the Bank but not paid previously and adjusted for any savings;
- (ii) costs incurred in the performance of the work terminated, including initial and preparatory expenses; and
- (iii) the cost of settling disputes with and making payments to the Supplier's contractors, subcontractors or lessors under terminated

agreements properly chargeable to the terminated portion of the Agreement and not included in subparagraphs (i) and (ii) above;

1.14.8 Termination of this Agreement in whole or in part by the Bank shall not prejudice or affect the accrued rights or claims and liabilities of either party to this Agreement.

## 1.15 Audit

1.15.1 The Supplier agrees to maintain, in accordance with sound and generally accepted accounting practices, records supporting all amounts invoiced under this Agreement.

1.15.2 The Supplier shall make such records available to the Bank or the Bank's designated representative at all reasonable times until the expiration of three (3) years after the date of the final payment, for the purpose of auditing this Agreement.

1.15.3 In the event an audit determines that the Bank has overpaid the Supplier, the Supplier shall reimburse the Bank, within thirty (30) days after receipt of a written request thereof, the amount of any such overpayment.

## 1.16 Liquidated Damages

1.16.1 If the Supplier fails to perform this Agreement or any part thereof within the specified time stated in the Agreement, the Bank may, without prejudice to any other remedy under this Agreement, deduct from the Agreement price, as liquidated damages, a sum equal to 0.1% of the Agreement price for each day of delay until actual performance.

1.16.2 The liquidated damages shall begin to accrue Penalties the day after the contract period of performance of the services has expired, without the need to notify the Supplier in writing of such default.

## 1.17 Liability

1.17.1 The Supplier shall be liable for all damages arising from his action or that of his agents, of which the Supplier or its agents could be rendered responsible under applicable laws.

1.17.2 The Supplier shall bear the full financial consequences of any material damage or personal injuries, including death which, through the Supplier's action or that of its agents, may be suffered by the Supplier, its agents, the Bank or its agents or any third party.

## 1.18 Intellectual Property and Confidentiality

1.18.1 The Supplier undertakes to indemnify and hold the Bank and its agents and principals harmless against any claim for infringement of intellectual property rights by the transfer or use of any of the goods or components thereof supplied by the Supplier to the Bank.

1.18.2 The Supplier shall be liable for all the consequences, in particular legal and financial, of the

exercise by the Bank of its rights, and shall guarantee the Bank against any claim.

1.18.3 If the Supplier is prevented from using the goods or services provided hereunder, the Bank shall return said items to the Supplier who shall refund the Bank for the price paid and for the costs of transportation, installation (if any) and all other costs relating to the acquisition thereof.

1.18.4 The Supplier shall not, while performing this Agreement or at any time thereafter, utilize in any manner prejudicial to or incompatible with the interests of the Bank any information of a restricted or confidential nature that may come to its knowledge in connection with the performance of this Agreement.

1.18.5 The Supplier shall not use the Bank's name or emblem in the absence of a prior express authorization from the Bank.

### 1.19 Dispute Settlement

1.19.1 The parties shall make every effort to resolve any disagreement or dispute arising between them under or in connection with this purchase order amicably by direct informal negotiation. The party asserting the existence of a disagreement or dispute shall, promptly upon becoming aware of such disagreement or dispute, notify the other party in writing (such writing being referred to herein as the "Notice of Dispute") specifying the nature of the disagreement or dispute, and shall also provide such other information about the disagreement or dispute as the other party may reasonably require

1.19.2 If, forty-five (45) days after the date the Notice of Dispute has been given, the parties have been unable to amicably resolve the dispute or difference, either party may require that such dispute be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

1.19.3 The arbitral tribunal shall comprise one arbitrator jointly chosen by the parties. However, where the parties are unable to reach an agreement within sixty (60) days of notification of the Conciliation Notice, the London Court of International Arbitration (LCIA) shall become the appointing authority.

1.19.4 The arbitration shall take place in the venue specified in the Agreement, or, failing that, in Abidjan, Côte d'Ivoire and shall be in the English language.

1.19.5 The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

1.19.6 Nothing contained in this Contract shall be construed as or constitute a waiver, renunciation or other modification of any privileges, immunities and exemptions accorded to the Bank under the Agreement Establishing the African Development Bank, international conventions or any other applicable law.

1.19.7 The provisions of this article shall remain in force after the termination of this Agreement.

### 1.20 Force Majeure

1.19.1 "Force Majeure" means any event or condition which (a) wholly or partially delays or prevents a party from performing any of its obligations under this Agreement, (b) is unforeseeable and unavoidable, (c) is beyond the reasonable control of such party, and (d) occurs without the fault or negligence of such party.

1.19.2 The party affected by such Force Majeure shall give prompt written notice to the other party of the nature and probable duration of such Force Majeure, and of the extent of its effects on such party's performance of its obligations hereunder.

1.19.3 During the continuance of such Force Majeure, the obligations of the affected party shall be suspended to the extent necessitated by such Force Majeure.

1.19.4 In the event of Force Majeure which delays performance of the Agreement or any part thereof by more than thirty (30) days, either party shall have the right, by notice to the other party, to terminate this Agreement

### 1.21 Severability

1.21.1 If any provision of the Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain in full force and effect, and such provision will be deemed to be amended to the minimum extent necessary to render it enforceable.

### Packaging, Title and Risk of Loss for Goods

1.21.2 The Supplier shall provide proper and adequate packaging in accordance with prevailing commercial best practices to ensure that material shipped to the Bank will be delivered free of damage. The Supplier shall use commercially reasonable efforts to utilize recycled and/or recyclable packaging materials. Expenses incurred by the Bank due to the Supplier's non-compliance with such instructions will be for the Supplier's account. The Bank reserves the right to reject any and all shipments deemed by the Bank to have been inadequately packaged.

1.21.3 Title to all goods furnished under the Agreement shall be transferred free and clear of all liens, claims, security interests or other encumbrances when title thereto passes to the Bank. Title will pass to the Bank on the earlier of the date of the payment for such goods or acceptance of the goods. The Supplier shall assume all risk of loss or damage for the goods until such time the title passes to the Bank.