

German Financial Cooperation with Republic of South Africa

**HIV Prevention Program II – Support to the South
African COVID-19 Vaccination Campaign**

BMZ No 2012 65 198

Bidding Documents

for

**Design, Build and Supply of 37 Mobile Health Clinics
for the Youth Health Initiative**

International Competitive Bidding

**Purchaser: D G Murray Trust, P.O. Box 23893,
Claremont 7735, Republic of South Africa**

September 2022

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SECTION I: INSTRUCTION TO BIDDERS (ITB)

1. The National Department of Health (NDoH) has received financing from KfW toward the cost of the HIV Prevention Program II – Support to the South African COVID-19 Vaccination Campaign, BMZ No 2012 65 198, and is channelling it through the DG Murray Trust as Purchaser with the intent to apply part of the proceeds toward payments under the contract for Procurement of Mobile Clinic Vehicles. The procurement is governed by the Guidelines for the Procurement of Consulting Services, Works, Plant, Goods and Non-Consulting Services in Financial Cooperation with Partner Countries, as of January 2021, <https://www.kfw-entwicklungsbank.de/PDF/Download-Center/PDF-Dokumente-Richtlinien/FZ-Vergaberichtlinien-V-2021-EN.pdf> and the South African PPPFA 2017 regulation.
2. This is an International Competitive Bid, and the **Purchaser seeks to procure 37 units of Mobile Clinic Vehicles for delivery in four different Provinces.**
Bidders may also offer less than the total amount of units if they cannot commit to delivering the full amount, for that Province, within three months after a contract is awarded.
3. The purchaser reserves the right to a split award of the tendered quantities based on bids received according to economic considerations and, most importantly, the ability to complete the contract(s), in time.
4. The DG Murray Trust (hereinafter called “the Purchaser”) now invites eligible companies (hereinafter called “**the Bidders**”) to submit bids for the supply of the above-mentioned goods.
5. All bids must be submitted, **according to the following procedure only**, within 30 days of tender publication, **no later than 24.10.2022 16:00h South Africa time** (hereinafter referred to as the “deadline for submission”):

The Bidder shall submit the proposal via Exficon, an **e-procurement portal** operated by a KfW-approved service provider, Exficon GmbH, Frankfurt am Main.

The proposal shall be submitted **in one folder** as follows:

- (i) **Qualification Documents:** one (1) original as soft copy (uneditable pdf format) via the e-procurement system (Exficon);
- (ii) **Technical Proposal:** one (1) original as soft copy (uneditable pdf format) via the e-procurement system (Exficon);
- (iii) **Financial Proposal:** one (1) original as soft copy (uneditable pdf format) via the e-procurement system (Exficon).

No other method of bid submission is permitted, and in particular **no hard copy bid submission** by delivery to any physical address will be accepted.

Timely submission means that the file must be successfully uploaded via the Exficon e-procurement portal by the deadline.

6. Bidders are asked to nominate **one dedicated contact person** (name, email address and phone number). The nomination shall be sent to the Tendering Agency via email to procurement@m4health.pro by **latest seven (7) days prior to expiry of the bid submission deadline.**
7. The details of the nominated individuals shall be used to **create user profiles for access** to the e-procurement system for this tender submission.

The operator of the e-procurement system, Exficon, will respond to the person nominated by the bidder with an **invitation email containing the access link to the e-procurement system.** It is recommended that the nominated person **log in immediately after receiving** the access link to ensure that there are no technical challenges with the access granted.

Please note that the bidding process will be conducted by means of the single stage, one-

envelope International Competitive Bidding procedure with qualification as specified in KfW's Procurement Guidelines ("KfW Guidelines"). Where there are challenges, same to be communicated to procurement@m4health.pro for immediate assistance.

8. **Detailed information** on the e-procurement portal and a **step-by-step description** of the upload procedure can be downloaded here: <https://exficon.de/tad/e-procurement/>
9. Opening of Bids (all documents will be downloaded/opened) will be performed virtually via Zoom digital platform within 2 days of the closing of the bids, **at 17:00h South Africa time**. A link will be shared with all bidders who had submitted an offer for a public opening session.
10. Bidders may submit bids only if **none of the following reasons for exclusion** apply:
 - (i) Sanctions or embargoes issued by the Security Council of the United Nations, the EU or the German Government preclude the participation of a bidder;
 - (ii) The bidder is excluded from the tendering process with legal effect of the country of the contracting agency on grounds of criminal offences, especially fraud, corruption, or other economic crimes;
 - (iii) The bidder is a state-controlled company in the partner country that is not legally or economically independent, or that is not subject to commercial law, or that is a public authority dependent on the contracting agency or the project executing agency or the recipient of the loan/financing amount;
 - (iv) The bidder or individual members of the bidder's staff or a subcontractor has economic links or family ties with personnel of the contracting agency who are involved in preparing the tender documents, awarding the contract, or supervising the execution of the contract, insofar as the conflict of interests could not be resolved to KfW's satisfaction in advance of the contract award and execution phase;
 - (v) The bidder is or was involved as a consultant in the preparation or implementation of the project. The same applies to an enterprise or an individual that is closely connected to the bidder under a company group or a similar business link, or to several enterprises or individuals associated correspondingly. (exception: In BOT projects or turnkey projects a participation of future suppliers or manufacturers may even be desirable);
 - (vi) The bidder or individual members of the bidder's staff or a subcontractor are not or were not during the last 12 months prior to publication of the invitation to tender indirectly or directly linked to the project in question through employment as a staff member or advisor to the contracting agency, and are not or were not able in this connection to influence the award of the contract for services, or the bidder is not or was not otherwise able to influence the award of the contract for services;
 - (vii) The bidder is employed by the South African Government or any PFMA scheduled or funded entity;

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

11. Bidders must meet the qualification requirements stipulated below.

The Bidder shall **furnish the following documents** establishing the Bidder's eligibility and qualifications to perform the contract if the bid is accepted. In case of a JV, the documents shall be submitted for each JV member:

- (i) **Bid Submission** in form specified in Section IV FORMS (**Form A**)
- (ii) **Declaration of Association** in case of a JV (**Form B**)
- (iii) **Declaration of Undertaking** in form specified in Section IV FORMS (**Form C**)
- (iv) **Declaration of Bid Security** in form specified in Section IV FORMS (**Form D**)

- (v) **SARS Tax Compliance Letter or equivalent proof of tax compliance in the country of incorporation of the Bidder as per SA National Treasury Circular 09 of 2017/2018 which can be downloaded here**
http://ocpo.treasury.gov.za/Resource_Centre/Legislation/National%20Treasury%20Ins%20truction%20No%209%20of%202017-2018%20Tax%20compliance%20status%20verification.pdf – Compulsory for SA Bidders
- (vi) **Financial due diligence**
- Audited balance sheets:** for the past three years to demonstrate the current soundness of the Bidder's financial position based on a positive financial balance for each year. In case the Bidder is a JV audited balance sheets or equivalent should be included for all JV members.
- Average annual supplier turnover:** Average annual turnover is calculated as total certified payments received for contracts in progress and/or completed within the past three years for which accounts have been closed divided by three. Minimum average annual supplier turnover must be equivalent to at least the bid price.
- Financial Information Form:** specified in Section IV FORMS (**Form E**) to be submitted, summarizing the bidders' financial position.
- Bank Letter of Credit or similar:** Liquidity letter issued by an internationally active and recognized bank based on 50% of their bid value. For JVs, each member must meet 25% of this requirement and one member to meet at least 40% of the requirement. All JV parties combined must meet the requirement of total bid value. Acceptable to establish the liquidity is either a Line of Credit of the Bidder, or information on all liquid assets that the Bidder has access to supported by proper evidence.
- (vii) **Protection of Personal Information (POPI)** - Statement of compliance (to the South African Protection of Personal Information Act 4 of 2013), **or equivalent for the country of incorporation of the Bidder.**
- (viii) **B-BBEE Certificate**, if available.
- (ix) **Labour Letter of Good Standing** issued by the SA Department of Labour in compliance with COIDA – Compulsory for SA Bidders
- (x) **Authorisation to represent the firm** in the form of formal letter on a company letterhead signed by the CEO or another duly authorised individual, **including proof of identification.**
- (xi) **Proof of prior experience:** The Bidder shall have experience of supplying the same or similar type of equipment for which they bid. The total number of items delivered and considered as experience shall be at least the amount that the Bidder is offering. This may be combined up to a maximum of 5 contracts within the past 5 years. **Contracts or Acceptance Certificates by the Client shall be submitted as proof.**

Manufacturer experience if submitted on its own behalf by any Bidder will only be accepted if the Manufacturer is a legal party to that Bidder's submission (e.g.: as part of a JV).

12. The Bidder **must not participate in more than one bid** in this tender, either as a stand-alone firm or as a member of a joint venture. Participation of a Bidder in more than one bid will result in the disqualification of all bids in which this Bidder participates. However, this does not limit the inclusion of the same subcontractor in more than one bid.
13. The Bidders shall provide their **bids based on their ability to deliver within 3 months of the contract being awarded.**

If any Bidder wishes to submit a bid, but cannot offer the full quantities of all items, the Bidder shall indicate **how many items the Bidder can deliver within 3 months after a contract was signed**, all items being **fully compliant with the technical specification** forms (TSF) included in this Bidding document.

If the Bidder wishes to offer the full quantity but is unable to deliver within the 3 months' timeframe,

the bidder shall indicate the amount they can deliver within 3 months and **by when the Bidder can deliver the balance**. Note that preference will be given to bidders who can supply within the 3-month post-award period.

14. The Bidder shall be the **authorised distributor or agent** to supply the selected Goods as it is indicated in the table of Goods (Section I, clause 2) and provide after-sale service in the Purchaser's country. If the Bidder is not the authorised distributor or agent for the Purchaser's country, the Bidder shall have been **duly authorised by the Goods manufacturer** to supply the Goods and provide after sale services in the Purchaser's country.

A copy of the **distributor/agency agreement or of the manufacturer's authorization** for the selected Goods in the form prescribed in the section FORMS (Section 4, form F) shall be provided together with the bid.

15. The **Scope of Supply** is attached herein (please see **Section II**). The Bidders shall provide bids for the Goods and **ALL Related Services** listed in the List of the Goods and Services together with the **relevant supporting documentation** (such as technical data sheet, brochures, and manufacturer's authorisation, distributor/agency agreement, product quality and safety certificates and quality management, product certificate, warranty, certificate of country of origin of the goods etc.).
16. The bids prepared by the Bidders as well as all correspondence and documents related to this bid shall be written in **English language**. Supporting documents and printed literature furnished by the Bidder may be written in another language, provided that they are accompanied by accurate translation of pertinent passages in English language. For purposes of interpretation of the quotation, the English translation shall govern in such cases.
17. At any time prior to the deadline for submission of bids, the **Purchaser may amend the Bidding Documents by issuing addenda**. Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the Purchaser.
18. Any **Requests for Clarification** on the bidding documents must be submitted in writing by email (procurement@m4health.pro; cc: helleng@dgmt.co.za; ewan@dgmt.co.za and procurement@dgmt.co.za). The Purchaser will respond in writing to any request for clarification of the bidding document which is received no later than **fourteen (14) days** prior to the deadline for submission.
19. The prices for all Goods and Services shall be quoted in **South African Rand (ZAR)** currency only.
20. **Unit price quoted** shall include the following components:
- (a) **for Goods and Incidental Services offered from within the Purchaser's country:**
- (i) The price of the Goods quoted ex-factory, ex-showroom, ex-warehouse or off-the-shelf, as applicable, including all custom duties and other taxes already paid or payable. DPU distribution place as defined in section II point A - proposal
- (ii) Any sales and other taxes in the Purchaser's country which will be payable on the Goods when supplied;
- (iii) Charges for inland transportation, insurance and other local cost incidental to delivery and unloading of the Goods to their final destinations.
- (b) **Cost of unloading of Goods at the final destinations and the cost of incidental Services listed in listed in Clause 13 of the General Conditions of the Contract, if any, for Goods and / other Services offered from abroad:**
- (i) The price of the Goods quoted will be on DPU basis. In quoting the price, the Bidder shall be free to use sea transportation through vessels registered in any eligible source country, or through shipping conferences in which the majority of the shipping lines are from such eligible source country. Similarly, the Bidder may obtain insurance Services

from any eligible source country.

- (ii) Charges for inland transportation, insurance and other local cost incidental to delivery and unloading of the Goods to their final destinations.
 - (iii) Cost of unloading of Goods at the final destinations and the cost of incidental Services listed in Clause 13 of the General Conditions of the Contract, if any.
21. **No import duties** may be financed from the financial contribution. Such import duties, if part of the contract value, shall be stated separately in the contracts for the goods and services and in the invoices.
22. The **bid price shall be fixed** during the Supplier's performance of the contract and not subject to variation on any account.
23. The bids should be **valid for a period of one hundred (100) days** from the deadline for submission.
24. The **Bid Security shall expire within 14 days** after the Bid Validity Period.
25. The Purchaser will purchase the goods offered in the bids in **the most economical way** considering the need/s of the project and the financial implications for the Purchaser. Following the Qualification and Technical analysis of the Bids (pass/fail analysis), the Financial Offers will be evaluated acc. to ITB 29 (see below). The **contract may be split amongst different bidders** that are qualified and technically compliant. This may apply within a province as well.
26. The Purchaser reserves the **right to accept or reject any bid**, and to annul the bidding process and reject all bids at any time, without thereby incurring any liability to the affected Bidder or Bidders.
27. **Arithmetical errors** will be rectified on the following basis:
- (i) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected.
 - (ii) If the Bidder does not accept the correction of the errors, his bid will be rejected.
 - (iii) If there is a discrepancy between words and figures the amount in words will prevail.
28. **DGMT is obligated to adhere to the provisions** of the "Preferential Procurement Policy Framework Act, 2000 and The Preferential Procurement Regulations, (PPPFA) 2017" https://www.gov.za/sites/default/files/gcis_document/201701/40553rg10684gon32.pdf
(Please refer to this document for all relevant definitions and conditions.)
29. The **Financial Offers** of all Bidders passing both the Qualification and Technical Criteria in full compliance (based on a pass/fail analysis), will be evaluated as specified below. Tenderers will be ranked by applying the **preferential point scoring system** as stipulated hereunder:

90/10 preference point system for acquisition of goods or services:

CRITERIA	POINTS
Price	90
B-BBEE	10
TOTAL	100 points

(1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above ZAR 50 million, inclusive of all applicable taxes:

Where-

$$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Ps	Points scored for price of tender under consideration
Pt	Price of tender under consideration (unit price);
Pmin	Price of lowest acceptable tender (unit price).

(2) Points awarded for B-BBEE Status Level of Contributor: For bid evaluation purposes, bidders are allocated points in terms of a preference point system based on the B-BBEE Contribution Level status that is in accordance with a valid B-BBEE certificate. B-BBEE status will be scored out of 10 points in accordance with the PPPFA:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE Status Level of Contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but:

- (a) may only score points out of 90 for price; and
- (b) scores 0 points out of 10 for B-BBEE.

(5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME¹ that has the capability to execute the subcontract.

(6) The points scored by a tenderer for B-BBEE contribution in terms of sub-regulation (2) must be added to the points scored for price under sub-regulation (1).

(7) The points scored must be rounded off to the nearest two decimal places.

(8) Subject to sub-regulation (9), the contract must be awarded to the tenderer scoring the highest points.

(8a) The Purchaser is not obliged to accept the bid with the highest points if the pricing is not market related.

(9) (a) If the price offered by a tenderer scoring the highest points is not market-related, the Purchaser/Tendering Agency may not award the contract to that tenderer.

(b) The Purchaser/Tendering Agency may:

- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
- (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third

¹ “EME” means an exempted micro enterprise in terms of a code of good practice on Black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act

highest points or cancel the tender;

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the Purchaser/Tendering Agency must cancel the tender;

(d) Should the total bid price for all 37 mobile clinics be less than R50m (ZAR), then the 80/20 principle as per the PPPFA will apply including the BBEE points allocated (for South African Bidders)².

30. The Purchaser's **determination of a bid's responsiveness** is to be based on the contents of the bid itself.
31. A **substantially responsive bid** is one that conforms to all the terms, conditions, and specifications of the bidding document 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.
32. If a bid is **not substantially responsive** to the bidding document, 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.
33. **Award of the Contract** will be subject to approval by the Purchaser and "**No Objection**" by KfW, Federal Republic of Germany, only according to **KfW Guidelines**.

34. Summary of the Procedure for Tender Evaluation:

- a. The Purchaser and the Implementation Consultant will establish a Tender Evaluation Committee to conduct the evaluation of this Bid.
- b. Preliminary examination to determine whether bids are complete, whether the documents have been properly signed, and whether the bids are generally in order.
- c. Evaluate and determine if bidders are qualified and eligible according to the criteria specified in the bidding document, such as clause 5, 6 & 10.
- d. Checking and evaluation of all the terms, conditions, and technical specifications of the bidding document submitted to ensure that there are no material deviation, reservation, or omission and the Technical Score.
- e. The bid unit price of all bids which are technically passed and within the required delivery schedule (i.e. within 3 months) will be evaluated (such as checking for calculation error) and then compared under consideration of the Preferential Procurement Policy Framework Act of South Africa, 2000.
- f. The bid(s) having the highest combined score(s) will be recommended for award.
- g. The Purchaser may award the contract partly to multiple bidders in case this guarantees a delivery within the requested delivery time.
- h. If the full number of vehicles cannot be procured within the required delivery time (i.e., 3 months), steps e.-g. will be repeated for each succeeding month.

² The Bid price has to reflect the full quantity requested. For Bidders, that bid for less items than requested, the Unit Rate will be multiplied to reflect the full contract value in order to determine the applicable ratio.

35. Performance Security:

Performance Security is part of the bid documentation accordance with the in accordance with the conditions of the Contract.

36. Bid Security

A Bid Security is required in the amount of 2% of the offered Bid Price or ZAR 100,000, whichever amount is lower.

SECTION II: SCOPE OF SUPPLY

A. List of Goods and Related Services and the Final Distributions

Item	Description	Quantity	Required Delivery Schedule (In days /weeks/months from the date of signing the contract)	Bidder's offered delivery dates [to be provided by the bidder]	Final Destination of Goods
01	Mobile Clinic Vehicles Code 08 See the allocation per Provinces - Distribution of Goods - Kindly Bid per Province	up to 32	The Purchaser requires all the vehicles within 3 months of the award being made. Bidders are requested to submit their proposed delivery schedule, per Province , for the full amount or part deliveries.		Refer Chapter 6: "Points of Delivery"
02	Mobile Clinic Vehicles Code 10 See the allocation per Provinces - Distribution of Goods - Kindly Bid per Province	Up to 5	The Purchaser requires all the vehicles within 3 months of the award being made. Bidders are requested to submit their proposed delivery schedule, per Province , for the full amount or part deliveries.		Refer Chapter 6: "Points of Delivery"

Item	Item Description	Quantity	Pre-installation (yes/no)	Delivery, Installation, and commissioning required (yes/no)	Technician and User training required (yes/no)	Maintenance Services required during the 2-year warranty period (yes/no)
01	Mobile Clinic Vehicles Code 8 See the allocation per Provinces - Distribution of Goods - Kindly Bid per Province	up to 32	no	yes	yes	Corrective maintenance yes, preventative maintenance as per Technical Specifications required
02	Mobile Clinic Vehicles Code 10 See the allocation per Provinces - Distribution of Goods - Kindly Bid per Province	Up to 5	no	yes	yes	Corrective maintenance yes, preventative maintenance as per Technical Specifications required

Distribution of Goods

The Goods shall be distributed to the following destinations:

Distribution List

The goods need to be delivered throughout four Provinces to Central Warehouses. The exact addresses will be communicated by the Purchaser to the Supplier at least 10 working days before the expected delivery time of the number of respective items the Supplier can ship:

Province and Main City	Total Number of vehicles	Total Number of Code 8 vehicles	Total Number of Code 10 vehicles
Gauteng – Johannesburg District Municipality, Sandton	16	13	3
KwaZulu Natal - Pietermaritzburg	12	11	1
Western Cape - Bellville	8	8	0
Eastern Cape - Buffalo City, East London	1	0	1
Total vehicles	37	32	5

B. Technical Specifications

Bidder shall note that specifications, standards for workmanship, material, and equipment, and open or hidden references to brand names or catalogue numbers, designated by the Purchaser in the Specifications, are intended to be descriptive only and not restrictive. The bidder may substitute other specifications, authoritative standards, brand names and/or catalogue numbers in its Bid, provided that it demonstrates to the Purchaser's satisfaction that the substitutions are equivalent or superior to those designated in the Specifications.

All Goods offered by Bidders and supplied by the successful Bidders must be new and unused, be of the most recent or current models, and must incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

Technical Evaluation

The technical evaluation shall be conducted based on a thorough comparison of the Bidder's offered specifications against the Purchaser's required specifications, using the following four (4) evaluation terms: comply (an item complies with, or exceeds, the Purchaser's specifications; the classification 'exceeds specification' shall be used rational and an excessive over specification, e.g. in terms of capacity, size, power, shall not be considered and accepted), acceptable (an item does not fully comply with the Purchaser's specifications, has minor deviations, but fulfills perfectly well the intended purpose), borderline (an item deviates considerably from the Purchaser's specifications, but may just be considered for the purpose intended; this classification is not permitted for major items), and not comply (an item deviates to an extent not suitable for the intended purpose).

Items evaluated with at least five times borderline classification or at least one time "not comply" classification will not be passed to the financial evaluation

Bidder's Technical Capacity

Bidders must have at least 2 qualified equipment technicians or engineers with relevant CVs, certified by the manufacturer(s) where appropriate, for the purpose of installation and training, and available to support the local agent for after sales services on short notice (as per GC 28.5 and GC 28.6 of the Particular Conditions of Contract) if the Bidder does not intend to carry out the installation and after sales services by themselves or is not a South-Africa-based firm. **A short CV shall be submitted, showing the relevant education and at least 3 years' experience working with the tendered good.**

Standards and Certifications

As requested in the technical specification. Certificate for the national registration of the truck in RSA

Spare Parts Requirements

Spare parts must be available on short notice, through the bidder, the bidder's local agent or the manufacturer-appointed official representative of the goods. The supplier is responsible to keep a quantity of spare parts in stock to fulfil the target repair resolution time of 7 days specified below.

Installation and After Sales Services (Local Agent):

If the Bidder does not intend to carry out the installation and after sales services by themselves or is not a South-Africa-based firm, **the bidder must have a local agent in the Purchaser's country, which must be a qualified firm handling goods similar to those offered within their business activities and must have at least 2 suitably qualified maintenance and service staff in each Province**, certified by the manufacturer(s) where appropriate, for the goods offered by the bidder. A 1-page summary CV shall be submitted for each of the maintenance and service staff showing the level of education and at least one reference of installation of the tendered good.

A brief description of the local agent, a formless letter of cooperation confirming the cooperation agreement between the Bidder and the Local Agent, company registration documents for the local agent, any relevant industry license documents for the local agent and a SARS (South African Revenue Services) Tax Compliance Letter for the local agent are to be included in the bid submission. This applies only if the Supplier is not also the Manufacturer.

Service Key Performance Indicators for the After Sales Services:

The response time measures the time between the moment a customer calls and the moment an agent responds to it. The response time is specified to be within **24 hours**. The target repair resolution time is specified to be within 7 working days of first contact (i.e., 6 days after step 1 above).

(Initial) User Training

The bidder should provide in all 4 locations a free user training together with handing over of the mobile clinics. Training explaining the function of the truck should be addressed to the drivers; training of the included medical equipment should be addressed to the relevant clinical staff.

Upon completion of the training a protocol should be signed by both parties (supplier and user)

User Manuals

For all Items, the delivery of a User Manual in English is mandatory.

Maintenance & Consumable Requirements

As specified below in each Technical Specification.

Environmental, Social, Health and Safety (ESHS) Requirements

Labour & Safety

Suppliers shall comply with and ensure that all their staff, local agents, subcontractors and subconsultants comply during installation/commissioning with core labour standards, consistent with applicable laws and regulations in the Purchaser's country, including the fundamental conventions of the International Labour Organisation (ILO).

During installation/commissioning the Supplier must ensure that relevant measures with respect to COVID-19 (wearing of masks, hand washing, disinfection, social distancing etc.) are in place and the staff is trained accordingly. The staff furthermore shall wear the relevant personal protection equipment such as hard hats, protective shoes, protective clothing, protective gloves, etc.).

Environment & Health

Suppliers shall comply with and ensure that all their staff, local agents, subcontractors and subconsultants comply during installation/commissioning with international environmental standards, consistent with applicable laws and regulations in the Purchaser's country, including international environmental treaties.

Technical Specifications:

DESIGN, BUILD AND SUPPLY OF THE NEXT GENERATION MOBILE HEALTH CLINIC FOR COVID 19 AND YOUTH HEALTH INITIATIVE	
Item Code: 1	
Item Description: Medical Vehicle	
Manufacturer:	
Model:	
Origin:	

PURCHASER'S SPECIFICATIONS	BIDDER'S SPECIFICATIONS
Medical vehicle to consist of:	
A) Power train	
Should have a diesel engine with a power of at least 103 kW	
Should have at least 2000 cc volume	
The torque should not be lower than 330 Nm	
Transmission via permanent four-wheel drive	
Should have shift gear box with 6 shifts	
Driven by power steering	
32 vehicles should be code 8	
5 vehicles should be code 10	
B) Body construction	
Can carry an effective payload of minimum 1,000 kg	
Has a total length of minimum 6,000 mm	
Comes with a roof height of minimum 2,350 mm outside	
Internal height should minimum 1,900 mm	
Has a minimum floor area of 5.5 m ²	
Resulting in a volume of minimum 10.7 m ³	
Roof and sides should be isolated and internally clad with a white hygiene-friendly material	
To have swing back door and sliding side door with a central locking system	
Should have separated driver compartment and rear consultation room	
Should have fix-mounted consultation seat behind the driver and fold out table/consulting desk	
LED lighting at roof level and USB charging points at side wall	
220 V AC plugs near consulting desk	
Should have admin storage places and lockable drawers	
Privacy curtains, grab handle and head protection at doors	

PURCHASER'S SPECIFICATIONS	BIDDER'S SPECIFICATIONS
Should have COVID-19 air sanitizer	
To have an internal separated area to be closed with a (sliding) door which will be equipped with a chemical toilet	
Should have steps to easily access vehicle	
Should have secure storage for the laptops and mobile devices when in use and during travel	
C) Design	
Should have heating and air conditioner for the driver cabin and separate for the back room. To be stepless adjustable and automatic setting (capacity to be stated)	
Comes with airbags	
Has summer type tires on wheels of approx. 235/65 R16	
Disc brakes at least on front wheels	
Manual hand brake	
Has manually adjustable seats (1+2) with safety belts for three persons in the driver cabin	
Diesel reservoir of min. 75 liters	
Has 2 x main battery 12 V with a capacity of min. 120 Ah and an auxiliary 105 Ah backup battery w. circuit breakers, distribution box and intelligent charging system	
Should have a suitable suspension for bad roads	
To be equipped with ABS, TCS	
To have reverse camera	
To have PCD - audio	
The glass windshield should be sun protecting	
Good exterior illumination light with LED, 12V in front and the back – 2 pcs each	
Bi-directional 12V roof extractor fan	
Internal ambient room lights on LED	
Gazebo / Sun protection roof outside	
To have a pull-out tent roof on the side, attached to the car (side awning)	
Outside it should have a light color (preferably white) and allow for 2 signages on vehicle	
To have a national registration for South Africa	
Operating/maintenance manual in English language	
Should have an installed alarm system and GPS module	
D) Equipment	
The following equipment to be included:	
Storage spaces on upper level, overhead locker, cupboards, and drawers (some lockable)	

PURCHASER'S SPECIFICATIONS	BIDDER'S SPECIFICATIONS
Space and fitting to provide for a defibrillator (AED) and a wall mounted BP monitor	
Chemical toilet with tank below toilet – 1 pc	
Hand wash basin in stainless steel and wash tap with elbow action with 25 lit water reservoir– 1 pc	
Hand soap dispenser and paper towel holder – 1pc	
Dedicated storage containers supplied w. conversion, secured	
Undercounter fresh water, wastewater, general waste, and medical waste containers securely fastened – 1 pc each	
Fire extinguisher dry powder 2,5 kg - 1 pc	
Examination Light LED ceiling mounted – 1 pc	
220 V ext. electrical power source and several plugs including: - change over switch w. AC circuit breakers and distr. box - external caravan type plug w. and 20 m extension lead – 1 pc - invertor 2500 W – 1pc	
40 liter, under counter fridge for vaccines (WHO Approved specs) w. door securing and continuous built in temperature logger – 1pc	
Microwave fix mounted – 1 pc	
Medical emergency trolley built in – 1 pc	
Examination couch fixed to the car's body, approx. 180x55cm with Trendelenburg adjustment and having a flip style folding step to ease access, dual IV holder above bed – 1 pc	
O2 bottle storage facility w. hose, pressure regulator and O2 outlet w. pressure regulator above the bed – 1 pc	
All medical equipment and medical devices must comply with MPL (medical product law) and have CE sign	
The bidder has to supply together with the offer a schematic layout drawing of the mobile clinic, showing the offered equipment and photos of similar vehicles	

SECTION III: PRICE SCHEDULE FORM

Name of Bidder _____

Contract Identification Number __201265198_2022_ICB_DGMT_MOV

VEHICLES SUPPLY WITHIN 3 MONTHS - KINDLY INDICATE:

- a) The quantity of Code 8 vehicles that could be supplied per Province within 3 months. Financial penalties will be considered on late deliveries. This table, below, represents the primary bid information on which an award will be made, failing which, the committee will consider the delivery periods in the next table.
- b) Indicate the all-inclusive units' price per vehicle – ZAR DPU based on assumed delivery cost as per split in distribution list (page 12). Bidders are requested to quote delivery prices per each final destination per one unit.
- c) The Purchaser receives the right to allocate Bids to the final destinations as per quotes by the Bidders.

Province and Main City	Total Number of vehicles required by Purchaser	Country of origin	Total Number of vehicles to be supplied within 3 months	Unit Price – ZAR DPU – Inclusive of all related cost but exclusive of VAT - Figures	Unit Price – ZAR DPU – Inclusive of all related cost but exclusive of VAT – Words	Total Bid Price ZAR DPU Figures VAT EXCLUSIVE	VAT
Grand Total for the Code 8 Mobile Clinics Vehicles	32						
Grand Total for the Code 10 Mobile Clinics Vehicles	5						

Code 8: A 5-year comprehensive extended warranty (Year 3 to Year 7) must be quoted for separately as option, referring to Section VII: Schedule of Requirements.	Indicated the ZAR Per Annum per unit
Code 10: A 5-year comprehensive extended warranty (Year 3 to Year 7) must be quoted for separately as option, referring to Section VII: Schedule of Requirements.	Indicated the ZAR Per Annum per unit
Gauteng – Johannesburg District Municipality, Sandton	Indicate the amount ZAR for delivery of one unit DPU. This cost is understood inclusive in the rate quoted in the Price Schedule.
KwaZulu Natal - Pietermaritzburg	Indicate the amount ZAR for delivery of one unit DPU. This cost is understood inclusive in the rate quoted in the Price Schedule
Western Cape - Bellville	Indicate the amount ZAR for delivery of one unit DPU. This cost is understood inclusive in the rate quoted in the Price Schedule
Eastern Cape - Buffalo City, East London	Indicate the amount ZAR for delivery of one unit DPU. This cost is understood inclusive in the rate quoted in the Price Schedule

VEHICLES SUPPLY OUTSIDE OF THE 3 MONTHS SUBMISSION

Note that the Purchaser wishes to acquire the vehicles within 3 months of a contract being signed. Priority will be given to suppliers who can deliver within 3 months. Should this not be possible from the bids received, the Purchaser will require this additional information. Kindly indicate:

- a) The quantity and the timeframe within which the remaining vehicles could be supplied to top up the full order required
- b) Indicate the all-inclusive units' price per vehicle – ZAR DPU per Province

Province and Main City	Total Number of Additional vehicles to be supplied to top up for a full order	Country of origin	Number of vehicles that can be supplied per each month past the original delivery period	Unit Price – ZAR DPU – Inclusive of all related cost but exclusive of VAT - Figures	Unit Price – ZAR DPU – Inclusive of all related cost but exclusive of VAT - Words	Total Bid Price ZAR DPU VAT EXCLUSIVE	VAT
Grand Total for the Code 8 Mobile Clinics Vehicles							
Grand Total for the Code 10 Mobile Clinics Vehicles							

1. **Unit price shall be DPU delivery place as indicated in Section II Point A and include a 2 year warranty (collect, repair and return) from date of preliminary acceptance of goods. A 5-year comprehensive extended warranty (Year 3 to Year 7) must be quoted for separately as option, referring to Section VII: Schedule of Requirements.**
2. **Bidders shall quote for both THE QUANTITY THAT THE BIDDER CAN DELIVER WITHIN THE 3 MONTH TIME FRAME AND IN A SEPARATE TABLE OUTSIDE THE THREE MONTH TIME FRAME. AS SUCH, BIDDERS MAY ALSO INDICATE THEIR DELIVERY CAPACITY POST THE LAST SHIPMENT DEADLINE, IN INSTANCES WHERE THEIR BID QUANTITIES ARE BELOW THE FULL TENDERED AMOUNT FOR THE PRESCRIBED DELIVERY SCHEDULE.**

Name _____

In the capacity of _____

Signed _____

Duly authorized to sign the Sealed Quotation for and on behalf of _____

Date: _____

SECTION IV: FORMS

A. Bid Submission Form

Complete this form, initialise each page, sign in full where appropriate, pdf it (uneditable) and submit together with documentation required

[The Bidder shall prepare his Bid Submission Form on a Letterhead paper specifying the Bidder's complete name, address, and communication details].

[Note: All italicized text is for use in preparing these forms by bidders and shall be deleted from the final document.]

Date : *[Insert date]*

Procurement No: RSA - Support to the South African COVID-19 Vaccination Campaign BMZ No 2012 65 198
ICB for Mobile Clinics Vehicles

To: **DG Murray Trust**

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda *[Insert Addenda No./Nos., if any]* issued in accordance with Instructions to Bidders (ITB 1-36);
- (b) We meet the eligibility requirements and have no conflict of interest in accordance with ITB 10;
- (c) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedule(s) specified in the Schedule of Requirements the following Goods: *[Insert a brief description of the Goods and Related Services]*;
- (d) The total price of our Bid, excluding any discounts offered in item (f) below is:
 - i) In case of only one lot, total price of the Bid is: *[Insert total price and currency in words and figures] [Delete if multiple lots are offered]*
 - ii) In case of multiple lots, total price of each lot is: *[Insert a list/table showing the total price and currency in words and figures for each lot offered] [Delete if only one lot is offered]*
 - iii) In case of multiple lots, total price of all lots (sum of all lots) is: *[Insert the total price and currency in words and figures for all lots offered] [Delete if only one lot is offered]*
- (e) The discounts offered and the methodology for their application are:
 - i) The discounts offered are: *[Specify in detail each discount offered; if no discount is offered state "None"]*
 - ii) The exact method of calculations to determine the net price after application of discounts is: *[Specify in detail the method that shall be used to apply the offered discounts; if no discount is offered state "None"]*
- (f) Our bid shall be valid for a period of *[Insert the number of calendar days]* days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (g) If our bid is accepted, we commit to obtain and submit a performance security in accordance with ITB 35 of the Bidding Documents;
- (h) We are not participating, as a Bidder, in more than one bid in this bidding process in accordance with ITB 12;
- (i) We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by an entity or individual that is subject to, a temporary suspension or a debarment imposed by a member of the World Bank Group or a debarment imposed by the KfW, the World Bank in accordance with the Agreement of Mutual Enforcement of

Debarment Decisions between the World Bank and other development banks, or any other any other similar funding agency;

- (j) We have paid, or will pay the following commissions, gratuities, or fees 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, gratuity or fee was or will be paid and the amount and currency of each such commission, gratuity, or fee]*

Name of Recipient	Address	Reason	Amount

[If none has been paid or is to be paid, insert "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 and accept that (i) the Purchaser is not bound to accept the lowest evaluated bid or any other bid that the Purchaser may receive, and (ii) the Purchaser reserves the right to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders; and
- (m) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption.

Name of the Bidder *[Insert the complete name of the bidder; in the case of a Bid submitted by a Joint Venture insert the name of the Joint Venture as Bidder]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder *[Insert complete name of the person duly authorised to sign the Bid; the person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid Schedules]*

Title of the person signing the Bid *[Insert complete title of the person signing the Bid]*

Signature of the person named above *[Signature of the person named above]*

Date signed *[Insert date of signing]* day of *[Insert month]* *[Insert year]*

B. Declaration of Association

Project (name and country):

Tender Ref./ Project ID:

We hereby declare our intent to associate with the following firms for the purpose of forming a Joint Venture:

[Insert the names of the other JV members here]

[Insert the name of the Lead Firm] shall be the Lead Firm.

We hereby confirm that we have not associated with any other firms for the purposes of this assignment and that we will not submit an application separately from the firms listed above. Further, we understand that if a Firm appears as an associate in more than one Application, all Applications in which the Firm appears shall be disqualified.

In the event that this JV is awarded a Contract, we shall perform the contract delivery in the composition and in the form of cooperation described above.

[Signature of the authorised representative of the Applicant]

C. Declaration of Undertaking Form

Declaration of Undertaking

Reference name of the Application/Offer/Contract:³

To: **DG Murray Trust**

1. We recognise and accept that KfW only finances projects of the Project Executing Agency ("PEA")⁴ subject to its own conditions which are set out in the Funding Agreement it has entered with the PEA. As a matter of consequence, no legal relationship exists between KfW and our company, our Joint Venture, or our Subcontractors under the Contract. The PEA retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:
 - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered receivership, reorganisation or being in any analogous situation;
 - 2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
 - 2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests (*in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);
 - 2.4) having been subject, within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such Contract performance, unless this termination was challenged, and dispute resolution is still pending or has not confirmed a full settlement against us;
 - 2.5) not having fulfilled applicable fiscal obligations regarding payments of taxes either in the country where we are constituted or the PEA's country;
 - 2.6) being subject to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debarr> or respectively on the relevant list of any other multilateral development bank (*in the event of such exclusion, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*); or
 - 2.7) being guilty of misrepresentation in supplying the information required as condition to participation in this Tender Procedure.

³ Capitalised terms used, but not otherwise defined in this Declaration of Undertaking have the meaning given to such term in KfW's "Guidelines for the Procurement of Consulting Services, Works, Plant, Goods and Non-Consulting Services in Financial Cooperation with Partner Countries".

⁴ The PEA means the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services.

3. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Contract are in any of the following situations of conflict of interest:
 - 3.1) being an affiliate controlled by the PEA or a shareholder controlling the PEA, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.2) having a business or family relationship with a PEA's staff involved in the Tender Process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.3) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the PEA;
 - 3.4) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the PEA;
 - 3.5) in the case of procurement of Works, Plant or Goods:
 - i. having prepared or having been associated with a Person who prepared specifications, drawings, calculations, and other documentation to be used in the Tender Process of this Contract;
 - ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
5. We undertake to bring to the attention of the PEA, which will inform KfW, any change in situation regarding points 2 to 4 here above.
6. In the context of the Tender Process and performance of the corresponding Contract:
 - 6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Contract have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Contract will engage in any Sanctionable Practice during the performance of the Contract;
 - 6.2) neither we nor any of the members of our Joint Venture or any of our Subcontractors under the Contract shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or Germany; and
 - 6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents provided by the PEA and, in any case, implement measures to prevent sexual exploitation and abuse and gender-based violence.
7. In the case of being awarded a Contract, we, as well as all members of our Joint Venture partners and Subcontractors under the Contract will, (i) upon request, provide information relating to the Tender Process and the performance of the Contract and (ii) permit the PEA and KfW or an auditor appointed by either of them, and in the case of financing by the European Union also to European institutions having competence under European Union law, to inspect the respective accounts, records and documents, to permit on the spot checks and to ensure access to sites and the respective project.
8. In the case of being awarded a Contract, we, as well as all our Joint Venture partners and

Subcontractors under the Contract undertake to preserve above mentioned records and documents in accordance with applicable law, but in any case, for at least six years from the date of fulfillment or termination of the Contract. Our financial transactions and financial statements shall be subject to auditing procedures in accordance with applicable law. Furthermore, we accept that our data (including personal data) generated in connection with the preparation and implementation of the Tender Process and the performance of the Contract are stored and processed according to the applicable law by the PEA and KfW.

Name: _____ In the capacity of: _____

Duly empowered to sign in the name and on behalf of⁵: _____

Signature: _____ Dated: _____

⁵ In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder.

D. Bid Security

[Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.]

Beneficiary: *[Insert name and Address of Purchaser]*

Date: *[Insert date of issue]*

BID GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[Insert name and address of the bidder, which in the case of a joint venture shall be the name and address of the joint venture]* (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its bid (hereinafter called "the Bid") for the supply of *[Insert project, object of the contract/brief description of the goods and related services]* under International Competitive Bidding No. *[Insert ICB number]*.

Waiving all objections and defenses, we, as Guarantor, hereby irrevocably and independently undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[Insert guarantee amount and currency in words and figures]* upon receipt by us of the Beneficiary's first demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

- (a) Has withdrawn its Bid during the period of bid validity set forth in the Applicant's Bid Submission Form (the Bid Validity Period"); or
- (b) Having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period, (i) has failed to sign the contract agreement, or (ii) has failed to furnish the performance security, in accordance with the Instructions to Bidders ("ITB") of the Beneficiary's bidding document.

This guarantee shall expire not later than *[Insert expiry date]*⁶.

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

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

[As preferred option regarding guaranteed rules insert⁷: This guarantee is subject to the Uniform Rule for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.]

Place, date

Guarantor's authorized signature(s)

⁶ Pursuant to ITB Clause 19.3 the guarantee must be valid for at least 42 days beyond the bid validity.

⁷ In the case the issuing bank will not add the preferred option, the following must be added instead: This guarantee is governed by the laws of *[Insert country of jurisdiction]*. Note: the country of jurisdiction shall be the country where the bank's branch issuing the guarantee is physically located.

E. Financial Information Form

[To be completed by the Bidder and by each member of the Bidder's JV]

Bidder's Name: *[Insert]*

Date: *[Insert]*

JV Member's Name: *[Insert or state "None" if the Bidder is not a Joint Venture]*

ICB No.: *[Insert]*

Page *[Insert]* of *[Insert]* pages

Financial Data

Type of Financial Information in <i>[Insert Bidder's home currency]</i>	Historic information for last available three (3) years ⁸ (amount in Bidder's home-currency, exchange rate, €-equivalent)		
	<i>[Insert Year 1]</i>	<i>[Insert Year 2]</i>	<i>[Insert Year 3]</i>
Statement of Financial Position (Information from Balance Sheet)			
Total Assets (TA)	<i>[Insert value in Bidder's home currency]</i>	<i>[Insert value in Bidder's home currency]</i>	<i>[Insert value in Bidder's home currency]</i>
	<i>[Insert exchange rate]</i>	<i>[Insert exchange rate]</i>	<i>[Insert exchange rate]</i>
	<i>[Insert €-equivalent]</i>	<i>[Insert €-equivalent]</i>	<i>[Insert €-equivalent]</i>
Total Liabilities (TL)			
Total Equity/Net Worth (NW)			
Current Assets (CA)			
Current Liabilities (CL)			
Working Capital (WC)			
Information from Income Statement			
Total Revenue (TR)			
Profits Before Taxes (PBT)			
Cash Flow Information			
Cash Flow from Operating Activities			

⁸ *[In circumstances where it is of utmost importance that Bidders have a longer company history, this requirement may be increased to up to five (5) years; if such a longer period is chosen, please amend the revised number of years throughout this table].*

Annual Turnover Data			
Year	Currency & Amount	Exchange Rate	€-equivalent
Average Annual Turnover ⁹			

Financial Documents

The Bidder and its parties shall provide copies of financial statements for **the last available three (3) years** pursuant Section I ITB point 11 sub-point (vi) The financial statements shall:

- (a) Reflect the financial situation of the Bidder or in case of JV member, and not an affiliated entity (such as parent company or group member);
 - (b) Be independently audited or certified in accordance with local legislation;
 - (c) Be complete, including all notes to the financial statements;
 - (d) Correspond to accounting periods already completed and audited.
- Attached are copies of financial statements¹⁰ for the **last available three (3) years** required above and complying with the requirements.

Title of the person signing the Bid *[Insert complete title of the person signing the Bid]*

Signature of the person named above *[Signature of the person named above]*

Date signed *[Insert date of signing] day of [Insert month] [Insert year]*

Title of the person signing the Bid *[Insert complete title of the person signing the Bid]*

Signature of the person named above *[Signature of the person named above]*

Date signed *[Insert date of signing] day of [Insert month] [Insert year]*

⁹ See Section III, Qualification and Evaluation Criteria, Qualification, Sub-Factor 3.2

¹⁰If the most recent set of financial statements is for a period earlier than 12 months from the date of bid, the reason for this should be justified.

F. Manufacturer's Authorization Form

To: *[name of the Purchaser]*

WHEREAS _____ *[Name of Manufacturer]*, who are duly incorporated under the laws of _____ *[Name of Country]*, who are established and reputable manufacturers of the Goods specified in the Table 1 below, having its principal business premises at _____ *[Address of manufacturer]*, hereby authorise _____ *[Name of bidder]*, a company duly organized under the laws of _____ *[Name of Country]* and having its principal place of business at _____ *[Address of bidder]*, to submit a bid, and subsequently negotiate and sign the Contract with you against IFB No. ___ *[reference of the Invitation to Bid]* for the Goods manufactured by us which are specified in Table 1.

As a manufacturer, we bind ourselves as the Co-maker of the bid and are jointly and severally responsible for the compliance of the said bid and hereby extend our full guarantee and warranty as per the relevant clauses of the contract for Goods offered for supply by the company above against this Invitation for Bids.

If the bid is awarded to the company above, we guarantee we will provide continuous after-sales services and maintenance services for all the Goods we supplied in the contract from the effectiveness until the expiration of the contract.

We also undertake to continuously service, maintain and repair all the Goods supplied under this contract during the entire lifespan of the Goods, should the bidder failed to service, maintain, and repair these Goods.

As part of our commitment in the continuous after-sales services and maintenance services, we hereby establish in the Purchaser's country the following offices (representative office, agent, distributor and etc):

[Company Name, Type of office, Contact information, person-in-charge of the office in the Purchaser's country]

Table 1 Description of all the Goods authorized by us in this Bid for the bidder above shall be as follows:

No.	Name of equipment	Brand/ Model	Country of origin

In testimony whereof, we have here to sign this document on _____ *[Date]*

[Signature and Seal for and on behalf of Manufacturer]
[Name and Position of Manufacturer's Authorized Representative]
[Name and Address of Manufacturer]
[Address, Telex/Fax/Telephone Number of Manufacturer]

Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent and having the power of attorney to bind the Manufacturer. It should be included by the Bidder in its bid.

SECTION V: CONTRACT

A. General Conditions of Contract

1. Definitions

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

- (a) "KfW" means the KfW Entwicklungsbank;
- (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) "GC" 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 Particular Conditions of Contract (PC)**;
- (j) "Purchaser" means the entity purchasing the Goods and Related Services, as **specified in the PC**;
- (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) "PC" means the Particular Conditions of Contract;
- (m) "Subcontractor" means any natural person, private or state 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 state 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 Named Place of Destination"/"Project Site," where applicable, means the place(s) **named in the PC**.

- 2. Contract Documents** 2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.
- 3. Fraud and Corruption** 3.1 The KfW requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Appendix 1 to the PC.
- 4. Interpretation** 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Incoterms
- (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms;
- (b) The terms CIP and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms **specified in the PC** and published by the International Chamber of Commerce in Paris, France.
- 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 GC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract;
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.
- 4.6 Severability
- If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity

or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

- 5. Language**
- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language **specified in the PC**. 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.
- 6. 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. The designated party to act as lead firm with full authority shall be **specified in the PC**.
- 7. Eligibility**
- 7.1 All Goods and Related Services to be supplied under the Contract and financed by the KfW shall have their origin in any eligible source as **specified in the PC**. 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.
- 8. Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address **specified in the PC**. The term "in writing" means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 9. Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's Country, unless otherwise **specified in the PC**.
- 10. 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 PC**.

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.

- 11. Inspections and Audit by the KfW**
- 11.1 The Supplier shall keep and shall make all reasonable efforts to cause its Subcontractors to keep accurate and systematic accounts and records, in respect of the Goods in such form and details as will clearly identify relevant time changes and costs.
- 11.2 The Supplier shall permit, and shall cause its Subcontractors and consultants to permit, the KfW and/or persons appointed by the KfW 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 KfW if requested by the KfW.
- 12. Scope of Supply**
- 12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
- 13. Delivery and Documents**
- 13.1 Subject to GC 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 PC**.
- 14. Supplier's Responsibilities**
- 14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GC Clause 12, and the Delivery and Completion Schedule, as per GC Clause 13.
- 15. 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 PC**.
- 16. Terms of Payment and Reimbursement**
- 16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as **specified in the PC**.
- 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 GC

Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.

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.

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.

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 PC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate **shown in the PC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

16.6 In the event of any reimbursement, guarantee or similar claimable payments and any insurance payments under this Contract, payment shall be effected as **specified in the PC**.

17. Taxes and Duties

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.

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.

17.3 If any tax exemptions, reductions, allowances, or privileges may be available to the Supplier in the Purchaser's Country as **specified in the PC**, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

18. Performance Security

18.1 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 PC**.

18.2 The proceeds of the Performance Security shall be payable to the Purchaser pursuant to GC 16.6 (reimbursement) as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18.3 The Performance Security shall be denominated in the currency(ies) of the Contract and shall be in one of the formats **stipulated by the Purchaser in the PC**, 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 PC.**

19. 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.

20. 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 GC 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 GC 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 KfW 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 GC 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 GC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.
- 21. 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 GC Clauses 3 and 7.
- 22. Specifications, Standards and Spare Parts**
- 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 VII, 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 GC Clause 33.
- 22.2 Spare Parts
- (a) The Supplier shall carry sufficient inventories to assure ex-stock supply of consumables and consumable spares. Other spare parts and components shall be supplied as promptly as possible but, in any case, within the number of days **specified in the PC** of placement of order.
- (b) The Supplier shall be for a period of years **specified in the PC** from the date of delivery and commissioning under obligation to supply spare parts. However, the Supplier shall, in the event of termination of production of the spare parts:
- (i) Send an advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and

- (ii) Furnish, following such termination, at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if and when requested.

- 23. 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 named place of 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' named place of 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 PC**, and in any other instructions ordered by the Purchaser.
- 24. Insurance**
- 24.1 Unless otherwise **specified in the PC**, the Goods supplied under the Contract shall be fully insured - in the currency(ies) of the Contract 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 PC**.
- 25. Transportation**
- 25.1 Unless otherwise **specified in the PC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, **specified in PC**:
- (a) Performance or supervision of on-site assembly and/or start-up of the supplied Goods;
 - (b) Furnishing of tools required for assembly and/or maintenance of the supplied Goods;
 - (c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
 - (d) Performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
 - (e) Training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.
- 25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the

prevailing rates charged to other parties by the Supplier for similar services.

26. 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 PC**.
- 26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, and/or at the Goods' named place of destination, or in another place in the Purchaser's Country as **specified in the PC**. Subject to GC 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 GC 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 GC 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 GC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.
- 27. Liquidated Damages**
- 27.1 Except as provided under GC 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 remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage **specified in the PC** 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 PC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GC Clause 35.
- 28. 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 GC 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 named place of destination.
- 28.3 Unless otherwise **specified in the PC**, 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 named place of destination **indicated in the PC**, 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 PC**, 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 **PC**, 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.

29. Patent Indemnity

29.1 The Supplier shall, subject to the Purchaser's compliance with GC 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 GC 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.

- 30. 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
- 31. Change in Laws and Regulations** 31.1 Unless otherwise specified in the Contract, if after the date of twenty-eight (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 GC Clause 15.
- 32. 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 it's 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.

33. Change Orders and Contract Amendments

33.1 The Purchaser may at any time order the Supplier through notice in accordance GC 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.

34. 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 GC 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 GC 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 GC Clause 27, unless an extension of time is agreed upon, pursuant to GC Sub-Clause 34.1.

35. 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 GC 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 GC 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 GC 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.

- 36. 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.
- 37. 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 KfW 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.

B. Particular Conditions of Contract

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

[The Purchaser shall select / insert the appropriate wording using the samples below or other acceptable wording and delete the text in italics.]

GC 1.1(i)	The Purchaser's country is <i>Republic of South Africa</i>
GC 1.1(j)	The Purchaser is: <i>DG Murray Trust (DGMT)</i> <i>on behalf of the National Department of Health (NDoH)</i>
GC 1.1 (o)	The Named Place of Destination(s) is/are: <ol style="list-style-type: none"> 1. <i>Gauteng –Johannesburg – Sandton</i> 2. <i>KwaZulu-Natal - Pietermaritzburg</i> 3. <i>Western Cape - Bellville</i> 4. <i>Eastern Cape - Buffalo City, East London</i>
GC 4.2	The version edition of Incoterms shall be Incoterms 2020. However, the definition of the place and date associated with "delivery" is modified as follows: <ol style="list-style-type: none"> (a) Under DPU Incoterms defines "delivery" as the place and date where risk transfers from the seller to the buyer, which is the final destination. (b) In these Bidding Documents, when using DPU and not referring to the transfer of risk, the term "delivery" shall be interpreted as the date and place where the Goods and Related Services arrive at the named place of destination, and this date shall be reflected in the Delivery and Completion Schedule.
GC 5.1	The governing and communication language shall be English.
GC 6.1	The designated party to act as lead firm with full authority is: <i>[Insert complete legal name of the lead firm]</i>
GC 7.1	Goods and services from countries under embargo from Germany, the European Union or the United Nations are not eligible. Goods and services from countries which are legally barred in the country of the contracting agency.

<p>GC 8.1</p>	<p>For notices, the Purchaser's address shall be: Attention: <i>The CEO, Dr. David Harrison</i> Street Address: <i>D G Murray Trust, P.O. Box 23893, Claremont</i> City: <i>Cape Town</i> ZIP Code: <i>7735</i> Country: <i>Republic of South Africa</i> Electronic mail address: <i>procurement@dgmt.co.za</i> Also copy <i>ewan@dgmt.co.za</i> and <i>helleng@dgmt.co.za</i>.</p> <p>For notices, the Supplier's address shall be: Attention: <i>[Insert full name of person, if applicable]</i> Street Address: <i>[Insert street address and number]</i> City: <i>[Insert name of city or town]</i> ZIP Code: <i>[Insert postal ZIP code, if applicable]</i> Country: <i>[Insert name of country]</i> Telephone: <i>[Include telephone number, including country and city codes]</i> Electronic mail address: <i>[Insert e-mail address, if applicable]</i></p>
<p>GC 9.1</p>	<p>The governing law shall be the law of: <i>Republic of South Africa</i></p>
<p>GC 10.2</p>	<p>The rules of procedure for arbitration proceedings pursuant to GC Clause 10.2 shall be as follows:</p> <p>(a) Contract with foreign Supplier: GC 10.2—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.</p> <p>(b) Contract with Supplier national of the Purchaser's country: In the case of a dispute between the Purchaser and a Supplier who is a national of the Purchaser's country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of South Africa.</p>
<p>GC 13.1</p>	<p>For Goods supplied from abroad: Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by cable or by electronic way previously agreed between the parties the full details of the shipment, including contract number, description of Goods, quantity, the mode of transport, the bill of lading number and date, place of loading, date of shipment, place of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:</p>

	<p>(i) Original and 3 copies of the Supplier's invoice¹¹ showing Goods' and Related Services' description, quantity, unit price, total amount, number of packages, names of the exporter and the consignee; Goods and Related Services must be carefully described (accurate, specific, and complete description of merchandise);</p> <p>(ii) Original negotiable and 3 non-negotiable copies (stamped and dated according to the original) of the clean, on-board bill of lading marked "freight prepaid" or equivalent (air waybill, road waybill, FCR, CMR), showing gross and net weights, volume of measurement, marks, and identification, name, and address of importer of consignee;</p> <p>(iii) Original and 3 copies of the packing list identifying contents of each package; packing and weighing list shall describe accurately and in detail the contents of each package / case included in the shipment and give the net and gross weights;</p> <p>(iv) Original insurance certificate;</p> <p>(v) Any other document that may be required in specific cases.</p> <p>The above documents shall be received by the Purchaser at least one week before arrival of the Goods at the place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.</p> <p>Electronically signed documents will be deemed to be an acceptable equivalent in so far as the electronic software tool creates a legally binding document and should be authorised by the purchaser.</p> <p>For Goods from within the Purchaser's country:</p> <p>Upon delivery of the Goods DPU, the Supplier shall notify the Purchaser and submit the following documents to the Purchaser:</p> <p>(i) Original and 3 copies of the Supplier's invoice showing Goods' and Related services' description, quantity, unit price, and total amount;</p> <p>(ii) Original delivery note, railway receipt, or truck receipt;</p> <p>(iii) Original insurance certificate:</p> <p>The above documents shall be received by the Purchaser before shipping of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p> <p>Electronically signed documents will be deemed to be an acceptable equivalent in so far as the electronic software tool creates a legally binding document and should be authorised by the purchaser.</p>
<p>GC 15.1</p>	<p>The prices charged for the Goods supplied and the related Services performed <i>shall not</i> be adjustable.</p>
<p>GC 16.1</p>	<p>GC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>Methods of Payment – Disposition Fund:</p> <p>Payments to the supplier shall be made by DGMT from the <i>Disposition Fund</i> established at DGMT.</p>

¹¹ If required for due process (e.g., customs clearance in the Purchaser's country), the invoice can be split into two invoices, one showing CIP values and the other local services (inland transportation, installation, training, etc.).

	<p><i>(i) Advance Payment: Thirty (30) percent of the Contract Price will be paid within ten (10) working days upon receipt of the signed Contract, an Advance Payment Invoice, the valid performance security, and a bank guarantee for the equivalent amount in the format of the Advance Payment Security form.</i></p> <p><i>(ii) On delivery: Sixty (60) percent of the Contract Price of the Goods delivered and Related Services provided shall be paid through the payment method stipulated above within ten (10) working days from delivery of the Goods by the Purchaser, upon (i) submission of documents specified in GC Clause 13, and (ii) subject to a satisfactory Performance Guarantee; together with this payment the Advance Payment Guarantee shall be released; This payment can be broken down into multiple payments on a pro-rata basis; and</i></p> <p><i>(iii) On Acceptance: Ten (10) percent of the Contract Price shall be paid through the payment method stipulated above within ten (10) working days against: the Supplier's invoice and the acceptance certificate issued by the Purchaser which shall be issued after all items are successfully delivered, installed, and commissioned, if applicable.</i></p>
GC 16.1	<p>Payment to the Supplier of the amounts due in each currency shall be made into the following bank accounts:</p> <p><i>[Insert bank account details at the time of contract signing]</i></p> <p>Bank charges are for the account of the Supplier, except for the bank charges of KfW as transferring bank only.</p>
GC 16.5	<p>GC 16.5 does not apply to this Contract, and no interest payments will be made.</p>
GC 16.6	<p>Reimbursement payments shall be made to DG Murray Trust of the Republic of South Africa to the following bank account:</p> <p>Account holder: The DG Murray Trust Account number: 62 90 99 84 652 Branch code (BLZ): 250 155 Account number (IBAN): DE53 5002 0400 3800 0000 00 SWIFT/BIC: FIRNZAJJ</p> <p>First National Bank, Branch: Business Investment Desk</p> <p>Payment to be made for the account of the <i>DG Murray Trust</i> of the Republic of South Africa.</p>
GC 17.3	<p>The following taxes, duties and fees exemptions apply to the Contract: <i>None</i></p>
GC 18.1	<p>The amount of the Performance Security (first Performance Security) shall be: <i>5% of the Bid Price until Preliminary Acceptance of the Goods (i.e., Final Payment).</i></p>

	<p><i>Together with the Final Payment Invoice, the Supplier shall submit a new Performance Guarantee (second Performance Security) in the amount of 1% of the Bid Price for the Warranty Period as per GC 28.3. Upon receipt of that Performance Guarantee, the Original Performance Guarantee will be released.</i></p>
GC 18.3	<p>The Performance Security shall be in the form of a <i>Bank Guarantee for at least three years in the attached format.</i></p> <p>The Performance security shall be denominated in South African Rand ZAR</p>
GC 18.4	<p>Discharge of the first Performance Security shall take place at Preliminary Acceptance of equipment after delivery of the total quantities and receipt by the Purchaser of the second Performance Security. Discharge of the second Performance Security upon Final Acceptance.</p>
GC 21	<p>The Supplier may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the Supplier, unless the contract is subcontracted to an EME¹² that has the capability and ability to execute the subcontract.</p>
GC 22.2(a)	<p>Not applicable</p>
GC 22.2 (b)	<p>Spare parts shall be available at least 5 years after the end of the warranty period</p>
GC 23.2	<p>The packing, marking and documentation within and outside the packages shall be <i>agreed between the Purchaser and Supplier before Shipment of Goods.</i></p>
GC 24.1	<p>The insurance coverage shall be as follows:</p> <p>The insurance shall be at the option of the Supplier and in an amount equal to 110 percent of the DPU value of the Goods from “warehouse” to “the project site” on “All Risks” basis, including war risks and strikes.</p> <p>Any payments of the insurer are to be made to DGMT for the project account to the extent that the risk has already come to lie with the Purchaser. The insurance certificate/policy must include the following Clause:</p> <p>“In the event of any claim under this insurance policy, payment shall be effected to DGMT:</p> <p>Account holder: The DG Murray Trust Account number: 62 90 99 84 652 Swift Code: FIRNZAJJ First National Bank, Branch: Business Investment Desk, Branch Code: 250155</p>

¹² EME” means an exempted micro enterprise in terms of a code of good practice on Black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act

GC 25.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms 2020 DPU.</p> <p>The Supplier is required under the Contract to ship the Goods DPU to a specified named place of destination and unload within the Purchaser's country,</p> <p>Risk transfers from seller to buyer when the goods are unloaded and commissioned; so, unloading is at the seller's risk.</p>
GC 25.2	Incidental services to be provided are not applicable
GC 26.1	The inspections and tests shall be <i>not applicable</i>
GC 26.2	The Inspections and tests shall be conducted at: <i>not applicable</i>
GC 27.1	The liquidated damage shall be: <i>0.05%</i> of the value of delayed or undelivered goods for each day of delay until actual delivery or performance.
GC 27.1	The maximum amount of liquidated damages shall be: <i>10% of the Contract Price.</i>
GC 28.3	<p>The period of validity of the Warranty shall be:</p> <p>24 months after provisional acceptance</p> <p>Further 60 months extended warranty are optional.</p> <p>For purposes of the Warranty, the named place(s) of destination(s) shall be the vaccination sites in the districts</p>
GC 28.5 and GC 28.6	The period for repair or replacement shall be <i>maximum 5 days.</i>

Attachment 1 to Particular Conditions of Contract

KfW Policy – Sanctionable Practice – Social and Environmental Responsibility

1) Sanctionable Practice

The PEA and the Contractors (including all members of a Joint Venture and proposed or engaged Subcontractors) must observe the highest standard of ethics during the Tender Process and performance of the Contract.

By signing the Declaration of Undertaking the Contractors declare that (i) they did not and will not engage in any Sanctionable Practice likely to influence the Tender Process and the corresponding Award of Contract to the PEA's detriment, and that (ii) in case of being awarded a Contract they will not engage in any Sanctionable Practice.

Moreover, KfW requires to include in the Contracts a provision pursuant to which Contractors must permit KfW and in case of financing by the European Union also to European institutions having competence under European law to inspect the respective accounts, records and documents relating to the Tender Process and the performance of the Contract, and to have them audited by auditors appointed by KfW.

KfW reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

- (a) reject an Offer for Award of Contract if during the Tender Process the Bidder who is recommended for the Award of Contract has engaged in Sanctionable Practice, directly or by means of an agent in view of being awarded the Contract;
- (b) declare misprocurement and exercise its rights on the ground of the Funding Agreement with the PEA relating to suspension of disbursements, early repayment and termination if, at any time, the PEA, Contractors or their legal representatives or Subcontractors have engaged in Sanctionable Practice during the Tender Process or performance of the Contract without the PEA having taken appropriate action in due time satisfactory to KfW to remedy the situation, including by failing to inform KfW at the time they knew of such practices.

KfW defines, for the purposes of this provision, the terms set forth below as follows:

Coercive Practice	The impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of the person with a view to influencing improperly the actions of a person.
Collusive Practice	An arrangement between two or more persons designed to achieve an improper purpose, including influencing improperly the actions of another person.
Corrupt Practice	The promising, offering, giving, making, insisting on, receiving, accepting or soliciting, directly or indirectly, of any illegal payment or undue advantage of any nature, to or by any person, with the intention of influencing the actions of any person or causing any person to refrain from any action.
Fraudulent Practice	Any action or omission, including misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial benefit or to avoid an obligation.

Obstructive Practice Means (i) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or the making of false statements to investigators, in order to materially impede an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice, or threatening, harassing or intimidating any Person to prevent them from disclosing their knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) any act intended to materially impede the exercise of KfW's access to contractually required information in connection with an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice.

Sanctionable Practice Any Coercive Practice, Collusive Practice, Corrupt Practice, Fraudulent Practice or Obstructive Practice (as such terms are defined herein) which is unlawful under the Financing Agreement.

2) **Social and Environmental Responsibility**

Projects financed in whole or partly in the framework of Financial Cooperation have to ensure compliance with international Environmental, Social, Health and Safety (ESHS) standards (including issues of sexual exploitation and abuse and gender based violence) Contractors in KfW-financed projects shall consequently undertake in the respective Contracts to:

- (a) comply with and ensure that all their Subcontractors and major suppliers, i.e. for major supply items comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the respective Contract and the fundamental conventions of the International Labour Organisation¹³ (ILO) and international environmental treaties and;
- (b) implement any environmental and social risks mitigation measures, as identified in the environmental and social impact assessment (ESIA) and further detailed in the environmental and social management plan (ESMP) as far as these measures are relevant to the Contract and implement measures for the prevention of sexual exploitation and abuse and gender-based violence.

¹³ In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

C. Contract Forms

Letter of Acceptance

[Use letterhead paper of the Purchaser]

[Insert date]

To: *[Insert name and address of the Supplier]*

Subject: **Notification of Award Contract No. *[Insert contract number]***

This is to notify you that your Bid dated *[Insert date]* for execution of the *[Insert name of the contract and identification number, as given in the PC]* for the Accepted Contract Amount of *[Insert contract price in numbers and words including code and name of currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by the undersigned Purchaser.

You are requested to furnish the Performance Security within twenty-eight (28) days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included in Section X, Contract Forms, of the Bidding Documents.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Institution: _____

Attachment: Contract Agreement¹⁴

¹⁴If the Purchaser cannot send the contract agreement together with the letter of acceptance, it must be sent electronically to the Supplier within a reasonable period of time not exceeding ten days; for the purpose of issuing the required Performance Guarantee, the supplier must be advised of the Contract date.

Contract Agreement

THIS AGREEMENT made

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

BETWEEN

- (1) *[Insert complete name of Purchaser]*, a/an *[Insert description of type of legal entity, for example, an agency of the Ministry of of the State of {Insert name of Country of Purchaser}, or corporation incorporated under the laws of {Insert name of Country of Purchaser}]* and having its principal place of business at *[Insert address of Purchaser]* (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., *[Insert brief description of Goods and Services]* 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 Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
 - (a) The Letter of Acceptance;
 - (b) The Bid Submission Form and Appendix to Bid Submission Form (including the signed Declaration of Undertaking);
 - (c) The Addenda Nos. _____ (if any);
 - (d) Particular Conditions of Contract, including Annex 1;
 - (e) General Conditions of Contract;
 - (f) The Specification (including Schedule of Requirements and Technical Specifications);
 - (g) The completed Bidding Forms (including Price Schedules); and
 - (h) Any other document listed in GC as forming part of the Contract.
3. 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 specified in this Agreement, 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 Purchaser¹⁵:

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]*

¹⁵In cases where the Purchaser is different from the Beneficiaries of the Contract, it may be advisable to have authorized representatives from the Beneficiary Institutions sign as witnesses, accepting the Goods to be supplied.

[Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.]

Performance Security

Beneficiary: *[Insert name and Address of Purchaser]*
Date: *[Insert date of issue]*
PERFORMANCE GUARANTEE No.: *[Insert guarantee reference number]*
Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[Insert name and address of supplier, which in the case of a joint venture shall be the name and address of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[Insert reference number of the contract]* dated *[Insert contract date]* with the Beneficiary, for the supply of *[Insert object of the contract and brief 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 for *[Insert percentage in words and figures]* % of the contract price.

Waiving all objections and defenses, we, as Guarantor, hereby irrevocably and independently undertake to pay the Beneficiary, any sum or sums not exceeding in total an amount of *[Insert guarantee amount and currency in words and figures]*¹⁶ upon receipt by us of the Beneficiary's first demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for the demand or the sum specified therein.

[For guarantees issued in foreign currency insert the following:

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt am Main (BIC: KFWIDEFF, BLZ 500 204 00), account no. 38 000 000 00 (IBAN: DE53 5002 0400 3800 0000 00), for the account of *[Insert name of the Purchaser and the Purchaser's country]*.

In the event of any claim under this guarantee, payment shall be effected to

THE DG MURRAY TRUST with identification/registration number T141/79(C) – South Africa
Branch Code 250155
Branch Name BUSINESS INVESTMENT DESK
Account Type NON STANDARD CALL
Account Number 62909984652
Swift Code FIRZAJJ

This guarantee shall expire not later than *[Insert expiry date]*¹⁷.

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

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

[As preferred option regarding guarantee rules insert¹⁸: This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.]

¹⁶ This guarantee shall be issued in the contract currency only.

¹⁷ Pursuant to GC Clause 18.4 the guarantee shall be valid for at least 28 days from the date of contractual contract completion (including warranty obligations).

¹⁸ In the case the issuing bank will not add the preferred option, the following must be added instead: This guarantee is governed by the laws of *[Insert country of jurisdiction]*. Note: the country of jurisdiction shall be the country where the bank's branch issuing the guarantee is physically located.

Place, date

Guarantor's authorized signature(s)

[Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.]

Advance Payment Security

Beneficiary: *[Insert name and Address of Purchaser]*
Date: *[Insert date of issue]*
ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*
Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[Insert name and address of supplier, which in the case of a joint venture shall be the name and address of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[Insert reference number of the contract]* dated *[Insert contract date]* with the Beneficiary, for the supply of *[Insert object of the contract and brief description of Goods and related Services]* (hereinafter called "the Contract"). Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of *[Insert amount and currency in words and figures]*¹⁹, representing *[Insert percentage in words and figures]*% of the contract price, is to be made against an advance payment guarantee.

Waiving all objections and defenses, we, as Guarantor, hereby irrevocably and independently undertake to pay the Beneficiary, any sum or sums not exceeding in total an amount of *[Insert guarantee amount and currency in words and figures]* upon receipt by us of the Beneficiary's first demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for the demand or the sum specified therein.

The advance payment guarantee shall come into force and effect as soon as the advance payment has been credited to the Applicant on its account. Minor deductions of the above mentioned amount notably due to bank fees shall have no effect on the entry into force.

[For guarantees issued in foreign currency insert the following:

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt am Main (BIC: KFWIDEFF, BLZ 500 204 00), account no. 38 000 000 00 (IBAN: DE53 5002 0400 3800 0000 00), for the account of *[Insert name of the Purchaser and the Purchaser's country]*.

the event of any claim under this guarantee, payment shall be effected to

THE DG MURRAY TRUST with identification/registration number T141/79(C) – South Africa
Branch Code 250155
Branch Name BUSINESS INVESTMENT DESK
Account Type NON STANDARD CALL
Account Number 62909984652
Swift Code FIRNZAJJ

This guarantee shall expire not later than *[Insert expiry date]*.

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

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

[As preferred option regarding guarantee rules insert²⁰: This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting

¹⁹ This guarantee must be issued in the contract currency only.

²⁰ In the case the issuing bank will not add the preferred option, the following must be added instead: This guarantee is governed by the laws of *[Insert country of jurisdiction]*. Note: the country of jurisdiction shall be the country where the bank's branch issuing the guarantee is physically located.

statement under Article 15(a) is hereby excluded.]

Place, date

Guarantor's authorized signature(s)