



ECOWAS COM  
COMMISSION  
COMISSÃO DA

## **Regional Competitive Bidding**

# **“SUPPLY AND INSTALLATION OF CYBERSECURITY SOFTWARE FOR ECOWAS COMMISSION”**

**May 2023**



## **Summary**

### **PART 1 – BIDDING PROCEDURES**

#### **Section I. Instructions to Bidders (ITB)**

This Section provides information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. Section I contains provisions that are to be used without modification.

#### **Section II. Bidding Data Sheet (BDS)**

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders.

#### **Section III. Evaluation and Qualification Criteria**

This Section specifies the criteria to be used to determine the lowest evaluated bid, and the Bidder's qualification requirements to perform the contract.

#### **Section IV. Bidding Forms**

This Section includes the forms for the Bid Submission, Price Schedules, Bid Security, and the Manufacturer's Authorization to be submitted with the Bid.

#### **Section V. Eligible Countries**

This Section contains information regarding eligible countries.

### **PART 2 – SUPPLY REQUIREMENTS**

#### **Section VI. Schedule of Requirements**

This Section includes the List of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured.

### **PART 3 – CONTRACT**

#### **Section VII. General Conditions of Contract (GCC)**

This Section includes the general clauses to be applied in all contracts. The text of the clauses in this Section shall not be modified.

**Section VIII. Special Conditions of Contract (SCC)**

This Section includes clauses specific to each contract that modify or supplement Section VII, General Conditions of Contract.

**Section IX: Contract Forms**

This Section includes the form for the Agreement, which, once completed, incorporates corrections or modifications to the accepted bid that are permitted under the Instructions to Bidders, the General Conditions of Contract, and the Special Conditions of Contract.

The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

**Attachment: Invitation for Bids**

An “Invitation for Bids” form is provided at the end of the Bidding Documents for information.

**BIDDING DOCUMENTS**

**For The**

**“SUPPLY AND INSTALLATION OF  
CYBERSECURITY SOFTWARE FOR  
ECOWAS COMMISSION”**

**RCB No: 01/ECW-DAGS-DITS/2023**

**PURCHASER: *ECOWAS COMMISSION***

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## **PART 1 – BIDDING PROCEDURES**





# Section I. Instructions to Bidders

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## Section I. Instructions to Bidders

### General

- Scope of Bid**
- 1.1 The Purchaser **indicated in the Bidding Data Sheet (BDS)**, issues these Bidding Documents for the supply of Goods and Related Services incidental thereto as specified in Section VI, Schedule of Requirements. The name and identification number of this Regional Competitive Bidding (RCB) procurement are **specified in the BDS**. The name, identification, and number of lots of are **provided in the BDS**.
- 1.2 Throughout these Bidding Documents:
- (a) The term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt;
  - (b) if the context so requires, “singular” means “plural” and vice versa; and
  - (c) “Day” means calendar day.
- Source of Funds**
- 2.1 ECOWAS Commission intends to apply a portion of its budget to eligible payments under the contract for which these Bidding Documents are issued.
- Fraud and Corruption**
- 3.1 It is the ECOWAS’s policy to require that bidders, suppliers, and contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants, service providers and suppliers under ECOWAS-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.<sup>1</sup> In pursuance of this policy, the ECOWAS:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>2</sup>;
    - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation<sup>3</sup>;
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- (iii) “collusive practice” is an arrangement between two or more parties<sup>1</sup> designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party<sup>2</sup>;
  - (v) “obstructive practice” is
    - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a ECOWAS investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
    - (bb) acts intended to materially impede the exercise of the ECOWAS’s inspection and audit rights provided for under sub-clause 3.1 (e) below.
  - (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
  - (c) will cancel the portion of the budget allocated to a contract if it determines at any time that representatives of a Country or of a beneficiary of its funds engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the Country having taken timely and appropriate action satisfactory to the ECOWAS to address such practices when they occur; and
  - (d) will sanction a firm or an individual, at any time, in accordance with prevailing ECOWAS’s sanctions procedures<sup>a</sup>, including by publicly declaring such firm or
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individual ineligible, either indefinitely or for a stated period of time:(i) to be awarded a ECOWAS -financed contract; and (ii) to be a nominated<sup>b</sup> subcontractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a ECOWAS - financed contract.

3.2 In further pursuance of this policy, Bidders shall permit the ECOWAS to inspect any accounts and records and other documents relating to the Bid submission and contract performance, and to have them audited by auditors appointed by the ECOWAS.

3.3 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 35.1 (a) (iii) of the General Conditions of Contract.

#### **Eligible Bidders**

4.1 A Bidder, and all parties constituting the Bidder, may have the nationality of any country, subject to the restrictions specified in Section V, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services.

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

(a) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under these Bidding Documents ; or

(b) submit more than one bid in this bidding process, except for alternative offers permitted under ITB Clause 13. However, this does not limit the participation of subcontractors in more than one bid;

4.3-4.4 A firm that has been sanctioned by the ECOWAS in accordance with the above ITB Clause 3.1 (d), or in accordance with the ECOWAS's Guidelines on Preventing and Combating Fraud and Corruption in Projects ECOWAS, shall be ineligible to be

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awarded a ECOWAS-financed contract, or benefit from a ECOWAS -financed contract, financially or otherwise, during such period of time as the ECOWAS shall determine. The list of debarred firms is available at the electronic address specified in the **BDS**.

4.5 Government-owned enterprises shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not a dependent agency of a Public Entity Body.

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

**Eligible Goods and Related Services**

5.1 All the Goods and Related Services to be supplied under the Contract and financed by the ECOWAS may have their origin in any country in accordance with Section V, Eligible Countries.

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

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

### **Contents of Bidding Documents**

**Sections of Bidding Documents**

6.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addendum issued in accordance with ITB Clause 8.

#### **PART 1 Bidding Procedures**

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

## **PART 2 Supply Requirements**

- Section VI. Schedule of Requirements

## **PART 3 Contract**

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

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

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

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents may result in the rejection of the bid.

### **Clarification of Bidding Documents**

7.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Purchaser in writing at the Purchaser's address **specified in the BDS**. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of bids. The Purchaser shall forward copies of its response to all those who have acquired the Bidding Documents directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 8 and ITB Sub-Clause 24.2.

### **Amendment of Bidding Documents**

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

8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the Purchaser.

8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 24.2

## 8.4

**Preparation of Bids**

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|--|---|
| <b>Cost of Bidding</b>                                 | 9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.   |
| <b>Language of Bid</b>                                 | 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Purchaser, shall be written in the language <b>specified in the BDS</b> . Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language <b>specified in the BDS</b> , in which case, for purposes of interpretation of the Bid, such translation shall govern.  |
| <b>Documents<br/>Comprising the<br/>Bid</b>            | <p>11.1 The Bid shall comprise the following:</p> <ul style="list-style-type: none"> <li>(a) Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;</li> <li>(b) Bid Security or Bid-Securing Declaration, in accordance with ITB Clause 21, if required;</li> <li>(c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 22;</li> <li>(d) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;</li> <li>(e) documentary evidence in accordance with ITB Clause 17, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;</li> <li>(f) documentary evidence in accordance with ITB Clauses 18 and 30, that the Goods and Related Services conform to the Bidding Documents;</li> <li>(g) documentary evidence in accordance with ITB Clause 19 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and</li> <li>(h) any other document <b>required in the BDS</b>.</li> </ul> |
| <b>Bid Submission<br/>Form and Price<br/>Schedules</b> | 12.1 The Bidder shall submit the Bid Submission Form using the form furnished in Section IV, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in  |



with the information requested.

- 12.2 The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section IV, Bidding Forms

**Alternative Bids**

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

**Bid Prices and Discounts**

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

- 14.2 All lots and items must be listed and priced separately in the Price Schedules.

- 14.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discounts offered.

- 14.4 The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form.

- 14.5 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, as specified in the **BDS**.

- 14.6 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V Eligible Countries. Similarly, the Bidder may obtain insurance services from any eligible country in accordance with Section V Eligible Countries. Prices shall be entered in the following manner:

- (a) For Goods manufactured in the Purchaser's Country:

- (i) the price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
- (ii) any Purchaser's Country sales tax and other taxes which will be payable on the Goods if the contract is

awarded to the Bidder; and

- (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) specified in the **BDS**.
- (b) For Goods manufactured outside the Purchaser's Country, to be imported:
  - (i) the price of the Goods, quoted CIP named place of destination, in the Purchaser's Country, or CIF named port of destination, as specified in the **BDS**;
  - (ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **BDS**;
  - (iii) in addition to the CIP prices specified in (b)(i) above, the price of the Goods to be imported may be quoted FCA (named place of destination) or CPT (named place of destination), if so specified in the **BDS**;
- (c) For Goods manufactured outside the Purchaser's Country, already imported:

*[For previously imported Goods, the quoted price shall be distinguishable from the original import value of these Goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Purchaser. For clarity the bidders are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference of those values.]*

- (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported.
- (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
- (iii) the price of the Goods, obtained as the difference

between (i) and (ii) above;

- (iv) any Purchaser's Country sales and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
  - (v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **BDS**.
- (d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
- (i) the price of each item comprising the Related Services (inclusive of any applicable taxes).
- 14.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the **BDS**. A Bid submitted with an adjustable price quotation shall be treated as non responsive and shall be rejected, pursuant to ITB Clause 30. However, if in accordance with the **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.8 If so indicated in ITB Sub-Clause 1.1, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the **BDS**, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction (discount) for the award of more than one Contract shall specify the applicable price reduction in accordance with ITB Sub-Clause 14.4 provided the bids for all lots are submitted and opened at the same time.
- Currencies of Bid**
- 15.1 The Bidder shall quote in the currency of the Purchaser's Country the portion of the bid price that corresponds to expenditures incurred in the currency of the Purchaser's country, unless otherwise specified in the **BDS**.
- 15.2 The Bidder may express the bid price in the currency of any country in accordance with Section V, Eligible countries. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall

use no more than three currencies in addition to the currency of the Purchaser's Country.

**Documents**  
**Establishing the**  
**Eligibility of the**  
**Bidder**

- 16.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the Bid Submission Form, included in Section IV, Bidding Forms.

**Documents**  
**Establishing the**  
**Eligibility of the**  
**Goods and**  
**Related**  
**Services**

- 17.1 To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.

**Documents**  
**Establishing the**  
**Conformity of**  
**the Goods and**  
**Related**  
**Services**

- 18.1 To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VI, Schedule of Requirements.
- 18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.
- 18.3 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the BDS** following commencement of the use of the goods by the Purchaser.
- 18.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.

**Documents**  
**Establishing the**

- 19.1 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the

<b>Qualifications of the Bidder</b>	<p>Purchaser's satisfaction:</p> <ul style="list-style-type: none"> <li>(a) that, if <b>required in the BDS</b>, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's Country;</li> <li>(b) that, if <b>required in the BDS</b>, in case of a Bidder not doing business within the Purchaser's Country, the Bidder is or will be (if awarded the contract) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and</li> <li>(c) that the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.</li> </ul>
<b>Period of Validity of Bids</b>	<p>20.1 Bids shall remain valid for the period <b>specified in the BDS</b> after the bid submission deadline date prescribed by the Purchaser. A bid valid for a shorter period shall be rejected by the Purchaser as non responsive.</p> <p>20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 21, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB Sub-Clause 20.3.</p> <p>20.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be adjusted as specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.</p>
<b>Bid Security</b>	<p>21.1 The Bidder shall furnish as part of its bid, a Bid Security or a Bid-Securing Declaration, if required, as <b>specified in the BDS</b>.</p> <p>21.2 The Bid Security shall be in the amount specified in the BDS and denominated in the currency of the Purchaser's Country or a</p>

freely convertible currency, and shall:

- (a) at the bidder's option, be in the form of either a letter of credit, or a ECOWAS guarantee from a banking institution, or a bond issued by a surety;
- (b) be issued by a reputable institution selected by the bidder and located in any eligible country. If the institution issuing the bond is located outside the Purchaser's Country, it shall have a correspondent financial institution located in the Purchaser's Country to make it enforceable.
- (c) be substantially in accordance with one of the forms of Bid Security included in Section IV, Bidding Forms, or other form approved by the Purchaser prior to bid submission;
- (d) be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 21.5 are invoked;
- (e) be submitted in its original form; copies will not be accepted;
- (f) remain valid for a period of 28 days beyond the validity period of the bids **or** as extended, if applicable, in accordance with ITB Clause 20.2;

21.3 If a Bid Security or a Bid- Securing Declaration is required in accordance with ITB Sub-Clause 21.1, any bid not accompanied by a substantially responsive Bid Security or Bid Securing Declaration in accordance with ITB Sub-Clause 21.1, shall be rejected by the Purchaser as non-responsive.

21.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the Performance Security pursuant to ITB Clause 44.

21.5 The Bid Security may be forfeited or the Bid Securing Declaration executed:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Sub-Clause 20.2; or
- (b) if the successful Bidder fails to:
  - (i) sign the Contract in accordance with ITB Clause 43;
  - (ii) furnish a Performance Security in accordance with

## ITB Clause 44.

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

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

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid Form, except as provided in ITB 20.2, or
- (b) if the successful Bidder fails to: sign the Contract in accordance with ITB 43; or furnish a performance security in accordance with ITB 44;

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

**Format and  
Signing of Bid**

22.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 11 and clearly mark it “ORIGINAL.” In addition, the Bidder shall submit copies of the bid, in the number specified in the **BDS** and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

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

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

**Submission and Opening of Bids**

**Submission,  
Sealing and  
Marking of  
Bids**

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

- (a) Bidders submitting bids by mail or by hand, shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB Clause 13, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance

with ITB sub-Clauses 23.2 and 23.3.

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

23.2 The inner and outer envelopes shall:

- (a) Bear the name and address of the Bidder;
- (b) be addressed to the Purchaser in accordance with ITB Sub-Clause 24.1;
- (c) bear the specific identification of this bidding process indicated in ITB 1.1 and any additional identification marks as **specified in the BDS**; and
- (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB Sub-Clause 27.1.

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

**Deadline for  
Submission of  
Bids**

24.1 Bids must be received by the Purchaser at the address and no later than the date and time **specified in the BDS**.

24.2 The Purchaser may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

**Late Bids**

25.1 The Purchaser shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 24. Any bid received by the Purchaser after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

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

26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 23, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 22.2, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

- (a) submitted in accordance with ITB Clauses 22 and 23 (except that withdrawal notices do not require copies), and



in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and

- (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 24.

26.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 26.1 shall be returned unopened to the Bidders.

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

### **Bid Opening**

27.1 The Purchaser shall conduct the bid opening in public at the address, date and time **specified in the BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB Sub-Clause 23.1, shall be as **specified in the BDS**.

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

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

appropriate. Only discounts and alternative offers read out at Bid opening shall be considered for evaluation. No Bid shall be rejected at Bid opening except for late bids, in accordance with ITB Sub-Clause 25.1.

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

### **Evaluation and Comparison of Bids**

#### **Confidentiality**

- 28.1 Information relating to the examination, evaluation, comparison, and postqualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the Contract Award.
- 28.2 Any effort by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and postqualification of the bids or contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB Sub-Clause 28.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.

#### **Clarification of Bids**

- 29.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect to its Bid and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the Evaluation of the bids, in accordance with ITB Clause 31.

#### **Responsiveness of Bids**

- 30.1 The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself.
- 30.2 A substantially responsive Bid is one that conforms to all the

terms, conditions, and specifications of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

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

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

**Nonconformities,  
Errors, and  
Omissions**

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

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

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

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

amount in figures shall prevail subject to (a) and (b) above.

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|  | 31.4 | If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected.   |
| <b>Preliminary Examination of Bids</b>                           | 32.1 | The Purchaser shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 11 have been provided, and to determine the completeness of each document submitted.  |
|  | 32.2 | The Purchaser shall confirm that the following documents and information have been provided in the Bid. If any of these documents or information is missing, the offer shall be rejected.  |
|  | (a)  | Bid Submission Form, in accordance with ITB Sub-Clause 12.1;   |
|  | (b)  | Price Schedules, in accordance with ITB Sub-Clause 12.2;   |
|  | (c)  | Bid Security or Bid Securing Declaration, in accordance with ITB Clause 21, if applicable.   |
|  | (d)  | Delivery Period and Warranty Period  |
| <b>Examination of Terms and Conditions; Technical Evaluation</b> | 33.1 | The Purchaser shall examine the Bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.  |
|  | 33.2 | The Purchaser shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 18, to confirm that all requirements specified in Section VI, Schedule of Requirements of the Bidding Documents have been met without any material deviation or reservation.                       |
|  | 33.3 | If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Bid is not substantially responsive in accordance with ITB Clause 30, it shall reject the Bid.   |
| <b>Conversion to Single Currency</b>                             | 34.1 | For evaluation and comparison purposes, the Purchaser shall convert all bid prices expressed in amounts in various currencies into an amount in a single currency <b>specified in the BDS</b> , using the selling exchange rates established by the source and on the date <b>specified in the BDS</b> . |
| <b>Domestic Preference</b>                                       | 35.1 | Domestic preference shall not be a factor in bid evaluation, unless otherwise <b>specified in the BDS</b> .  |

- Evaluation of Bids**
- 36.1 The Purchaser shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.
- 36.2 To evaluate a Bid, the Purchaser shall only use all the factors, methodologies and criteria defined in ITB Clause 36. No other criteria or methodology shall be permitted.
- 36.3 To evaluate a Bid, the Purchaser shall consider the following:
- (a) evaluation will be done for Items or Lots, as **specified in the BDS**; and the Bid Price as quoted in accordance with clause 14;
  - (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 31.3;
  - (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 14.4;
  - (d) adjustments due to the application of the evaluation criteria **specified in the BDS** from amongst those set out in Section III, Evaluation and Qualification Criteria;
  - (e) adjustments due to the application of a margin of preference, in accordance with ITB Clause 35 if applicable.
- 36.4 The Purchaser's evaluation of a bid will exclude and not take into account:
- (a) In the case of Goods manufactured in the Purchaser's Country, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;
  - (b) in the case of Goods manufactured outside the Purchaser's Country, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder;
  - (c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.
- 36.5 The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors,

methodologies and criteria to be used shall be as specified in ITB 36.3 (d).

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| <p><b>Comparison of Bids</b></p>   | <p>36.6 If so <b>specified in the BDS</b>, these Bidding Documents shall allow Bidders to quote separate prices for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations, is specified in Section III, Evaluation and Qualification Criteria.</p>   |
| <p><b>Postqualification of the Bidder</b></p>                                    | <p>37.1 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 36.</p> <p>38.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is qualified to perform the Contract satisfactorily.</p> <p>38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 19.</p> <p>38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Purchaser shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.</p> |
| <p><b>Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids</b></p> | <p>39.1 The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.</p>  |

### **Award of Contract**

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| <p><b>Award Criteria</b></p>  | <p>40.1 The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.</p>  |
| <p><b>Purchaser's Right to Vary Quantities at Time of Award</b></p> | <p>41.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VI, Schedule of Requirements, provided this does not exceed the percentages <b>specified in the BDS</b>, and without any change in the unit prices</p> |

or other terms and conditions of the bid and the Bidding Documents.

**Notification of  
Award**

- 42.1 Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its Bid has been accepted.
- 42.2 Until a formal Contract is prepared and executed by both parties, the notification of award shall not constitute a binding Contract.
- 42.3 The Purchaser shall publish in ECOWAS WEBSITE the results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful bidders may request in writing to the Purchaser for a debriefing seeking explanations on the grounds on which their bids were not selected. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after Publication of contract award, requests a debriefing.
- 42.4 Upon the successful Bidder's furnishing of the signed Contract Form and performance security pursuant to ITB Clause 44, the Purchaser will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Clause 21.4.

- Signing of Contract**
- 43.1 Promptly after notification, the Purchaser shall send the successful Bidder the Agreement and the Special Conditions of Contract.
- 43.2 Within twenty-eight (28) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Purchaser.
- 43.3 Notwithstanding ITB 43.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Bidder shall not be bound by its bid, always provided, always provided, however, that the Bidder can demonstrate to the satisfaction of the Purchaser that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.
- Performance Security**
- 44.1 Within twenty eight (28) days of the receipt of notification of award from the Purchaser, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section IX Contract forms, or another Form acceptable to the Purchaser. The Purchaser shall promptly notify the name of the winning Bidder to each unsuccessful Bidder and discharge the Bid Securities of the unsuccessful bidders pursuant to ITB Sub-Clause 21.4.
- 44.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security or execution of the Bid-Securing Declaration. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.



## Section II. Bidding Data Sheet (BDS)

ITB Clause Reference	A. General
ITB 1.1	The Purchaser is: <b>ECOWAS Commission</b>
ITB 1.1	<p>The name and identification number of the RCB are: <b>“SUPPLY AND INSTALLATION OF CYBERSECURITY SOFTWARE FOR ECOWAS COMMISSION”</b> in one (1) lot.</p> <p><b>Bid reference: <u>RCB No: 01/ECW-DAGS-DITS/2023</u></b></p> <p><b>The successful bidder shall supply, install and configure the cybersecurity software as stated in the bidding document (where applicable) and in line with the technical specifications.</b></p>
ITB 2.1	<b>ECOWAS INSTITUTIONS BUDGET FOR THE YEAR 2023</b>
ITB 4.1	<b>In pursuance of Community human and financial capacity development in ECOWAS, foreign firms that do not enter into joint venture agreement with Member States’ firms shall not be eligible to participate in a tender process.</b>
ITB 4.3-4.4	A list of debarred firms is available at ECOWAS Commission.
	<b>B. Contents of Bidding Documents</b>
ITB 7.1	<p>For <b><u>Clarification of bid purposes</u></b> only, the Purchaser’s address is:</p> <p>Interested Bidders may obtain further information at the address below, during office hours: Monday to Friday from <b>9.00am to 4.00pm (Nigeria Time, GMT+1)</b>, ECOWAS Commission, Directorate of General Administration, Procurement Division, 1st Floor, Plot 101, Yakubu Gowon Crescent, Asokoro District, PMB 401 Abuja Nigeria. E-mail: <a href="mailto:procurement@ecowas.int">procurement@ecowas.int</a> ; with copy to <a href="mailto:sbangoura@ecowas.int">sbangoura@ecowas.int</a>; <a href="mailto:wajala@ecowas.int">wajala@ecowas.int</a>; <a href="mailto:aadebayo@ecowas.int">aadebayo@ecowas.int</a>; <a href="mailto:ikamara@ecowas.int">ikamara@ecowas.int</a>; <a href="mailto:neremie@ecowas.int">neremie@ecowas.int</a></p>
	<b>C. Preparation of Bids</b>
ITB 10.1	<p>The language of the bid are: <b>“English” or “French”</b>:</p> <p><b>Bidders shall submit its Bid in the language of its choice (English or French).</b></p>

ITB 11.1	<p>The submission of the following documents are required from the bidders and will be checked at the preliminary phase of the evaluation:</p> <ul style="list-style-type: none"> <li>✓ Cover Letter duly signed by the company's authorized signatory;</li> <li>✓ Provide Bid Security (ORIGINAL Bank Guarantee);</li> <li>✓ Not be in cessation of activity (bankruptcy), The bidder SHALL provide the relevant document; (certificate of non-bankruptcy or a declaration of honor of non-bankruptcy);</li> <li>✓ Certified true copy of Certificate of Incorporation / Registration issued by the Relevant Authority of the bidder's country (such as Corporate Affairs Commission (CAC) for Nigeria). Foreign Companies are also requested to provide proof of partnership with ECOWAS National Company(ies) in line with Clause 4.1;</li> <li>✓ Certified True Copy of Tax Clearance Certificates issued by the relevant Authority for any of the three (3) out of the following four (4) years (2019, 2020, 2021 and 2022);</li> <li>✓ Submit a letter indicating the three (3) years warranty and components that are covered in the manufacturing warranty. The letter must be signed and stamped.</li> <li>✓ NB: The company must ensure that it meets all of these criteria; failure to comply with any of these criteria will disqualify the bidder.</li> </ul> <p>Please note that all the above requirements are mandatory for the acceptance of the bids at the stage of pre-qualification.</p> <p>The Non-Submission of any of these documents will lead to the disqualification of the Bidder.</p>
ITB 13.1	Alternative Bids <b>shall not be</b> considered.
ITB 14.5	The Incoterms edition is: <b>Incoterms 2020</b> .
ITB 14.6 (b) (i) and (c) (iii)	<p>Place of destination: <b>DAP Abuja, ECOWAS, 101, Yakubu Gowon Crescent Asokoro District, PMB 401, Abuja Nigeria.</b></p> <p><b>ECOWAS is a Diplomatic International Organization exempted from duties and taxes on all goods imported on its behalf. For this Procurement Process, all items shall be exclusively imported for ECOWAS Commission and ECOWAS will provide to the successful bidder Exemption on custom duties and taxes certificate to facilitate the importation of the items on its behalf. All bidders are therefore invited to quote EXCLUSIVE OF TAXES and CUSTOM DUTIES. THE PRICE IS ALSO EXCLUSIVE OF VAT.</b></p>

<b>ITB 14.6 (a) (iii);(b)(ii) and (c)(v)</b>	<b>“Final destination (Project Site)”:</b> ECOWAS Commission, 101, Yakubu Crescent Asokoro District, PMB 401, Abuja Nigeria.
<b>ITB 14.6 (b) (iii)</b>	In addition to the <b>DAP</b> price specified in ITB 14.6 (b)(i), the price of the Goods manufactured outside the Purchaser’s Country shall be quoted: <b>Not applicable</b>
<b>ITB 14.7</b>	The prices quoted by the Bidder <b>shall not be</b> adjustable.  <b>Bidders are invited to Bid in US Dollars (\$US) and the payment related to the Contract SHALL be made in USD.</b>
<b>ITB 15.1</b>	The Bidder <b>is not</b> required to quote in the currency of the Purchaser’s Country the portion of the bid price that corresponds to expenditures incurred in that currency.
<b>ITB 19.1 (b)</b>	<b>The Manufacturer/Developer’s Authorization SHALL be provided for the proposed software (a template to be filled by the Manufacturer/Developer is mentioned in page 51 of the bidding document). The authorization shall be from the Manufacturer/Developer not from the distributor and the contact details of the Manufacturer/Developer (phone, e mail and physical address SHALL be duly provided by the bidder). The warranty shall be certificated from the Manufacturer/Developer (Manufacturer/Developer certificate of authorization).</b>  <b>A bidder who is not operating business in the Purchaser Country (Nigeria) MUST provide proof of representation by an Agent or a partner to carry out After Sales Services of the software.</b>
<b>ITB 20.1</b>	The bid validity period shall be <b>One hundred and Twenty (120) days.</b> <b>Bidders MUST clearly indicate the price validity terms in their Bid.</b>
<b>ITB 21.1</b>	<b>Bids shall include a Bid Security (ORIGINAL Bank Guarantee issued by a bank) included in Section IV Bidding Forms.</b>  <b>If the Banking Institution issuing the Bank Guarantee is located outside the ECOWAS fifteen (15) Member States, it shall have a correspondent Financial Institution located in one of the fifteen (15) Member States to make it enforceable. Bidders are invited to strictly follow this instruction.</b>
<b>ITB 21.2</b>	The amount of the Bid Security shall be: <ul style="list-style-type: none"><li>the sum of <b>Five Thousand US Dollars (US\$ 5,000)</b> or its equivalent in one of the currencies of one of the ECOWAS member countries.</li></ul> <b>The Bid Security (ies) SHALL REMAIN VALID for 150 Days after bid</b>

	<b>opening.</b>
<b>ITB 22.1</b>	<p>Bids (1 original and 3 Copies) SHALL be delivered in a sealed envelope.</p> <p>Number of copies: In addition to the Original, three (3) Copies shall be submitted in a sealed envelope.</p> <p>Bidders are also invited to provide an electronic copy (PDF and Excel Sheet) of their Bid on a USB flash Drive. The electronic copy of shall also be inserted in the envelope.</p>
	<b>D. Submission and Opening of Bids</b>
<b>ITB 23.1</b>	Bidders <b>shall not</b> have the option of submitting their bids electronically.
<b>ITB 23.1 (b)</b>	<b>Not applicable</b>
<b>ITB 23.2 (c)</b>	<p>The inner and outer envelopes <b>SHALL</b> bear the following additional identification marks: <b>“SUPPLY AND INSTALLATION OF CYBERSECURITY SOFTWARE FOR ECOWAS COMMISSION”</b>.</p> <p><b>“Do Not Open, Except in Presence of the OPENING COMMITTEE”</b>.</p> <p>The envelope <b>SHALL</b> also indicate the bidder’s name.</p>
<b>ITB 24.1</b>	<p>For bid submission purposes, the Purchaser’s address is:</p> <p>Attention: <b>ECOWAS Commission Opening Committee</b></p> <p>Address: <b>Bids should be delivered in a sealed envelope and deposited in the ECOWAS Tender Box located at the Department of Administration &amp; General Services, Procurement Division Office, 1st Floor, ECOWAS Commission, 101, Yakubu Gowon Crescent, Asokoro District, Abuja, Nigeria.</b></p> <p>The deadline for the submission of bids is:</p> <p>Date: <b>Friday, 14th July 2023</b></p> <p>Time: <b>11:00 am (Nigeria Time, GMT+1)</b></p>
<b>ITB 27.1</b>	<p>The bid opening shall take place at:</p> <p>Street Address: <b>101, Yakubu Gowon Crescent Asokoro District, Abuja, Nigeria</b></p> <p>Floor/ Room number: <b>Conference Room N°523, 5th floor, ECOWAS COMMISSION/ (Alternatively a link will be sent for a virtual opening session).</b></p> <p>Date: <b>Friday, 14<sup>th</sup> July 2023</b></p> <p>Time: <b>11:30 a.m. (Nigeria Time, GMT+1)</b></p>
<b>ITB 27.1</b>	If electronic bid submission is permitted in accordance with ITB sub-clause 23.1, the specific bid opening procedures shall be: <b>Not Applicable</b>

	<b>E. Evaluation and Comparison of Bids</b>
<b>ITB 32.2</b>	<p><b><u>Delivery schedule.</u></b>  The cybersecurity software shall be delivered within a <b><u>Minimum Period of Thirty (30) days and Maximum of Sixty (60) days</u></b>, from the date of signing of the contract (the date of last signature being the valid date),  The supplier's invoice should include description, quantity, unit price and total amount.  <b>Bidders SHALL clearly indicate the Delivery Period of their goods in their Bid, and</b>  <b>Bidders will be assessed based on their capability to deliver the goods within the required delivery period as this is an essential requirement.</b></p>
<b>ITB 34.1</b>	<p>Bid prices expressed in different currencies shall be converted in: <b>US Dollars (USD)</b>  The source of exchange rate shall be: Monthly Exchange rates established by the ECOWAS Bank for Investment and Development (EBID).  The date of exchange rates is: <b>15th day before the closing date for submission of Bids; the submission deadline being included.</b></p>
<b>ITB 35.1</b>	Domestic preference <b>shall not be</b> a bid evaluation factor.
<b>ITB 36.3(a)</b>	<b>Not Applicable</b>
<b>ITB 36.3(d)</b>	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria:</p> <p>(a) Wanted related services:</p> <ul style="list-style-type: none"> <li>• <b>Technical Manual for the proposed equipment;</b></li> <li>• <b>Training of ECOWAS DITS Staff;</b></li> <li>• <b>All Equipment shall be covered with a Three (03) years warranty (if applicable).</b></li> </ul> <p><b>NB: These related services are an integral part of the offer.</b></p>
<b>ITB 36.6</b>	Bidders <b>shall be</b> allowed to quote separate prices for one or more lots.
	<b>F. Award of Contract</b>
<b>ITB 40.1</b>	<b>The contract will be awarded to the to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.</b>
<b>ITB 41.1</b>	<p>The maximum percentage by which quantities may be increased is: <b>10%</b>  The maximum percentage by which quantities may be decreased is: <b>10%</b></p>



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## **Section III. Evaluation and Qualification Criteria**

### **Contents**

#### **Post qualification Requirements (ITB 38.2)**

##### **1. Post Qualification Requirements (ITB 38.2)**

After determining the lowest-evaluated bid in accordance with ITB Sub-Clause 37.1, the Purchaser shall carry out the post qualification of the Bidder in accordance with ITB Clause 38, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Bidder's qualifications.

##### **a) Financial Capability**

The Bidder shall furnish documentary evidence that it meets the following financial requirement(s):

- 1) **Certified Audited Financial Statements for any of the three (3) out of the following four (4) years (2019, 2020, 2021 and 2022) showing an average turnover at least equal to the amount of its offer. The Audited financial statement SHALL be duly signed by a Certified Auditing Firm with indication of the contact and address of the Audit Firm for purpose of verification if necessary.**

**Also note that the auditor certifying the company audited financial statement MUST also be certified by the relevant authorities.**

**NB: The non-presentation of the Certified Audited Financial Statements for any of the three (3) out of the following four (4) years (2019, 2020, 2021 and 2022), will lead to the disqualification of the bidder.**

- 2) **The Bidder SHALL provide a line of credit (issued by the Bidder's Bank) equivalent to at least thirty percent (30%) of the amount of the offer. The Bidder's Bank SHALL certify the latter's agreement to make available to the client the liquidity facilities in the form of a credit line.**

**b) Experience and Technical Capacity**

The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s):

- 1) The Bidder SHALL demonstrate having executed at least two (2) similar contracts during the last five (5) years (2018, 2019, 2020, 2021, and 2022) as Main Supplier with the value for each contract at least equal to the Amount of its Bid.**

For this purpose, the Bidder SHALL provide the following as indicated below:

Experience will be considered only when evidence are provided and can be checked as follows:

- Identifiable Delivery Note for each similar job undertaken;
- The Certificate of Job Completion for each similar contract executed, issued by the client for the said contract;
- The Contact address of the Client shall also be provided for verifications.

**NB: The non-presentation of the Identifiable Delivery Note and Job Completion Certificate, will lead to the rejection of the said experience.**

**c) The Developer's Authorization**

- The bidder who does not develop the proposed software, **MUST** submit the Developer's Authorization, authorizing the bidder to submit a Bid for the proposed software.



## **Section IV. Bidding Forms**

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## Bidder Information Form

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

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

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

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

1. Bidder's Legal Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each party: <i>[insert legal name of each party in JV]</i>
3. Bidder's actual or intended Country of Registration: <i>[insert actual or intended Country of Registration]</i>
4. Bidder's Year of Registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Legal Address in Country of Registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information  Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.  <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB Sub-Clause 4.1.  <input type="checkbox"/> In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 4.5.

## Joint Venture Partner Information Form

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

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

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

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

1. Bidder's Legal Name: <i>[insert Bidder's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>
4. JV's Party Year of Registration: <i>[insert JV's Part year of registration]</i>
5. JV's Party Legal Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i>
6. JV's Party Authorized Representative Information Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>
7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 2, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.  <input type="checkbox"/> In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 4.5.

## Bid Submission Form

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

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

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

Invitation for Bid No.: *[insert No of IFB]*

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

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: \_\_\_\_\_ *[insert the number and issuing date of each Addenda];*
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods and Related Services \_\_\_\_\_ *[insert a brief description of the Goods and Related Services];*
- (c) The total price of our Bid, excluding any discounts offered in item (d) below, is: \_\_\_\_\_ *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies];*
- (d) The discounts offered and the methodology for their application are:

**Discounts.** If our bid is accepted, the following discounts shall apply. \_\_\_\_\_ *[Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies.]*

**Methodology of Application of the Discounts.** The discounts shall be applied using the following method: \_\_\_\_\_ *[Specify in detail the method that shall be used to apply the discounts];*

- (e) Our bid shall be valid for the period of time specified in ITB Sub-Clause 20.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 24.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with ITB Clause 44 and GCC Clause 18 for the due performance of the Contract;
- (g) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries \_\_\_\_\_ *[insert the nationality of the Bidder,*

*including that of all parties that comprise the Bidder, if the Bidder is a JV, and the nationality each subcontractor and supplier]*

- (h) We have no conflict of interest in accordance with ITB Sub-Clause 4.2;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the Bank, under the Purchaser’s country laws or official regulations, in accordance with ITB Sub-Clause 4.3;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

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

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

- (k) We 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.

Signed: \_\_\_\_\_ *[insert signature of person whose name and capacity are shown]*  
 In the capacity of \_\_\_\_\_ *[insert legal capacity of person signing the Bid Submission Form]*

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

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

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

## **Price Schedule Forms**

## Price Schedule: Goods Manufactured Outside the Purchaser's Country, to be Imported

(Group C bids, goods to be imported)  Currencies in accordance with ITB Sub-Clause 15								Date: _____ RCB No: _____  Alternative No: _____ Page N° _____ of _____
1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price CIP <i>[insert place of destination]</i> in accordance with ITB 14.6(b)(i)	CIP Price per line item (Col. 5x6)	Price per line item for inland transportation and other services required in the Purchaser's country to convey the Goods to their final destination specified in BDS	Total Price per Line item (Col. 7+8)
<i>[insert number of the item]</i>	<i>[insert name of good]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price CIP per unit]</i>	<i>[insert total CIP price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[insert total price of the line item]</i>
Total Price								

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

## Price Schedule: Goods Manufactured Outside the Purchaser's Country, already imported

(Group C bids, Goods already imported)  Currencies in accordance with ITB Sub-Clause 15										Date: _____ RCB No: _____ Alternative No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7	8	9	10	11	12
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid, in accordance with ITB 14.6(c)(i)	Custom Duties and Import Taxes paid per unit in accordance with ITB 14.6(c)(ii) , [to be supported by documents]	Unit Price net of custom duties and import taxes, in accordance with ITB 14.6 (c) (iii) (Col. 6 minus Col.7)	Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITB 14.6(c)(i) (Col. 5×8)	Price per line item for inland transportation and other services required in the Purchaser's country to convey the goods to their final destination, as specified in BDS in accordance with ITB 14.6 (c)(v)	Sales and other taxes paid or payable per item if Contract is awarded (in accordance with ITB 14.6(c)(iv)	Total Price per line item (Col. 9+10)
<i>[insert number of the item]</i>	<i>[insert name of Goods]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per unit]</i>	<i>[insert custom duties and taxes paid per unit]</i>	<i>[insert unit price net of custom duties and import taxes]</i>	<i>[insert price per line item net of custom duties and import taxes]</i>	<i>[insert price per line item for inland transportation and other services required in the Purchaser's country]</i>	<i>[insert sales and other taxes payable per item if Contract is awarded]</i>	<i>[insert total price per line item]</i>
Total Bid Price											

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



## Price Schedule: Goods Manufactured in the Purchaser's Country

Purchaser's Country _____				(Group A and B bids)  Currencies in accordance with ITB Sub-Clause 15				Date: _____ RCB No: _____ Alternative No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7	8	9	10
Line Item N°	Description of Goods	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4x5)	Price per line item for inland transportation and other services required in the Purchaser's Country to convey the Goods to their final destination	Cost of local labor, raw materials and components from with origin in the Purchaser's Country % of Col. 5	Sales and other taxes payable per line item if Contract is awarded (in accordance with ITB 14.6(a)(ii))	Total Price per line item (Col. 6+7)
<i>[insert number of the item]</i>	<i>[insert name of Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert EXW unit price]</i>	<i>[insert total EXW price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[Insert cost of local labor, raw material and components from within the Purchase's country as a % of the EXW price per line item]</i>	<i>[insert sales and other taxes payable per line item if Contract is awarded]</i>	<i>[insert total price per item]</i>
Total Price									

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

## Price and Completion Schedule - Related Services

Currencies in accordance with ITB Sub-Clause 15					Date: _____ RCB No: _____ Alternative No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7
Service N°	Description of Services (excludes inland transportation and other services required in the Purchaser's country to convey the goods to their final destination)	Country of Origin	Delivery Date at place of Final destination	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6 or estimate)
<i>[insert number of the Service ]</i>	<i>[insert name of Services]</i>	<i>[insert country of origin of the Services]</i>	<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item]</i>	<i>[insert total price per item]</i>
<b>Total Bid Price</b>						

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

## Bid Security (Bank Guarantee)

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

*[Bank's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_ *[Name and Address of Purchaser]*

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

**BID GUARANTEE No.:** \_\_\_\_\_

We have been informed that *[name of the Bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated (hereinafter called "the Bid") for the execution of *[name of contract]* under Invitation for Bids No. *[IFB number]* ("the IFB").

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

At the request of the Bidder, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (*[amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity, (i) fails or refuses to execute the Contract Form; or (ii) fails or refuses to furnish the performance security, if required, in accordance with the Instructions to Bidders.

This guarantee will expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder; or (ii) twenty-eight days after the expiration of the Bidder's Bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

\_\_\_\_\_  
*[signature(s)]*

## Bid Security (Bid Bond): Not applicable

*[The Surety shall fill in this Bid Bond Form in accordance with the instructions indicated.]*

BOND NO. \_\_\_\_\_

BY THIS BOND *[name of Bidder]* as Principal (hereinafter called “the Principal”), and *[name, legal title, and address of surety]*, **authorized to transact business in** *[name of country of Purchaser]*, as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[name of Purchaser]* as Obligee (hereinafter called “the Purchaser”) in the sum of *[amount of Bond]*<sup>6</sup> *[amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the Purchaser dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the construction of *[name of Contract]* (hereinafter called the “Bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (a) withdraws its Bid during the period of bid validity specified in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by the Purchaser during the period of Bid validity; (i) fails or refuses to execute the Contract Form; or (ii) fails or refuses to furnish the Performance Security, if required, in accordance with the Instructions to Bidders.

then the Surety undertakes to immediately pay to the Purchaser up to the above amount upon receipt of the Purchaser’s first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration of the Bid validity as stated in the Invitation to Bid or extended by the Purchaser at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Principal: \_\_\_\_\_ Surety: \_\_\_\_\_  
Corporate Seal (where appropriate)

\_\_\_\_\_  
(Signature)  
(Printed name and title)

\_\_\_\_\_  
(Signature)  
(Printed name and title)

<sup>6</sup> The amount of the Bond shall be denominated in the currency of the Purchaser’s country or the equivalent amount in a freely convertible currency.

## **Bid-Securing Declaration (Not Applicable)**

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

Date: *[date (as day, month and year)]*

Bid No.: *[number of bidding process]*

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

To: *[complete name of Purchaser]*

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 Purchaser for the period of time of *[number of months or years]* starting on *[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 Form of Bid; or
- (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, in accordance with the ITB.

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

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

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

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

## Manufacturer/Developer's Authorization

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

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

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

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

To: *[insert complete name of Purchaser]*

### WHEREAS

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

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

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

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

Title: *[insert title]*

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

## Section V. Eligible Countries

### Eligibility for the Provision of Goods, Works and Services in ECOWAS-Financed Procurement

1. In accordance with the ECOWAS tender code, the tender code permits firms and individuals from all countries to offer goods, works and services for ECOWAS-financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:
  - as a matter of law or official regulation, ECOWAS prohibits commercial relations with a Country, provided that the ECOWAS is satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works required, or
  - 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, ECOWAS prohibits any import of goods from that Country or any payments to persons or entities in that Country.
  - In application of the clause ITB 4.1 of the bidding document (bidding data sheet)
2. For the information of bidders, at the present time firms, goods and services from the following countries are excluded from this bidding: **Not Applicable**





## **PART 2 – SUPPLY REQUIREMENTS**



## **Section VI. Schedule of Requirements**

### **Contents**

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## 1. List of Goods and Delivery Schedule

*[The Purchaser shall fill in this table, with the exception of the column “Bidder’s offered Delivery date” to be filled by the Bidder]*

### **PURCHASER INFORMATION TO BIDDERS:**

**FINAL DESTINATION:** ECOWAS Commission,  
101 Yakubu Gowon Crescent,  
Asokoro District, Abuja, Nigeria

**DELIVERY PERIOD:** Minimum of Thirty (30) days and Maximum of Sixty (60) days.

**BIDDERS SHALL INDICATE THE DELIVERY PERIOD IN THEIR BIDS:**

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## 2. List of Related Services and Completion Schedule

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- Technical Manual for all proposed equipment,
- Training of ECOWAS IT Staff;
- All Equipment shall be covered with a Three (3) years warranty.

## 2. Technical Specifications



### **ECONOMIC COMMUNITY OF WEST AFRICAN STATES**

### **SUPPLY AND INSTALLATION OF CYBERSECURITY SOFTWARE** **FOR ECOWAS COMMISSION**

#### **A. INTRODUCTION**

The Economic Community of West African States (ECOWAS) was established by a Treaty signed on 28th May 1975, and revised on 24th July 1993, to promote cooperation and economic integration in West Africa. It comprises of fifteen (15) Member States. The revised Treaty provides for the establishment of various Community Institutions including the Authority of Heads of State and Government; The Council of Ministers; The Community Parliament; The Community Court of Justice; The Commission Headquarters; The ECOWAS Bank for Investments & Development; as well as other institutions and specialized technical commissions.

Three of the Community Institutions namely, the Community Parliament; the Community Court of Justice and the Commission Headquarters, are in Abuja, Nigeria with Court of Justice and the Commission having one and three additional annex buildings respectively.

#### **B. OBJECTIVE**

Due to the incessant security breaches in today's network environment, the office is looking for a robust and agile software to counter and reduce to the barest minimum the threat that is common in the cyberspace.

#### **C. SPECIFICATIONS OF SYSTEM**

The requirement for the system setup must be specified within the quotation and quoted for.

The software should be versatile to protect both the network and computer systems within the internal network and the cloud systems. It should be able to do the following and more:

1. It must be a self-learning platform and have an adaptive approach, that uses proven artificial intelligence to learn about the environment in which it finds itself and detect and autonomously respond to deviations from normal activity.
2. It should visually represent all network activity and connections between all machines and users (internally and externally).
3. Analyze both the network and client devices traffic in order to identify the presence of malware that can cause slowness of the network and loss of data.
4. The software must be scalable and operates on multi-operating systems. For example, Linux and Windows.
5. It must have a unique combination of functionalities such as deep packet inspection and ingesting VPN logs.
6. It must consider multiple data parameters when checking a certain behavior, among the parameters it should be possible to at least have the following options: Connections, external connections, internal connections, data transfer, external data transfer, lateral movement, internal SMB connections, closed-port connections, broadcasts, connected devices, data transfer (client), data transfer (server), among other relevant metrics.
7. Must have the ability to create and enforce custom models & network access control policies.
8. Must automatically provide a complete audit trail of all devices in the environment, pre-sorting at least the device type, hostname, mac address, the first and last time the device was seen on the network.
9. Detect all threats within the environment and natively respond (without the need for integration) in real time to contain unpredictable and fast-moving attacks.
10. Automatically investigate any unusual behavior within the network and provide an easy-to-understand incident investigation report of the incident at hand
11. To respond proportionally and surgically to such attack by containing the malware with no service disruption to the organizations normal business activity – enforce normal behavior.
12. The technology must have its own mobile app available in both Google Play and Apple Store in order to enable remote management of incidents.
13. Integrate with other third-party alerts systems.
14. Augment and empower human admins by reducing time to investigate and remediate threats.
15. Send proactive threat notifications to the network and system admins.
16. Must provide continuous free online e-learning training videos and materials.
17. Professional services should not be chargeable – onboarding support should be included in the overall cost.
18. The cybersecurity solution must be ISO 27001 compliant.

#### **D. FUNCTIONAL REQUIREMENT**

1. Ability to learn and self-detect local, network and cloud-based threats.

2. Able to reveal hidden attacks in real time using machine learning, data science, and behavioral analytics.
3. Ability to automatically trigger responses from existing security enforcement points by driving dynamic incident response rules.
4. Capability to determine exploits that exist in historical data.
5. Ability to prompt for the investigation of incidents with actionable context about compromised devices and workloads over time.
6. Capacity to track attacks and find all devices or workloads accessed by compromised accounts and identify files involved in exfiltration.
7. Ability to connect threat entities related to the original incident such as malicious files, suspicious IP addresses, and rogue entities to draw relationships among these entities.
8. Capability to extract files features, conduct deep analysis and determine if a file is benign or malicious before the execution.
9. Ability to automatically investigate threats incidents.
10. Ability to use behavioural detection algorithms to collect network metadata, logs, and cloud events. It further analyses these events and stores them to reveal hidden attackers in workloads and user/IoT devices.
11. Capability to notify security administrators/analyst of any incident based on priority level.
12. Have a clear and extensive dashboard for proper monitoring of threats environment.
13. Can be integrated to other security solutions especially SIEM.
14. Have out-of-the-box report based on threats scenarios and security standards. Ability to customized report based on security requirement.
15. Ability to export report in various readable format such as pdf, csv etc.
16. Capacity to neutralize attacks at machine speed and with surgical precision.
17. Provision of unified and bespoke protection across device, email, cloud, IoT, and network.
18. Ability to identify, autonomously respond and neutralize in-progress threats immediately.
19. Capacity to detect insider theft and compromised credentials.
20. Offering Unified coverage across hybrid and multicloud environments.
21. Provision of 100% real-time visibility that leaves no blind spots for attackers.
22. Ability to surgically neutralize threats without disrupting the day-to-day business activities.
23. Provision of full audit logs and various standard compliance reports.
24. Ability to detect and classify unusual behavior, as it emerges on the network.
25. Ensuring understanding of the business by learning across the network and control systems.
26. Ability to operate as a layered, unified system that updates its decisions in light of new evidence.
27. Provision of accurate & precise action against the full range of targeted email and other network related attacks.
28. Protection against inbound and outbound Data Loss.
29. Must be able to work with default office 365 controls and its security protocols.
30. Ability to learn on the job to detect novel attacks and insider threats.
31. Capability to flag cyber-threats regardless of where they originate.
32. Ability to gather data and perform analysis at speed and scale.

33. Must be able to interrupt and terminate an ongoing attack.
34. Provision of capacity and tools to fight back against potential threats and hacks.
35. Ability to protect email against social engineering, Account hijacking, Supply chain attacks, Data loss, Impersonation, Domain spoofing, Drive-by phishing, Email borne extortion etc.

## **E. TECHNICAL REQUIREMENTS**

1. Must be able to integrate with external log management systems.
2. The false positive threat identification should be less than 1% of the installed ECOWAS devices at any given time.
3. The cloud-based administrative console and local admin console should always be responsive and accessible from anywhere to provide secure access to monitor and manage the solution.
4. The solution should not cause performance degradation on the installed ECOWASs' systems.
5. The solution should provide both real-time and historical reporting capability that is intuitive and easy to use, and the results should be exportable in multiple formats.
6. Only relevant information should be presented to the authorized console user (i.e., security trimmed) based on the user's role in the system. However, the console administrator(s) should have ultimate access to the system and all its components.
7. The detected threat information should be communicated to the system administrators and designated staff in real-time.
8. The console/dashboard should provide all summary statistics in its main landing page.
9. Statistics for a different type of threats should be simultaneously displayed in a real-time in the vendor's dashboard. Real-time threat statistics should be displayed in graphical and numerical forms.
10. The solution should have an open reporting architecture that easy to share and export to other systems.
11. The solution should provide the capability to generate status reports for the monitored devices on a predefined schedule.
12. The management system should be able to provide real time notification such as email, test messages etc. on any types of security events to the designated officers.
13. Status reports should be generated in major acceptable format (HTML, CSV, PDF etc.) to be shared and made available to appropriate authority and on approved platform (intranet).
14. The solution should provide standardized, customized, and ad hoc reporting of the protected systems in both a real-time and a date range basis.
15. The administration console should be available to any authorized ECOWAS staff on any device and anytime.
16. Solution's web console should be capable of filtering and sorting events to show only security-related data that is relevant and requires immediate attention.
17. Integration/Interoperate with Active Directory through ADFS to provide access to system functions in addition to the console's local security database.
18. Provide extensive Role-Based-Access (RBAC) to the administrative console to authorized staff to enable ECOWAS staff to complete their workloads promptly.



19. Audit assistive features that can produce reports given a specific file, signature, or behaviour and provide information on how many endpoints were infected, how fast the infection spread, and average time to remediation.
20. Provide easy and intuitive global search capability that provides an intuitive drill-down interface to assist in the investigation of suspicious activities/incidents.
21. Where applicable prevent the end user's right to uninstall agent from the ECOWAS-owned devices by end- users who have elevated (high privileged) access on those systems
22. Able to investigate and mitigate the potentially infected systems remotely.
23. Integration with the ECOWAS future service desk/management system to be able to automate the creation of incident tickets.

## F. TRAINING AND SUPPORT

1. Provide certified software training for four (4) employees of the ECOWAS.
2. The training must be formal classroom training and cover all key concepts and specific to the proposed solution.
3. Describe if, how, and from where you will provide 24 x 7 support and the time frame of guaranteed initial response time during the acceptance period.
4. Preference will be given to those who provide support based in Nigeria.
5. Specify your capability to provide local and remote support as it may be required.
6. Include a proposed Service Level Agreement (SLA) which contains support levels, priority levels, response times, information confidentiality, and penalty clause and contact methods.

## G. OTHER REQUIREMENTS

1. **Overview of the firm:** We need a brief outline of Bidder's experience along with pertinent corporate details including full legal company name; year the company was established; and number of people currently employed.
2. **Project and Client Management:** We need a detailed description of the approach and methodology for managing projects and client relationships.
3. **Project Schedule:** We need a detailed breakdown of the timeline to complete the project.
4. **Client Reference List:** We need a client list for similar supplies/deployment completed in the last three years for three different clients.
5. **Project Costs:** The Bidder shall provide total fixed cost and any other related/applicable recurring cost.

## H. QUALIFICATIONS AND EXPERIENCE

The following are required of a potential supplier:

1. The supplier must be a well-established ICT company and an authorized dealer or representative of the software developer.

2. The supplier **MUST** visit the site to assess the peculiarity of the environment and make necessary recommendation for installation accessories before submitting a quote. **NO** additional accessories will be entertained after the signing of the contract.
3. Proposal must provide evidence of bidder's having supplied and installed similar systems to other organizations.
4. The Supplier must meet with other standard ECOWAS procurement requirements as may be specified in the standard bidding document.

The contractor should review (as stated in the proposed methodology in paragraph «e. H» under, the minimum specifications highlighted above and eventually propose adjustment and improvement to ensure an appropriate and stable electricity supply system at each site.

#### **Other technical information and requirement**

1. **M.** All hardware products and services supplied must be provided with appropriate manuals.
2. **M.** The Contractor **MUST** provide system documentation that is clear, concise, and presented in a professional manner both in hard copy and in electronic format. Modifications to hardware and system software carried out either by the manufacturer and /or contractor or third party contractors should be fully specified and documented for ECOWAS.
3. **M.** The Contractor **MUST** ensure that all manuals and training materials are available two weeks in advance of the training sessions to which they relate. The Contractor must indicate which documents are to be provided as part of the installations.
4. **M.** Hardware installation manuals and set-up procedures should include:
  - (a) System modifications
  - (b) System protocol requirements
  - (c) Conceptual Design

### **F. CAPACITY BUILDING AND TRAINING REQUIREMENTS**

#### **a. Capacity Building Requirements**

7. **M.** The objective of the capacity building exercise is to ensure that ECOWAS is capable of independently managing the system after commissioning of the project. The contractor must provide a response that indicates how this will be achieved.
8. **M.** The contractor must indicate how capacity building and knowledge transfer will take place for ECOWAS resources and ECOWAS staff involved.
9. **M.** The contractor must indicate how he intends to work with the ECOWAS to ensure capacity building and knowledge transfer and independent sustainability of the system.

**b. Training Requirements**

10. **M.** The contractor will undertake training for technical staff that will eventually be required to run and maintain the hardware and system software functions.
11. **M.** In addition to the training, the contractor must plan to have one on one sessions with the technical staff for on the job training to ensure that they are able to undertake the real work in addition to having the training.
12. **M.** Training for equipment and services supplied will be required to ensure effective system utilization and management.
13. **M.** Technical training should include support staff and technicians. These personnel **MUST** be trained at the various levels on the running and configuration of the proposed system to a level which allows personnel to effectively and independently manage the proposed system.
14. The outcome of the training should be clearly stated in terms of "...what ECOWAS staff should be able to do in terms of maintenance after the training..."

**G. SERVICE LEVEL AND SUPPORT REQUIREMENTS****a. Support**

15. **M.** The Contractor **MUST** support all the IT components, goods and services delivered. The support services should start with a 36 month guarantee from the day of system acceptance by ECOWAS.
16. **M.** The Contractor should furnish ECOWAS with a maintenance schedule for all IT components supplied. The Schedule **MUST** start from the day of acceptance to the next two years.

**b. Identification of the Prime Contractor**

17. **M.** The Contractor **MUST** identify the prime contractor in any multi-contractor initiatives. The prime contractor **MUST** take overall responsibility for the provision of agreed products delivery and services to all sites.

**c. Hardware Deployment Services**

18. **M.** All the Software and hardware and associated utilities installed by the Contractor **MUST** be provided with version numbers, upgrades, licensing information, and third party agreements etc.
19. **M.** The Contractor **MUST** install and configure all equipment in accordance with the manufacturers' specifications and the appropriate standards and **MUST** certify the installation accordingly.

20. **D.** Contractors SHOULD inspect the ECOWAS Commission premises at least ten working days before delivery and furnish a written report stating any deficiencies that would delay the project from the point of installation. In the case of the other sites the Contractor should make an inspection visit at least 5 working days before delivery.
21. **M.** The Contractor MUST provide ECOWAS with the required technical and environmental specification required for the installation and operation of the proposed system.
22. **M.** The Contractor MUST cooperate with ECOWAS to test all the necessary interfaces and interconnection facilities which integrate the components of the proposed system.
23. **M.** The Contractor MUST commit to providing on-going technical support for tuning and re-configuration at each ECOWAS site as requested by ECOWAS.

**d. Duration and Scope of Support Services**

24. **M.** The Contractor MUST guarantee support for the proposed system for at least five years (beginning from the time of installation) as part of the contract.
25. **M.** The Contractor MUST provide maintenance for all support equipment they supply which is required to use the system and that are not covered by the standard support contract.

**e. Warranty**

26. **M.** ECOWAS requests that, the Contractor shall warrant that goods and support services will be performed consistently with generally accepted industry standards. The warranties for each category of goods and/or services MUST be clearly defined.
27. **M.** ECOWAS MUST be entitled to recover fees paid to the Contractor for the supply of unsatisfactory goods and/or services.

**f. Testing and Error Corrections**

28. **M.** The Contractor MUST describe their methodology for system testing, installation, error logging and correction.
29. **M.** The Contractor MUST test all IT components before and after installation.
30. **D.** The Contractor must propose to ECOWAS any additional IT component that may have to be implemented to improve the quality of the project.
31. **M.** The Contractor MUST correct any system error that is detected in the course of testing and thereafter retest again as necessary. The Contractor MUST provide detailed technical and user documentation which will enable ECOWAS to extend the system to other future ECOWAS sites.

**g. System Maintenance**

32. **M.** The Contractor IS REQUIRED to provide for continuous maintenance and support service for a period within the useful lifetime of the system and then, at the discretion of ECOWAS, for an additional period to be agreed upon with the Contractor. The terms and conditions of the maintenance contract will be in full compliance with the provisions of the contract. Under no circumstances will the yearly price increase exceed those quoted by the Contractor under this contract.

**h. Contractor Support Services**

33. **M.** The Contractor MUST identify the prime contractor in any multi-supply initiatives. The prime contractor MUST take the overall responsibility for the provision of agreed services to all sites
34. **M.** The Contractor MUST have established procedures to escalate trouble tickets within its organization. The Contractor MUST also identify a senior team member to be assigned to ECOWAS to facilitate trouble ticket escalation. The Contractor MUST provide fixes/workarounds based on criticality of the problem encountered.
35. **M.** The Contractor MUST appoint a customer service representative who will serve as a single point of contact for maintenance and other support.
36. **M.** The Contractor MUST provide selected technical personnel to ECOWAS with access to frequently asked questions and associated responses.
37. **M.** The Contractor MUST demonstrate how bios or other software upgrades to the proposed IT component would be maintained. Such upgrades MUST be available within six months of the commercial release of new versions. The Contractor MUST demonstrate capability to keep product support current.
38. **M.** The Contractor MUST maintain or provide an established and experienced support team in Lagos/Abuja, Nigeria for all aspects of the system and for the duration of the maintenance agreement.
39. **M.** Additionally, in response to the support service requirements, the Contractor MUST:
- a) Clearly define levels of support for all the equipment provided;
  - b) Define the maximum and expected average response times to request for support or maintenance including travel times where applicable; and
  - c) State how problems should be notified to Contractor support staff along with the standard hours around which the support can be expected.

**i. Provision of Local Support**

40. **M.** The contractor must have a local office in Nigeria. Details of the Contractors' offices, which will deliver local support services, MUST be provided within two weeks of contract award. The Local Support office should maintain at minimum, the following staffing levels for maintenance and repairs:

- a) Maintenance Engineer;
- b) Spares supply manager; and
- c) Contact Person for fault reporting

## **H. INSPECTION AND TESTING REQUIREMENTS**

### **a. Inspections**

- 41. **M.** The Contractor MUST use inspection techniques and methodologies which are proven or consistent with the requirements of the International Standards Organization on Quality System (ISO 9001).
- 42. **M.** The Contractor MUST provide a quality assurance plan which identifies and specifies all project deliverables and the quality criteria for each deliverable. This plan MUST be presented to ECOWAS for review and an agreement reached within two weeks of the effective contract date.
- 43. **M.** The Quality Plan MUST also describe the roles and responsibilities of each of the Contractor's management team.
- 44. **M.** The Contractor MUST perform a complete system test before handing over to ECOWAS for acceptance testing. This should be accomplished by furnishing ECOWAS with a check off list of the test procedures.

### **b. Functional Testing**

- 45. **M.** The proposed IT components MUST be tested to ensure that, the system as a whole function as specified in the functional requirements. All system utilities required to restore system malfunction MUST also be tested.
- 46. **M.** Testing will be conducted using this approach:
  - i. Hardware inspection tests;
  - ii. Hardware installation and acceptance tests;
  - iii. Operational acceptance testing; and
  - iv. Final acceptance testing.

### **c. Installation Tests**

- 47. **M.** In addition to the Contractor's standard check out and set-up tests, the Contractor together with ECOWAS, will perform the necessary tests on the system and its sub-systems before Installation is deemed complete. Thereafter, an installation certificate will be issued.
- 48. **M.** The Contractor and ECOWAS shall commission the proposed system for live or production operation. The Contractor at no extra cost to ECOWAS MUST rectify deficiencies detected during pre-commissioning of the system.

d. **Operational and Final Acceptance Tests**

49. **M.** Following the go live, operational acceptance tests will be conducted one month after a full use cycle of one month of the system. Operational acceptance tests will be jointly developed with the implementation team and will comprise the following:
- i. The physical, functional, technical and performance characteristics of the complete system;
  - ii. Tests which establish a period of un-interruptible continuous running of the system;
  - iii. Tests which will certify that knowledge transfer, capacity building and training activities have been properly undertaken.
50. **M.** The Contractor will design and implement acceptance tests for the system component. However, failure of the system to meet the requirements of the above mentioned application would be deemed as failure of all other sub-systems to pass the operational acceptance test.
51. **M.** The contents of acceptance tests and a schedule for their execution **MUST** be agreed on prior to the commencement of the test.
52. **M.** ECOWAS may communicate within five (5) working days after completion of acceptance testing to the Contractor, if the system fails to satisfactorily meet the acceptance criteria of the test in any part of the system. Under such circumstances, the Contractor **MUST** commit to undertake appropriate testing and if necessary replace products or perform extra services at the Contractor's expense to remedy or improve the system.
53. **M.** The acceptance of the system will be subject to final acceptance tests before a final acceptance certificate can be issued by ECOWAS two months after go live. Final acceptance tests will be conducted to confirm that all issues identified in the course of operational testing have been addressed accordingly. Final acceptance tests will be conducted within one week before the end of the one month from the date of operational acceptance testing. If there are any issues arising out of final acceptance testing, the contractor must address these issues to the satisfaction of ECOWAS before ECOWAS can issue any final acceptance certificate.

e. **Proposed Methodology:**

54. This section should demonstrate the bidder's responsiveness to the TOR by identifying the specific components proposed, addressing the requirements, as specified, point by point; providing a detailed description of the essential performance characteristics proposed assignment; and demonstrating how the proposed methodology meets or exceeds the TOR.
55. The bidder is expected to visit or call the Commission with respect to verification of any information given herein with respect to the work.

## **4. Drawings**

**These Bidding Documents includes no drawings.**

## **5. Inspections and Tests**



The following inspections and tests shall be performed: the inspection and the essays before the expedition and in the definitive reception will be made as follows: the buyer or his representative will proceed to the inspection of stationery at the level of the warehouses of the supplier at the level of the country of the buyer, to make sure that they are in accordance with the technical specifications and contain no defect and no manufacturing defect.

In any case the inspections and the essays will be realized:

- **at the level of the site: ECOWAS Commission, 101 Yakubu Gowon Crescent Asokoro District, Abuja Nigeria**



## **PART 3 - Contract**



## Section VII. General Conditions of Contract

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## Section VII. General Conditions of Contract

### Definitions

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

- (a) “ECOWAS” means the Economic Community of West African States (ECOWAS) .
- (b) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (c) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
- (d) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (e) “Day” means calendar day.
- (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- (g) “GCC” means the General Conditions of Contract.
- (h) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (i) “Purchaser’s Country” is the country specified in the Special Conditions of Contract (SCC).
- (j) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the SCC.
- (k) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract.
- (l) “SCC” means the Special Conditions of Contract.
- (m) “Subcontractor” means any natural person, private or

government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

- (n) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
- (o) “The Project Site,” where applicable, means the place named in the SCC.

**Contract Documents**

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

**Fraud and Corruption**

- 3.1 If the Purchaser determines that the Supplier and/or any of its personnel, or its agents, or its Subcontractors, consultants, service providers, suppliers and/or their employees has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Purchaser may, after giving 14 days notice to the Supplier, terminate the Supplier's employment under the Contract and cancel the contract, and the provisions of Clause 35 shall apply as if such expulsion had been made under Sub-Clause 35.1.

- (a) For the purposes of this Sub-Clause:
  - (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>7</sup>;
  - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation<sup>8</sup>;
  - (iii) “collusive practice” is an arrangement between two or more parties<sup>9</sup> designed to achieve an



improper purpose, including to influence improperly the actions of another party;

(iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party<sup>10</sup>;

(v) “obstructive practice” is

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

(bb) acts intended to materially impede the exercise of the ECOWAS’s inspection and audit rights provided for under Clause 11 [Inspections and Audits by the ECOWAS].

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

## **Interpretation**

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

4.2 Incoterms

(a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.

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

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#### 4.3 Entire Agreement

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

#### 4.4 Amendment

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

#### 4.5 Nonwaiver

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

#### 4.6 Severability

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

### Language

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

documents provided by the Supplier.

**Joint Venture,  
Consortium or  
Association**

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

**Eligibility**

- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract and financed by the ECOWAS shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

**Notices**

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

**Governing Law**

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser’s Country, unless otherwise specified in the SCC.

**Settlement of  
Disputes**

- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of

which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.

10.3 Notwithstanding any reference to arbitration herein,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the Purchaser shall pay the Supplier any monies due the Supplier.

**Inspections and  
Audit by the  
ECOWAS**

11.1 The Supplier shall permit, and shall cause its Subcontractors and consultants to permit, the ECOWAS and/or persons appointed by the ECOWAS to inspect the Supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the ECOWAS if requested by the ECOWAS. The Supplier's and its Subcontractors and consultants' attention is drawn to Clause 3 [Fraud and Corruption], which provides, inter alia, that acts intended to materially impede the exercise of the ECOWAS's inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the ECOWAS's prevailing sanctions procedures).

**Scope of Supply**

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

**Delivery and  
Documents**

13.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.

**Supplier's  
Responsibilities**

14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.

**Contract Price**

15.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the

exception of any price adjustments authorized in the SCC.

- |                             |   |
|-----------------------------|---|
| <b>Terms of Payment</b>     | <p>16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC.</p> <p>16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.</p> <p>16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.</p> <p>16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.</p> <p>16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the SCC, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.</p> |
| <b>Taxes and Duties</b>     | <p>17.1 For goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country.</p> <p>17.2 For goods Manufactured within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.</p> <p>17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.</p>  |
| <b>Performance Security</b> | <p>18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the SCC.</p>  |

- 18.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser; and shall be in one of the format stipulated by the Purchaser in the SCC, or in another format acceptable to the Purchaser.
- 18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

**Copyright**

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

**Confidential  
Information**

- 20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.
- 20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and

20.2 above, however, shall not apply to information that:

- (a) the Purchaser or Supplier need to share with the ECOWAS or other institutions participating in the financing of the Contract;
- (b) now or hereafter enters the public domain through no fault of that party;
- (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

#### **Subcontracting**

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

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

#### **Specifications and Standards**

22.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

**Packing and Documents**

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

**Insurance**

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

**Transportation**

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

**Inspections and Tests**

- 26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the SCC.
- 26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Purchaser's Country as specified in the SCC. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.



- 26.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 26.4.
- 26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.
- 27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other

**Liquidated  
Damages**

remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

**Warranty**

- 28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 28.3 Unless otherwise specified in the SCC, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the SCC, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

**Patent Indemnity**

- 29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any

and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

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

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

- 29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design,

trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

**Limitation of Liability**

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

**Change in Laws and Regulations**

- 31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

**Force Majeure**

- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not

foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

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

**Change Orders and  
Contract  
Amendments**

- 33.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

- 33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

- 33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

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

- Extensions of Time**
- 34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.
- Termination**
- 35.1 Termination for Default
- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
- (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34;
- (ii) if the Supplier fails to perform any other obligation under the Contract; or
- (iii) if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### 35.2 Termination for Insolvency.

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

### 35.3 Termination for Convenience.

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
  - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

### **Assignment**

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

### **Export Restriction**

- 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser and of the ECOWAS that it has completed all

formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.



## Section VIII. Special Conditions of Contract

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

<b>GCC 1.1(j)</b>	The Purchaser's country is: <b>Nigeria</b>
<b>GCC 1.1(k)</b>	The Purchaser is: <b>ECOWAS Commission</b>
<b>GCC 1.1 (q)</b>	The Project Site(s)/Final Destination(s) is: <b>ECOWAS Commission, 101 Yakubu Gowon crescent Asokoro District, Abuja Nigeria</b>
<b>GCC 4.2 (a)</b>	The meaning of the trade terms shall be as prescribed by Incoterms.
<b>GCC 4.2 (b)</b>	The version edition of Incoterms shall be: <b>year 2020.</b>
<b>GCC 5.1</b>	The language shall be: <b>English or French</b>
<b>GCC 8.1</b>	For <b><u>notices</u></b> , the Purchaser's address shall be:  Attention: <b>Commissioner for Internal Services</b> Street Address: <b>101 Yakubu Gowon crescent Asokoro District</b> City: <b>Abuja</b> Country: <b>Nigeria</b>
<b>GCC 9.1</b>	The governing law shall be :  <b>the ECOWAS Procurement Code and General principle of Law applicable to Contract.</b>
<b>GCC 10.2</b>	The Parties shall agree to settle amicably any disputes that arose or may arise from the execution of this contract or its interpretation.  Any dispute that may arise between the Parties as a result of non-performance or lateness in the execution of the contractual provisions and that could not be settled amicably within thirty (30) days shall be settled by arbitration in accordance with the following provisions:  Arbitration shall be in accordance with the UNCITRAL Arbitration Rules presently in force.  The Decision of the Arbitration process shall be final.  The place of arbitration should be : <b>ABUJA , Federal Republic of Nigeria</b>

GCC 13.1	<p>Details of Shipping and other Documents to be furnished by the Supplier are:</p> <ul style="list-style-type: none"> <li>• <b>Three (3) copies of the invoices of the Supplier, describing items, their quantities, their unit price and the total amount;</b></li> <li>• <b>Three (3) announcements of the delivery / receipt of the Goods;</b></li> <li>• <b>One (1) certificate of guarantee of the Manufacturer/Developer or the Supplier if applicable;</b></li> <li>• <b>One (1) certificate of inspection, emitted by the indicated service of inspection, and inspection report in factory of the Supplier if applicable; and</b></li> <li>• <b>One (1) certificate of origin.</b></li> </ul> <p>The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p>
GCC 15.1	<p>The prices charged for the Goods supplied and the related Services performed shall not be adjustable.</p> <p><b>ECOWAS is a Diplomatic International Organization exempted from duties and taxes on all goods imported on its behalf.</b></p>
GCC 16.1	<p><i>Sample provision</i></p> <p>GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p><b>Payment for Goods supplied from abroad:</b></p> <p>Payment of foreign currency shall be made in USD in the following manner:</p> <ul style="list-style-type: none"> <li>(i) <b><u>Advance Payment:</u> Thirty percent (30%) of the Contract Price, (exclusive of taxes),</b> shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the bidding documents or another form acceptable to the Purchaser.</li> <li>(ii) <b><u>On Acceptance:</u> Sixty percent (60%) of the Contract Price (exclusive of taxes)</b> upon receipt of the Goods shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Purchaser.</li> </ul>

	<p>(iii) <b>Ten percent (10%) of the contract price (exclusive of taxes)</b> shall be paid after the end of the first one (1) year of the total warranty period of three (3) years and based on confirmation of services duly executed by the Client.</p> <p><b>NB: Payment of invoices shall be made upon satisfactory delivery of goods which shall include supply and delivery as well as installation and testing where applicable.</b></p> <p><b>Payment terms under shall also be in line with the payment terms as stated under GCC 16.1</b></p>
<b>GCC 16.5</b>	<p>The payment-delay period after which the Purchaser shall pay interest to the supplier shall be <b>150</b> days.</p> <p>The interest rate that shall be applied is: <b>Not Applicable</b></p>
<b>GCC 18.1</b>	<p>A Performance Security <b>shall be required.</b></p> <p>Performance Security shall be: <b>Ten percent (10%) of the Contract Price exclusive of taxes.</b></p>
<b>GCC 18.3</b>	<p>the Performance Security shall be in the form of : <b><i>a Bank Guarantee ;</i></b></p> <p>the Performance security shall be denominated in <b>US Dollars (US\$).</b></p>
<b>GCC 18.4</b>	<p>Discharge of the Performance Security shall take place: <b>temporary reception.</b></p>
<b>GCC 23.2</b>	<p>The packing, marking and documentation within and outside the packages shall be: <b>Not Applicable</b></p>
<b>GCC 24.1</b>	<p>The insurance coverage shall be as specified in the Incoterms.</p>
<b>GCC 25.1</b>	<p>The Inspections and Essays before delivery and in the definitive reception will be made as follows:</p> <p><b>the buyer or his representative may proceed to the inspection of all goods to ensure that they are in accordance with the technical specifications and contain no defect and no manufacturing defect.</b></p>
<b>GCC 26.1</b>	<p>The inspections and tests shall be:</p> <ul style="list-style-type: none"> <li><b>at the level of the site: ECOWAS Commission, 101 Yakubu Gowon Crescent Asokoro District, Abuja, Nigeria</b></li> </ul>
<b>GCC 27.1</b>	<p>The liquidated damage shall be: <b>One percent (1 %) per week</b></p>

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<b>GCC 27.1</b>	The maximum amount of liquidated damages shall be: <b>Ten percent (10 %)</b>
<b>GCC 28.3</b>	The period of validity of the Warranty shall be: <b>Three (3) year warranty.</b> For purposes of the Warranty, the place(s) of final destination(s) shall be: <b>ECOWAS Commission, 101 Yakubu Gowon crescent Asokoro District, Abuja, Nigéria</b>
<b>GCC 28.5</b>	The period for repair or replacement shall be: <b>30 days.</b>

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## **Section IX. Contract Forms**

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# 1. Contract Agreement

*[The successful Bidder shall fill in this form in accordance with the instructions indicated]*

THIS CONTRACT AGREEMENT is made

the *[ insert: **number** ]* day of *[ insert: **month** ]*, *[ insert: **year** ]*.

BETWEEN

- (1) *ECOWAS COMMISSION* and having its principal place of business at 101 Yakubu Gowon crescent Asokoro District, PMB 401 Abuja Nigéria (hereinafter called “the Purchaser”), and
- (2) *[ insert name of Supplier ]*, a corporation incorporated under the laws of *[ insert: country of Supplier ]* and having its principal place of business at *[ insert: address of Supplier ]* (hereinafter called “the Supplier”).

WHEREAS the Purchaser invited bids for certain Goods and ancillary services, viz., Production of the ECOWAS e-biometric laissez-passers and Supply of equipments and has accepted a Bid by the Supplier for the supply of those Goods and Services in the sum of *[insert Contract Price in words and figures, expressed in the Contract currency(ies) ]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

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3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
  4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
  5. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

For and on behalf of the Purchaser

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

For and on behalf of the Supplier

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

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## 2. Performance Security

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

Date: *[insert date (as day, month, and year) of Bid Submission]*  
RCB No. and title: *[insert no. and title of bidding process]*

Bank's Branch or Office: *[insert complete name of Guarantor]*

**Beneficiary:** *[insert complete name of Purchaser]*

**PERFORMANCE GUARANTEE No.:** *[insert Performance Guarantee number]*

We have been informed that *[insert complete name of Supplier]* (hereinafter called "the Supplier") has entered into Contract No. *[insert number]* dated *[insert day and month]*, *[insert year]* with you, for the supply of *[description of Goods and related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s)<sup>11</sup> in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month]* *[insert year]*,<sup>12</sup> and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

*[signatures of authorized representatives of the bank and the Supplier]*

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<sup>11</sup> The Bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Purchaser.

<sup>12</sup> Dates established in accordance with Clause 18.4 of the General Conditions of Contract ("GCC"), taking into account any warranty obligations of the Supplier under Clause 16.2 of the GCC intended to be secured by a partial Performance Guarantee. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Purchaser might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."



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### 3. Bank Guarantee for Advance Payment

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

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

*[bank's letterhead]*

**Beneficiary:** *[insert legal name and address of Purchaser]*

**ADVANCE PAYMENT GUARANTEE No.:** *[insert Advance Payment Guarantee no.]*

We, *[insert legal name and address of bank]*, have been informed that *[insert complete name and address of Supplier]* (hereinafter called "the Supplier") has entered into Contract No. *[insert number]* dated *[insert date of Agreement]* with you, for the supply of *[insert types of Goods to be delivered]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance is to be made against an advance payment guarantee.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)]*<sup>13</sup> *in figures and words* upon receipt by us of your first demand in writing declaring that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the Goods.

It is a condition for any claim and payment under this Guarantee to be made that the advance payment referred to above must have been received by the Supplier on its account *[insert number and domicile of the account]*

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[insert date]*<sup>14</sup>.

This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

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<sup>13</sup> The bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Purchaser.

<sup>14</sup> Insert the Delivery date stipulated in the Contract Delivery Schedule. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Purchaser might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months][one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."

*[signature(s) of authorized representative(s) of the bank]*

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