



Republic of Malawi

Competition and Fair Trading Commission

Bidding Document

for the

Procurement of Non-Consultancy Services

Subject of Procurement	Procurement of Security Services
Procurement Reference Number	CFTC/SECU/11/2024
Procurement Method	REQUEST FOR QUOTATION
Date of Issue	1 st October 2024

Table of Contents

Part 1 - Bidding Procedures

- Section 1 – Instructions to Bidders
- Section 2 – Bid Data Sheet
- Section 3 – Evaluation Methodology and Criteria
- Section 4 – Bidding Forms
- Section 5 – Eligible Countries

Part 2 - Statement of Requirement

- Section 6 – Statement of Requirements

Part 3 - Contract

- Section 7 – General Conditions of Contract
- Section 8 – Special Conditions of Contract
- Section 9 – Contract Forms

Section 1: Instructions to Bidders

Table of Contents

A.	General	Error! Bookmark not defined.
1.	Scope of Bid	Error! Bookmark not defined.
2.	Source of Funds	Error! Bookmark not defined.
3.	Fraud and Corruption	Error! Bookmark not defined.
4.	Eligible Bidders	Error! Bookmark not defined.
5.	Eligible Services and Related Goods	Error! Bookmark not defined.
B.	Contents of Bidding Document	Error! Bookmark not defined.
6.	Sections of Bidding Document.....	Error! Bookmark not defined.
7.	Clarification of Bidding Documents	Error! Bookmark not defined.
8.	Amendment of Bidding Documents	Error! Bookmark not defined.
C.	Preparation of Bids	Error! Bookmark not defined.
9.	Cost of Bidding.....	Error! Bookmark not defined.
10.	Language of Bid	Error! Bookmark not defined.
11.	Preparation of bids	
12.	Documents Comprising the Bid	Error! Bookmark not defined.
13.	Bid Submission Sheet and Price Schedules.....	Error! Bookmark not defined.
14.	Alternative Bids.....	Error! Bookmark not defined.
15.	Bid Prices and Discounts.....	Error! Bookmark not defined.
16.	Currencies of Bid.....	Error! Bookmark not defined.
17.	Documents Establishing the Eligibility of the Bidder.	Error! Bookmark not defined.
18.	Documents Establishing the Eligibility of Services and Related Goods	Error! Bookmark not defined.
19.	Documents Establishing the Conformity of the Services and Related Goods to the Bidding Documents	Error! Bookmark not defined.
20.	Documents Establishing the Qualifications of the Bidder	Error! Bookmark not defined.
21.	Period of Validity of Bids.....	Error! Bookmark not defined.
22.	Bid Security	Error! Bookmark not defined.
23.	Format and Signing of Bid	Error! Bookmark not defined.
D.	Submission and Opening of Bids	Error! Bookmark not defined.
24.	Sealing and Marking of Bids	Error! Bookmark not defined.
25.	Deadline for Submission of Bids.....	Error! Bookmark not defined.
26.	Late Bids.....	Error! Bookmark not defined.
27.	Withdrawal, Substitution, and Modification of Bids..	Error! Bookmark not defined.
28.	Bid Opening.....	Error! Bookmark not defined.
E.	Evaluation and Comparison of Bids	Error! Bookmark not defined.
29.	Confidentiality	Error! Bookmark not defined.
30.	Clarification of Bids	Error! Bookmark not defined.
31.	Responsiveness of Bids	Error! Bookmark not defined.
32.	Nonconformities, Errors, and Omissions	Error! Bookmark not defined.
33.	Preliminary Examination of Bids- Eligibility and Administrative Compliance.....	Error! Bookmark not defined.
34.	Detailed Commercial and Technical Evaluation	Error! Bookmark not defined.
35.	Conversion to Single Currency	Error! Bookmark not defined.
36.	Margin of Preference	Error! Bookmark not defined.

- 37. Financial Comparison of Bids **Error! Bookmark not defined.**
- 38. Determination of the lowest evaluated bid
- 39. Post-qualification of the Bidder..... **Error! Bookmark not defined.**
- 40. Procuring and Disposing Entity’s Right to Accept Any Bid, and to Reject Any or All Bids..... **Error! Bookmark not defined.**
- F. Award of Contract.....Error! Bookmark not defined.**
- 41. Award Procedure **Error! Bookmark not defined.**
- 42. Procuring and Disposing Entity’s Right to Vary Quantities at Time of Award**Error! Bookmark not defined.**
- 43. Notification and Acceptance of Award **Error! Bookmark not defined.**
- 44. Signing of Contract..... **Error! Bookmark not defined.**
- 45. Performance Security **Error! Bookmark not defined.**

Section I. Instructions to Bidders

A. General

1. Scope of Bid

1.1 The Procuring and Disposing Entity indicated in the Bid Data Sheet (BDS), invites bids by the issue of this Bidding Document for the provision of Non-Consultancy Services as specified in Section 6, Statement of Requirements. These Instructions to Bidders shall be read in conjunction with the BDS. The subject of procurement, the procurement reference number, and number of lots of this Bidding Document are provided in the BDS.

1.2 The Bidding Document is issued under the procurement method indicated in the BDS.

1.3 Throughout these Bidding Documents:

- (a) the term “in writing” means communicated in written form with proof of receipt;
- (b) if the context so requires, singular means plural and vice versa; and
- (c) “day” means calendar day.

2. Source of Funds

2.1 The Procuring and Disposing Entity has an approved budget from public funds toward the cost of the procurement described in the BDS. The Procuring and Disposing Entity intends to use these funds to place a contract for which these Bidding Documents are issued.

2.2 Payments will be made directly by the Procuring and Disposing Entity and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring and Disposing Entity.

3. Fraud and Corruption

3.1 The Government requires that Procuring Entities, as well as Bidders and Suppliers under government-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Government:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) "corrupt practice" means –
 - (A) the offering, giving, receiving, obtaining or soliciting of any advantage to influence the action of any public officer or any official or any other person;
 - (B) influence peddling;
 - (C) the extortion of any advantage;in the procurement process or in contract execution.

(ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;

- (iii) “collusive practices” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring and Disposing Entity, designed to establish prices at artificial, noncompetitive levels; and
 - (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.
- (b) will reject a recommendation for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question; and
 - (c) will debar a Bidder from participation in public procurement for a specified period of time if it at any time determines that the firm has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract.

4. Eligible Bidders

4.1 A Bidder may be a natural person, private entity, government-owned entity—subject to ITB Sub-Clause 4.5 - or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the BDS, all parties shall be jointly and severally liable.

4.2 This Invitation for Bids is open to all suppliers from eligible source countries as defined in Section 5, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors for any part of the Contract including related services.

4.3 A Bidder shall not have a conflict of interest. All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if they are associated or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Government of Malawi to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services to be procured under this Invitation for Bids.

4.4 A firm that has been debarred by the Office of the Director of Public Procurement in accordance with ITB Clause 3.1 (c), at the date of the deadline for bid submission or thereafter, shall be ineligible.

4.5 Government-owned enterprises shall be eligible if they can establish that they are legally and financially autonomous, operate under commercial law, and are not a dependent agency (directly or indirectly) of the Procuring and Disposing Entity or the Government of Malawi.

4.6 Bidders shall provide such evidence of their eligibility, satisfactory to the Procuring and Disposing Entity, to verify that the bidder:

- (i) has the legal capacity to enter into a contract;
- (ii) is not insolvent, in receivership, bankrupt or being wound up, not have had their business activities suspended and not be the subject of legal proceedings for any of the foregoing; and
- (iii) has fulfilled their obligations to pay taxes according to the tax laws of their country of registration.

4.7 In order to demonstrate compliance with the criteria in ITB Sub-Clause 4.6, a Bidder shall submit with its Bid:

- (i) a copy of its annual tax clearance certificate;
- (ii) appropriate documentary evidence demonstrating its compliance; and
- (iii) such other documentary evidence as may be specified in the BDS.

5. Eligible Services and Related Goods

5.1 All services and related goods to be provided under the Contract shall have as their country of origin an eligible country in accordance with Section 5, Eligible Countries.

5.2 For purposes of this Clause, the term services” includes insurance, security, cleaning, repair and maintenance of office equipment, machinery, industrial plants and “related goods” include security equipment, cleaning materials, etc

B. Contents of Bidding Document

6. Sections of Bidding Document

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

Part 1 Bidding Procedures

- Section 1 Instructions to Bidders (ITB)
- Section 2 Bid Data Sheet (BDS)
- Section 3 Evaluation Methodology and Criteria
- Section 4 Bidding Forms
- Section 5 Eligible Countries

Part 2 Statement of Requirements

- Section 6 Statement of Requirements

Part 3 Contract

- Section 7 General Conditions of Contract (GCC)
- Section 8 Special Conditions of Contract (SCC)
- Section 9 Contract Forms

6.2 The Invitation to Bid is not part of the Bidding Document.

6.3 The Procuring and Disposing Entity is not responsible for the completeness of the Bidding Documents and their addenda if they were not obtained directly from the Procuring and Disposing Entity. Bidding Documents not obtained from the Procuring and Disposing Entity may be rejected during evaluation. Where a Bidding Document is obtained from the Procuring and Disposing Entity on a Bidder’s behalf, the Bidder’s

name must be registered with the Procuring and Disposing Entity at the time of sale and issue.

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

7. Clarification of Bidding Documents

7.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Procuring and Disposing Entity in writing at the Procuring and Disposing Entity's address indicated in the BDS. The Procuring and Disposing Entity will respond in writing to any request for clarification, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of bids. The Procuring and Disposing Entity shall forward copies of its response to all Bidders who have acquired the Bidding Documents directly from it, including a description of the inquiry but without identifying its source. Should the Procuring and Disposing Entity deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 8 and Sub-Clause 25.2.

8. Amendment of Bidding Documents

8.1 At any time prior to the deadline for submission of bids, the Procuring and Disposing Entity may amend the Bidding Documents by issuing addenda.

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

8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring and Disposing Entity may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 25.2

C. Preparation of Bids

9. Cost of Bidding

9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Procuring and Disposing Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

10. Language of Bid

10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring and Disposing Entity, shall be written in English. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Bid, such translation shall govern.

11. Preparation of Bids

11.1 Bidders are required to prepare and submit a single bid containing both technical and financial information.

11.2 A pre-bid meeting will be held where indicated in the BDS. Attendance at the pre-bid meeting is optional.

12. Documents Comprising the Bid

12.1 The Bid shall comprise the following:

- (a) Bid Submission Sheet and the applicable Price Schedules in accordance with ITB Clauses 13, 15, and 16;
- (b) Bid Security, if applicable, in accordance with ITB Clause 22;
- (c) alternative bids, if permissible, in accordance with ITB Clause 14;
- (d) written confirmation authorising the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 23;
- (e) documentary evidence in accordance with ITB Clause 17 establishing the Bidder's eligibility to bid;
- (f) documentary evidence in accordance with ITB Clause 18, that the Services and Related Goods to be provided by the Bidder are of eligible origin;
- (g) documentary evidence in accordance with ITB Clauses 19 and 31, that the Services and Related Goods conform to the Bidding Documents;
- (h) documentary evidence in accordance with ITB Clause 20 establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
- (i) any other document required in the BDS.

13. Bid Submission Sheet and Price Schedules

13.1 The Bidder shall submit the Bid Submission Sheet using the form furnished in Section 4, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested, which includes:

- a. the reference of the Bidding Document and the number of each addenda received;
- b. a brief description of the Services and Related Goods offered;
- c. the total bid price;
- d. any discounts offered and the methodology for their application;
- e. the period of validity of the bid;
- f. a commitment to submit a performance security, if required, and the amount;
- g. a declaration of nationality of the Bidder;
- h. a declaration that the Bidder, including all parties comprising the Bidder, is not participating, as a Bidder, in more than one bid in this bidding process; except for alternative bids in accordance with ITB Clause 14;
- i. confirmation that the Bidder has not been debarred by the Director of Public Procurement;
- j. a declaration concerning investigations relating to any other public procurement tender exercise or awarded contract,
- k. a declaration on gratuities and commissions;
- l. the names and addresses of the Directors of the bidder, and
- m. an authorised signature.

- 13.2 The Bidder shall submit the Price Schedules for the Services and Related Goods, indicating their origin as appropriate, using the forms furnished in Section 4, Bidding Forms. The Price Schedule Forms shall indicate, as appropriate:
- a. the item number;
 - b. a brief description of the Services and Related Goods to be provided;
 - c. their country of origin;
 - d. quantity;
 - e. unit prices;
 - f. all taxes paid or payable in Malawi;
 - g. total price per item;
 - h. subtotals and totals per Price Schedule; and
 - i. authorised signature.

14. Alternative Bids

- 14.1 Unless otherwise indicated in the BDS, alternative bids shall not be considered.

15. Bid Prices and Discounts

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

- 15.2 All items in the Statement of Requirements must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedule shall be assumed to be not included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment shall be applied in accordance with ITB Sub-Clause 32.3

- 15.3 The price to be quoted in the Bid Submission Sheet, in accordance with ITB Sub-Clause 13.1(c), shall be the total price of the Bid, excluding any discounts offered.

- 15.4 The Bidder shall quote any unconditional discounts and the methodology for their application in the Bid Submission Sheet, in accordance with ITB Sub-Clause 13.1(d).

- 15.5 Prices proposed on the Price Schedule Forms for the Services and Related Goods shall be disaggregated, when appropriate as indicated in this sub-clause. This disaggregation shall be solely for the purpose of facilitating the comparison of bids by the Procuring and Disposing Entity. This shall not in any way limit the Procuring and Disposing Entity's right to contract on any of the terms offered:

- a. For services
 - (i) the price of the services;
 - (ii) (ii) all taxes already paid or payable on the services if the contract is awarded to the Bidder; and
 - (iii) the total price for the service.
- b. For related goods:
 - (i) the price of the goods shall be quoted CIP named port of destination, or as specified in the BDS. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible countries. Similarly, the Bidder may obtain insurance services from any eligible source country;

- (ii) (ii) all taxes already paid or payable on the goods or on the components and raw materials used in the manufacture or assembly if the contract is awarded to the Bidder; and
- (iii) the total price for the goods.

15.6 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 31. However, if in accordance with the BDS, prices quoted by the Bidder are subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

15.7 If so indicated in ITB Sub-Clause 1.1, bids are being invited for individual contracts (lots) or for any combination of contracts (packages), bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Price reductions or discounts shall be submitted in accordance with ITB Sub-Clause 15.4, provided the bids for all lots are submitted and opened at the same time.

15.8 If so indicated in ITB Sub-Clause 1.1, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Prices quoted shall correspond to one hundred (100) % of the items specified for each lot and to one hundred (100) % of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their bid the price reductions applicable to each package or, alternatively, to individual Contracts within the package. Price reductions shall be submitted in accordance with ITB Sub-Clause 15.4, provided the bids for all lots are submitted and opened at the same time.

16. Currencies of Bid

16.1 For Services and Related Goods that the Bidder will provide from inside Malawi the prices shall be quoted in Malawi Kwacha, unless otherwise specified in the BDS.

16.2 For Services and Related Goods that the Bidder will provide from outside Malawi prices shall be expressed in the currency of any eligible country. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but use no more than three currencies different from the currency of Malawi.

17. Documents Establishing the Eligibility of the Bidder

17.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the eligibility declarations in the Bid Submission Sheet, included in Section 4, Bidding Forms.

18. Documents Establishing the Eligibility of Services and Related Goods

18.1 To establish the eligibility of the Services and Related Goods, in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section 4, Bidding Forms.

19. Documents Establishing the Conformity of the Services and Related Goods to the Bidding Documents

19.1 To establish the conformity of the Services and Related Goods to the Bidding Documents, the Bidder shall furnish as part of its bid, the documentary evidence specified in Section 6, Statement of Requirement.

19.2 The documentary evidence on technical and professional qualifications.

20. Documents Establishing the Qualifications of the Bidder

20.1 To establish its qualifications to perform the Contract, the Bidder shall submit the evidence indicated for each qualification criterion specified in Section 3, Evaluation and Qualification Criteria.

21. Period of Validity of Bids

21.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline prescribed by the Procuring and Disposing Entity. A bid valid for a shorter period shall be rejected by the Procuring and Disposing Entity as non-responsive.

21.2 In exceptional circumstances, prior to expiry of the bid validity period, the Procuring and Disposing Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB Clause 22, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB Sub-Clause 21.3.

21.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial bid validity, the Contract price shall be adjusted by a factor specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.

22. Bid Security

22.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, a bid security in original form and in the amount and currency specified in the BDS.

22.2 The bid security shall be in any of the following forms:

- (a) a bank guarantee;
- (b) an irrevocable letter of credit;
- (c) a cashier's or certified cheque or payable order;

all from a reputable source in an eligible country. The bid security shall be submitted either using the Bid Security Form included in Section 4, Bidding Forms, or in another substantially similar format, acceptable to the Procuring and Disposing Entity. In either case, the form must include the complete name of the Bidder. The bid security shall be

valid for twenty-eighty (28) days beyond the end of the validity period of the bid. This shall also apply if the period for bid validity is extended.

22.3 Any bid not accompanied by a substantially responsive bid security, if one is required in accordance with ITB Sub-Clause 22.1, shall be rejected by the Procuring and Disposing Entity as non responsive.

22.4 The bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security pursuant to ITB Clause 45.

22.5 The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security, where applicable.

22.5 The bid security may be forfeited:

(a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB Sub-Clause 21.2; or

(b) if the successful Bidder fails to:

(i) sign the Contract in accordance with ITB Clause 44;

(ii) furnish a performance security in accordance with ITB Clause 45; or

(iii) accept the correction of its Bid Price pursuant to ITB Sub-Clause 32.5.

23. Format and Signing of Bid

23.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 12 and clearly mark it "ORIGINAL." In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

23.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the Bidder. This authorisation shall consist of a written confirmation as specified in the BDS and shall be attached to the bid. The name and position held by each person signing the authorisation must be typed or printed below the signature. All pages of the bid, except for unamended printed literature, shall be signed or initialled by the person signing the bid.

23.3 Any interlineation, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the bid.

D. Submission and Opening of Bids

24. Sealing and Marking of Bids

24.1 The Bidder shall enclose the original and each copy of the bid, including alternative bids, if permitted in accordance with ITB Clause 14, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope.

- 24.2 The inner and outer envelopes shall:
- (a) be addressed to the Procuring and Disposing Entity in accordance with ITB Sub-Clause 25.1;
 - (b) bear the subject of the procurement or the Project name, and procurement reference number indicated in the BDS;
- 24.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared “late” pursuant to ITB Clause 26.1.
- 24.4 If all envelopes are not sealed and marked as required, the Procuring and Disposing Entity shall assume no responsibility for the misplacement or premature opening of the bid.

25. Deadline for Submission of Bids

- 25.1 Bids must be received by the Procuring and Disposing Entity at the address and no later than the date and time indicated in the BDS.
- 25.2 The Procuring and Disposing Entity may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 8, in which case all rights and obligations of the Procuring and Disposing Entity and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

26. Late Bids

- 26.1 The Procuring and Disposing Entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 25. Any bid received by the Procuring and Disposing Entity after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

27. Withdrawal, Substitution, and Modification of Bids

- 27.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorised representative, and shall include a copy of the authorisation in accordance with ITB Sub-Clause 23.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:
- (a) Submitted in accordance with ITB Clauses 23 and 24 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” or “Modification;” and
 - (b) Received by the Procuring and Disposing Entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 25.
- 27.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 27.1 shall be returned unopened to the Bidders.
- 27.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and expiry of the period of bid validity specified by the Bidder on the Bid Submission Sheet or any extension thereof.

28. Bid Opening

- 28.1 The Procuring and Disposing Entity shall conduct the bid opening in the presence of Bidders' designated representatives who may choose to attend, and at the address, date and time specified in the BDS.
- 28.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorisation to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorisation to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.
- 28.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the Bid Prices, including any discounts and alternative offers, if permitted in the BDS; the presence of a bid security, if required; and any other details as the Procuring and Disposing Entity may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation. No bid shall be rejected at bid opening except for late bids, in accordance with ITB Sub-Clause 26.1.
- 28.4 The Procuring and Disposing Entity will prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, including any discounts and alternative offers; and the presence or absence of a bid security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record may be provided to Bidders upon request.

E. Evaluation and Comparison of Bids

29. Confidentiality

- 29.1 Information relating to the examination, evaluation, comparison, and post qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders.
- 29.2 Any effort by a Bidder to influence the Procuring and Disposing Entity in the examination, evaluation, comparison, and post-qualification of the bids or Contract award decisions shall result in the rejection of its bid.

29.3 Notwithstanding ITB Sub-Clause 29.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Procuring and Disposing Entity on any matter related to the bidding process, it should do so in writing.

30. Clarification of Bids

30.1 To assist in the examination, evaluation, comparison and post qualification of the bids, the Procuring and Disposing Entity may, at its discretion, ask any Bidder for a clarification of its bid. Any clarification submitted by a Bidder that is not in response to a request by the Procuring and Disposing Entity shall not be considered. The Procuring and Disposing Entity's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring and Disposing Entity in the evaluation of the bids, in accordance with ITB Clause 32.

31. Responsiveness of Bids

31.1 The Procuring and Disposing Entity's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence.

31.2 A substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) affects in any substantial way the scope, quality, or performance of the Services and Related Goods specified in the Contract; or
- (b) limits in any substantial way, inconsistent with the Bidding Documents, the Procuring and Disposing Entity'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.

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

32. Nonconformities, Errors, and Omissions

32.1 Provided that a bid is substantially responsive, the Procuring and Disposing Entity may waive any non-conformity or omissions in the bid that does not constitute a material deviation.

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

32.3 Provided that a bid is substantially responsive, the Procuring and Disposing Entity shall rectify nonmaterial nonconformities or omissions. To this effect, the Bid Price

shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The adjustment shall be made using the method indicated in the BDS.

32.4 Provided that the bid is substantially responsive, the Procuring and Disposing Entity shall correct arithmetical errors on the following basis:

- (a) 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, unless in the opinion of the Procuring and Disposing Entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

32.5 If the Bidder that submitted the lowest evaluated bid does not accept the correction of errors, its bid shall be disqualified and its bid security may be forfeited.

33. Preliminary Examination of Bids- Eligibility and Administrative Compliance

33.1 The Procuring and Disposing Entity shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 12 have been provided, and to determine the completeness of each document submitted.

33.2 The Procuring and Disposing Entity shall confirm that the following documents and information have been provided in the Bid. If any of these documents or information is missing, the bid shall be rejected.

- (a) Bid Submission Sheet, including:
 - (i) a brief description of the Services and Related Goods offered; and
 - (ii) the price of the Bid;
 - (iii) the period of validity of the Bid;
- (b) Price Schedules;
- (c) Written confirmation of authorisation to commit Bidder; and
- (d) Bid Security, if applicable.

34. Detailed Commercial and Technical Evaluation

34.1 The Procuring and Disposing Entity shall examine the bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.

34.2 The Procuring and Disposing Entity shall evaluate the technical aspects of the bid submitted in accordance with ITB Clause 19, to confirm that all requirements specified in Section 6, Statement of Requirements of the Bidding Documents, have been met without any material deviation or reservation.

34.3 If, after the examination of the terms and conditions and the technical evaluation, the Procuring and Disposing Entity determines that the bid is not substantially responsive in accordance with ITB Clause 31, it shall reject the bid.

35. Conversion to Single Currency

35.1 For evaluation and comparison purposes, the Procuring and Disposing Entity shall convert all bid prices expressed in the amounts in various currencies into a single currency, using the selling exchange rate established by the source and on the date specified in the BDS.

36. Margin of Preference

36.1 Unless otherwise specified in the BDS, a margin of preference shall not apply. Where a Margin of Preference applies the details to be applied shall be listed in Section 3 Evaluation Methodology and Criteria.

37. Financial Comparison of Bids

37.1 The Procuring and Disposing Entity shall financially evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.

37.2 To financially evaluate a bid, the Procuring and Disposing Entity shall only use the criteria and methodologies defined in this Clause and in Section 3, Evaluation Methodology and Criteria. No other criteria or methodology shall be permitted.

37.3 To financially evaluate a bid, the Procuring and Disposing Entity shall consider the following:

- (a) the bid price;
- (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 32.4;
- (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 15.3;
- (d) adjustment for nonconformities and omissions in accordance with ITB Sub-Clause 32.3;
- (e) application of all the evaluation factors indicated in Section 3, Evaluation Methodology and Criteria; and
- (f) adjustments due to the application of a margin of preference, in accordance with ITB Clause 36.

38. Determination of lowest evaluated bid

38.1 The Procuring and Disposing Entity shall compare all substantially responsive bids to determine the lowest evaluated bid, in accordance with ITB Sub-Clause 15.6.

39. Post-qualification of the Bidder

39.1 The Procuring and Disposing Entity shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is qualified to perform the Contract satisfactorily.

39.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 20, to clarifications in accordance with ITB Clause 30 and the qualification criteria indicated in Section 3, Evaluation Methodology and Criteria. Factors not included in Section 3 shall not be used in the evaluation of the Bidder's qualification.

39.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Procuring and Disposing Entity shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

40. Procuring and Disposing Entity's Right to Accept Any Bid, and to Reject Any or All Bids

40.1 The Procuring and Disposing Entity reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

F. Award of Contract

41. Award Procedure

41.1 The Procuring and Disposing Entity shall award the Contract to the Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

42. Procuring and Disposing Entity's Right to Vary Quantities at Time of Award

42.1 At the time the Contract is awarded, the Procuring and Disposing Entity reserves the right to increase or decrease the amount of Services and Related Goods originally specified in Section 6, Statement of Requirements, provided this does not exceed the percentages indicated in the BDS, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents.

43. Notification and Acceptance of Award

43.1 Prior to expiry of the period of bid validity, the Procuring and Disposing Entity shall notify the successful Bidder, in writing, that its bid has been accepted. At the same time, the Procuring and Disposing Entity shall also notify all other Bidders of the results of the bidding.

43.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

43.3 The Procuring and Disposing Entity shall publish in the Malawi Government Gazette the results of the award of contract, as required by the Public Procurement Act 2003.

44. Signing of Contract

44.1 Promptly after notification, the Procuring and Disposing Entity shall send the successful Bidder the contract documents and the Special Conditions of Contract.

44.2 Within thirty (30) days of receipt of the contract documents, the successful Bidder shall sign, date, and return it to the Procuring and Disposing Entity.

45. Performance Security

45.1 Within thirty (30) days of receipt of notification of award from the Procuring and Disposing Entity, the successful Bidder shall furnish the performance security in the amount and form specified in the BDS and SCC, using for that purpose the Performance Security Form included in Section 9, Contract Forms, or another form acceptable to the Procuring and Disposing Entity.

45.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for annulment of the award and forfeiture of the bid security. In that event, the Procuring and Disposing Entity may award the Contract to the next lowest evaluated Bidder whose bid is substantially responsive and is determined by the Procuring and Disposing Entity to be qualified to perform the Contract satisfactorily.

Section 2: Bid Data Sheet (BDS)

Instructions to Bidders (ITB) reference	Data relevant to ITB
A. General	
ITB 1.1	The Procuring and Disposing Entity is: Competition and Fair Trading Commission
ITB 1.1; 2.1 and 24.2(b)	The subject of the procurement is: Security Services
ITB 1.1 and 24.2(b)	The Procurement Reference Number is: CFTC/SECU/11/2024
ITB 1.1	The number and identification of Lots in this Bidding Document is: N/A
ITB 1.2	The Bidding Document is issued under Procurement Method: RFQ
B. Bidding Documents	
ITB 7.1	For <u>clarification purposes</u> only, the Procuring Entity's address is: Attention: Senior Procurement Officer Building: MERA Office Complex Floor/Room number: 1th Floor, Street Address: Off Convention Drive, Next to Lilongwe Civic Offices/ Kambuku Filling Station City: City Centre, Lilongwe Post Code: N/A Country: MALAWI Telephone: +265 891 001 441 E mail address: procurement@cftc.mw
C. Preparation of Bids	
ITB 12.1 (i)	The Bidder shall submit with its bid the following additional documents: (a) Business Registration Certificate (b) Tax Compliance Certificate (c) Registration with appropriate authority to provide security services
ITB 14.1	Alternative bids SHALL NOT be considered.
ITB 15.5	The Incoterms edition is: 2020

Instructions to Bidders (ITB) reference	Data relevant to ITB
ITB 15.5	For Related Goods, the Bidder shall quote prices using the following Incoterms: NA
ITB 15.6	The prices quoted by the Bidder shall be: Fixed
ITB 16.1	For Services and Related Goods originating in Malawi, the currency of the bid shall be: N/A Malawi Kwacha
ITB 21.1	The bid validity period shall be: 90 days.
ITB 22.1	A bid security SHALL NOT BE required. If a bid security is required, the amount and currency of the bid security shall be:
D. Submission and Opening of Bids	
ITB 23.1	In addition to the original of the bid, the number of copies required is: Two (2)
ITB 23.2	The written confirmation of authorisation to sign on behalf of the Bidder shall consist of: Power of Attorney
ITB 25.1	For bid submission purposes only, the Purchaser's address is: Attention: The Chairperson, IPDC Street Address: Convention Drive Building: MERA Office Complex Floor/Room number: 1st Floor, City: Lilongwe Post Code: NA Country: Malawi The deadline for bid submission is: Date: 21st October, 2024 Time: 10:00 am
ITB 28.1	The bid opening shall take place at: Building: MERA Office Complex Floor/Room number: 1st Floor Street Address: Convention Drive City: City Centre, Lilongwe Country: Malawi Date: 21st October, 2024 Time: 10:00 am

Instructions to Bidders (ITB) reference	Data relevant to ITB
E. Evaluation and Comparison of Bids	
ITB 35.1	<p>The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is:</p> <p>The source of exchange rate shall be: N/A</p> <p>The date for the exchange rate shall be: N/A</p>
ITB 36.1	A margin of preference SHALL NOT apply.
F. Award Procedure	
ITB 42.1	<p>The percentage by which quantities may be increased is: 15%</p> <p>The percentage by which quantities may be decreased is: 15%</p>
ITB 45.1	Amount of Performance Security shall be N/A.

Section 3: Evaluation Methodology and Criteria

This section, read in conjunction with Section 1, Instructions to Bidders and Section 2, Bid Data Sheet, contains all the factors, methods and criteria that the Procuring and Disposing Entity shall use to evaluate a bid and determine whether a bidder has the required qualifications. No other factors, methods or criteria shall be used.

A Evaluation Methodology

1 Methodology Used

- 1.1 The evaluation methodology to be used for the evaluation of bids received shall be the Technical Compliance methodology.

2 Summary of Methodology

- 2.1 The Technical Compliance methodology recommends the lowest evaluated bid, which is eligible, compliant and substantially responsive to the technical and commercial requirements of the Bidding Document, provided that the Bidder is determined to be qualified to perform the contract satisfactorily.
- 2.2 The evaluation shall be conducted in three sequential stages –
- (a) a preliminary examination to determine the eligibility of bidders and the administrative compliance of bids received;
 - (b) a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids; and
 - (c) a financial comparison to compare prices of the eligible, compliant, responsive bids received and determine the lowest evaluated bid.
- 2.3 Failure of a bid at any stage of the evaluation shall prevent further consideration.

B Preliminary Examination Criteria

3 Eligibility Criteria

- 3.1 The eligibility requirements shall be determined for eligible Bidders in accordance with ITB Clause 4.
- 3.2 The documentation required to provide evidence of eligibility shall be:-
- (a) a declaration in the Bid Submission Sheet that the Bidder has not been debarred by the Director of Public Procurement; and,
 - (b) a declaration in the Bid Submission Sheet that the Bidder is not insolvent, in receivership, bankrupt or being wound up;
 - (c) a declaration that any of the Directors or officers have not been convicted of any criminal offence relating to obtaining or attempting to obtain a contract or sub contract.
 - (d) a declaration that the Bidder is not under investigation by the Anti-Corruption Bureau or any other law enforcement body in Malawi relating to its participation in any public procurement process.
 - (e) a copy of the Bidder's tax clearance certificate or equivalent;

4 Administrative Compliance Criteria

- 4.1 The evaluation of Administrative Compliance shall be conducted in accordance with ITB Sub-Clauses 33.1 and 33.2.

C Detailed Evaluation

5. Commercial and Technical Evaluation

- 5.1 The commercial responsiveness of bids shall be evaluated in accordance with ITB Clause 34. The criteria shall be:
- (a) acceptance of the terms and conditions specified in the GCC and SCC;
 - (b) compliance to the statement of requirements (technical specifications)

D Financial Comparison

6. Costs to be included in Bid Price

- 6.1 The financial comparison shall be conducted in accordance with ITB Clause 37. The costs to be included in the bid price are:
- (a) the unit and total rates in the Price Schedule;
 - (b) taxes, duties and levies;
 - (c) discounts, adjustments if any.
 - (d) margin of preference, if applicable.

7 Determination of Lowest Evaluated Bid

- 7.1 The bid with the lowest price, among those which are eligible, compliant and substantially responsive shall be the lowest evaluated bid and recommended for award of contract.

E Post-qualification

- 8 The lowest evaluated bid shall be post-qualified on the basis of;
- (a) a copy of the Bidder's Certificate of Registration or equivalent;
 - (b) a copy of the Bidder's Business Licence or equivalent;
 - (c) past performance of the bidder;
 - (d) availability of staff and equipment {and qualification of key staff};
 - (e) financial capacity to perform the contract

Section 4: Bidding Forms

Table of Forms

4.1 Standard Bid Forms

- 4.1.1 Bid Submission Sheet.
- 4.1.2 Bid Security.
- 4.1.3 Price Schedule
- 4.1.4 Qualification Form.

[This Bid Submission Sheet should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign documents that are binding on the Bidder. It should be included by the Bidder in its bid]

4.1.1 Bid Submission Sheet

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

Procurement Reference No: *[insert Procurement Reference number]*

To: *[insert complete name of Procuring and Disposing Entity]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: *[insert the number and issuing date of each Addenda]*;
- (b) We offer to provide the services in conformity with the Bidding Document for the *[insert a brief description of the Services]*;
- (c) The total price of our Bid is: *[insert the total bid price in words and figures, indicating the amounts and currency]*;
- (d) Our bid shall be valid for a period of *[specify the number of calendar days]* days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiry of that period;
- (e) If our bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Document where required in the amount of *[insert amount and currency in words and figures of the performance security]* for the due performance of the Contract;
- (f) We, including any associates or Joint Venture partners for any part of the contract, have nationals from the following eligible countries; *[Insert details]*
- (g) We undertake to abide by the provisions of the Public Procurement Act, 2003 and its subsidiary legislation on the conduct of bidders during the procurement process and the execution of any resulting contract;
- (h) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*;

Name and address of Recipient	Purpose/Reason	Currency and Amount

[If none has been paid or is to be paid, indicate “none”]

- (i) We are not participating, as Bidders, in more than one bid in this bidding process;
- (j) We, including any subcontractors, do not have any conflict of interest as detailed in ITB Clause 4.3;
- (k) We, our affiliates or subsidiaries, including any subcontractors or Providers for any part of the contract have not been debarred by the Director of Public Procurement from

-
- participating in public procurement;
- (l) We, including any subcontractors or providers for any part of the contract or contracts resulting from this pre-qualification process, are eligible to participate in public procurement in accordance with ITB Clause 4.1;
 - (m) Our Bid is binding upon us, subject to modifications agreed during any contract negotiations;
 - (n) We understand that this Bid, together with your written Notification of Award shall constitute a binding contract between us, until a formal contract is prepared and executed;
 - (o) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive;

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

In the capacity of *[insert legal capacity of person signing the bid]*

Signed: *[signature of person whose name and capacity are shown above]*

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

Dated on _____ day of _____, _____ *[insert date of signing]*

;

4.1.2

Bid Security

[Input of Information to be completed by Bidder]

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

Procurement Reference Number: [insert reference number]

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

To: [insert complete name of Procuring and Disposing Entity]

Whereas [insert complete name of Bidder] (hereinafter “the Bidder”) has submitted its bid dated [insert date (as day, month and year) of bid submission] for Procurement reference Number [insert Procurement Reference Number] for the provision of [insert brief description of the Services and Related Goods], hereinafter called “the Bid.”

KNOW ALL PEOPLE by these presents that WE [insert complete name of institution issuing the Bid Security], of [insert city of domicile and country of nationality] having our registered office at [insert full address of the issuing institution] (hereinafter “the Guarantor”), are bound unto [insert complete name of the Procuring and Disposing Entity] (hereinafter “the Procuring and Disposing Entity”) in the sum of [specify in words the amount and currency of the bid security] (specify the amount and currency in figures), for which payment well and truly to be made to the aforementioned Procuring and Disposing Entity, the Guarantor binds itself, its successors or assignees by these presents. Sealed with the Common Seal of this Guarantor this [insert day in numbers] day of [insert month], [insert year].

THE CONDITIONS of this obligation are the following:

1. If the Bidder withdraws its bid during the period of bid validity specified by the Bidder in the Bid Submission Sheet, except as provided in ITB Sub-Clause 21.2; or
2. If the Bidder, having been notified of the acceptance of its bid by the Procuring and Disposing Entity, during the period of bid validity, fails or refuses to:
 - (a) execute the Contract; or
 - (b) furnish the Performance Security, in accordance with the ITB Clause 45; or
 - (c) accept the correction of its bid by the Procuring and Disposing Entity, pursuant to ITB Clause 32.

We undertake to pay the Procuring and Disposing Entity up to the above amount upon receipt of its first written demand, without the Procuring and Disposing Entity having to substantiate its demand, provided that in its demand the Procuring and Disposing Entity states that the amount claimed by it is due to it, owing to the occurrence of one or more of the above conditions, specifying the occurred conditions.

This security shall remain in force up to and including twenty-eight (28) days after the period of bid validity, and any demand in respect thereof should be received by the Guarantor no later than the above date.

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

In the capacity of [insert legal capacity of person signing the bid]

Signed: [insert signature of person whose name and capacity are shown above]

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

Dated on _____ day of _____, _____ [insert date of signing]

[This Price Schedule should be signed by a person with the proper authority to sign documents for the Bidder. It should be included by the Bidder in its bid. The Bidder may reproduce this in landscape format but is responsible for its accurate reproduction].

4.1.3 Price Schedule

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

Procurement Reference No: *[insert Procurement Reference number]*

Name of Bidder: *[Insert the name of the Bidder]*

Activity	Input Qty	Unit of measure	Unit Price	Total Price
Local Taxes				
Total bid price				

Signed: *[signature of person whose name and capacity are shown below]*

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

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

Dated on _____ day of _____, _____ *[insert date of signing]*

[This Qualification Form should be submitted by the Bidder. The form should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign. It should be included by the Bidder in its bid, if so stated in Section 3.

The information will be used for purposes of post-qualification or for verification of pre-qualification. This information will not be incorporated in the Contract. Attach additional pages as necessary.

Refer to Section 3, Evaluation Methodology and Criteria for details of the criteria to be met and information to be completed].

4.1.4 Qualification Form

Name of Bidder:	
------------------------	--

1. The work performed providing Services of a similar nature and value over recent years is: *[List also details of Services under way or committed, including expected completion date.]*

No	Name of Client and Contact Person	Type of Work Performed	Duration and Dates of Contract	Value of contract

2. The major items of equipment proposed for carrying out the Services are:

Item of Equipment	Description, make and age (years)	Condition (new, good, poor) and number available	Owned, leased, or to be purchased

3. The qualifications and experience of key personnel proposed for administration and execution of the Contract are: *[Attach biographical data.]*

Position	Name	Years of Experience (general)	Year of Experience in proposed position

4. Banks that may provide references if contacted by the Procuring and Disposing Entity are:
[State name, address, and telephone and fax numbers]

5. Additional qualification information is attached, as required.

We, the undersigned, declare that

(a) the information contained in and attached to this form is true and accurate as of the date of bid submission:

or [delete statement which does not apply]

(b) the originally submitted pre-qualification information remains essentially correct as of the date of bid submission.

Signed: *[signature of person whose name and capacity are shown below]*

Name: *[insert complete name of person signing the Qualification Form]*

In the capacity of *[insert legal capacity of person signing the Qualification Form]*

Duly authorised to sign
the Qualification Form

for and on behalf of: *[insert complete name of Bidder]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Section 5: Eligible Countries

Procurement Reference Number: CFTC/SECU/11/2024

All countries are eligible except countries subject to the following provisions.

A country shall not be eligible if:

- as a matter of law or official regulation, the Government of the Republic of Malawi prohibits commercial relations with that country, provided that the Government of the Republic of Malawi is satisfied that such exclusion does not preclude effective competition for the provision of Services and Related Goods; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government of the Republic of Malawi prohibits any import of Goods from that country or any payments to persons or entities in that country.

Section 6: Statement of Requirements

Contents

- 1. List of Services and Related Goods**
- 2. Completion Schedule**
- 3. Statement of Requirements (Technical Specifications)**

List of Services and Related Goods

Procurement Reference Number: CFTC/SECU/11/2024

Item Number	Description of Services and Related Goods	Quantity	Unit of Measure
1	Day Commissionaire	3	Each
2	Night Security Officer	3	Each
3	Residential – Day	4	Each
4	Residential – Night	5	Each
5			
6			
7			
8			
9			
10			

Statement of Requirements (Technical Specifications) and Compliance Sheet

Procurement Reference Number: CFTC/S/21/05/03B

Column *b* states the minimum requirement of the service(s) to be provided. Column *c* indicates whether the requirement is a “Mandatory” by use of the letter “M”. Any requirement without an “M” in column *c* is considered non-mandatory and subject to a reasonable variation in specification or performance to be assessed during evaluation in accordance with Section 3.

The Bidder is to complete column *d* and to state whether the offered service(s) “comply” or do “not comply” giving details of the areas of non-compliance.

Item No.	Technical Specification of items required including applicable standards	Mandatory	Compliance to Requirements
<i>a</i>	<i>b</i>	<i>c</i>	<i>d</i>
1	Minimum of two pairs of uniforms	Mandatory	
2	Protective Wears e.g. boots, etc.	Mandatory	
3	Wages / Salary no below set minimum wage set by Government based on labour category	Mandatory	
4			
5			
6			
7			
8			
9			
10			

Section 7: General Conditions of Contract

Table of Clauses

<u>A</u>	<u>General Provisions</u>	40
<u>1</u>	<u>Definitions</u>	40
<u>2</u>	<u>Corrupt Practices</u>	40
<u>B</u>	<u>The Contract</u>	41
<u>3</u>	<u>Contract Documents</u>	41
<u>4</u>	<u>Governing Law</u>	41
<u>5</u>	<u>Language</u>	42
<u>6</u>	<u>Notices</u>	42
<u>7</u>	<u>Assignment</u>	42
<u>8</u>	<u>Subcontracting</u>	42
<u>9</u>	<u>Contract Amendments</u>	42
<u>10</u>	<u>Change in Laws</u>	42
<u>11</u>	<u>Taxes and Duties</u>	42
<u>12</u>	<u>Force Majeure</u>	43
<u>13</u>	<u>Termination</u>	43
<u>14</u>	<u>Cessation of Rights and Obligations</u>	44
<u>15</u>	<u>Cessation of Services</u>	44
<u>16</u>	<u>Settlement of Disputes</u>	44
<u>17</u>	<u>Liquidated Damages</u>	45
<u>18</u>	<u>Commencement of Services</u>	45
<u>19</u>	<u>Completion Period and Completion of the Services</u>	45
<u>C</u>	<u>Obligations of the Procuring and Disposing Entity</u>	45
<u>20</u>	<u>Provision of Information and Assistance</u>	45
<u>D</u>	<u>Payment</u>	45
<u>21</u>	<u>Contract Price</u>	45
<u>22</u>	<u>Price Adjustments</u>	46
<u>23</u>	<u>General Payment Procedure</u>	46
<u>E</u>	<u>Obligations of the Bidder</u>	46
<u>24</u>	<u>Obligations of the Bidder</u>	46
<u>25</u>	<u>Eligibility</u>	47
<u>26</u>	<u>Code of Conduct</u>	47
<u>27</u>	<u>Indemnification</u>	47
<u>28</u>	<u>Insurance to be Taken Out by the Bidder</u>	48
<u>29</u>	<u>Accounting, Inspection and Auditing</u>	48
<u>F</u>	<u>Performance of the Services</u>	48
<u>30</u>	<u>Scope of Services</u>	48
<u>31</u>	<u>Bidder's Personnel</u>	48
<u>32</u>	<u>Working hours of the Personnel</u>	48
<u>33</u>	<u>Replacement of Personnel</u>	48
<u>34</u>	<u>Performance Security</u>	49

Section 7: General Conditions of Contract

A General Provisions

1. Definitions

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

“Contract” means the Agreement entered into between the Procuring and Disposing Entity and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.

“Contract Documents” means the documents listed in the Agreement, including and amendments thereto.

“Contract Price” means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.

“Day” means calendar day.

“Eligible Countries” means the countries and territories eligible as listed in Section 5 of the Bidding Document.

“GCC” means the General Conditions of Contract.

“Personnel” means persons engaged by the Bidder or by any Sub-contractor as employees and assigned to the performance of the Services or any part thereof;

“Procuring and Disposing Entity” means the entity procuring the Services and Related Goods, as specified in the Agreement.

“SCC” means the Special Conditions of Contract.

“Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Services to be provided or execution of any part of the Services is subcontracted by the bidder.

The Site, where applicable, means the place named in the SCC.

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

2. Fraud and Corruption

2.1 The Government requires that Procuring Entities, as well as Bidders and Suppliers under government-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Government:

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

"corrupt practice" means –

(A) *the offering, giving, receiving, obtaining or soliciting of any advantage to influence the action of any public officer or any*

official or any other person;

(B) influence peddling;

(C) the extortion of any advantage;
in the procurement process or in contract execution.

"fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;

"collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring and Disposing Entity, designed to establish prices at artificial, noncompetitive levels; and

"coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

- ii. will reject a recommendation for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question; and
- will debar a Bidder from participation in public procurement for a specified period of time if it at any time determines that the firm has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract.

B The Contract

3. Contract Documents

3.1 The documents forming the Contract shall be interpreted in the following order of priority:

- (a) Agreement,
- (b) Letter of Bid Acceptance,
- (c) Bidder's Bid ,
- (d) Special Conditions of Contract,
- (e) General Conditions of Contract,
- (f) Statement of Requirements,
- (g) any other document listed in the SCC as forming part of the Contract.

3.2 All documents forming the Contract are intended to be correlative, complementary, and mutually explanatory

3.3 No amendment, modification 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 authorised representative of each party thereto.

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

4. Governing Law

4.1 The Contract shall be governed by and interpreted in accordance with the laws of the Republic of Malawi unless otherwise specified in the SCC.

5. Language

5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Bidder and the Procuring and Disposing Entity, shall be written in English unless specified otherwise in the SCC.

6. Notices

6.1 Any notice, request or consent required or permitted to be given or made pursuant to the Contract shall be in writing. Any such notice shall be deemed to have been given when delivered to the authorised representative of the Party at the address specified in the SCC.

6.2 A Party may change its address for notice hereunder by giving the other Party notice of such change.

7. Assignment

7.1 The Procuring and Disposing Entity or the bidder shall not assign, in whole or in part, their obligations under this Contract, except with the prior written consent of the other party.

8. Subcontracting

8.1 The Bidder shall request approval in writing from the Procuring and Disposing Entity of all subcontracts awarded under the Contract that are not included in the Contract. Subcontracting shall in no event relieve the Bidder from any of its obligations, duties, responsibilities or liability under the Contract.

8.2 Subcontracts shall comply with the provisions of GCC Clauses 2 and 26.

9. Contract Amendments

9.1 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 authorised representative of each party thereto

10. Change in Laws

10.1 Unless otherwise specified in the Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the Republic of Malawi or where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Statement of Requirements and/or the Contract Price, then such Statement of Requirements and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Bidder 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 contract amendment provisions in accordance with GCC Clause 9 or price adjustment in accordance with GCC Clause 23.

11. Taxes and Duties

11.1 The Bidder shall bear and pay all taxes, duties, and levies imposed on the Bidder, by all municipal, state or national government authorities, both within and outside Republic of Malawi, in connection with the provision of the Services to be supplied under the Contract.

11.2 For the purpose of the Contract, it is agreed that the Contract Price specified in the

Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in the Republic of Malawi (called "tax" in this clause). If any tax rates are increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of the Contract, which was or will be assessed on the Bidder, its Subcontractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

12. Force Majeure

- 12.1 The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 12.2 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 Procuring and Disposing Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 12.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Procuring and Disposing Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring and Disposing Entity 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.

13. Termination

- 13.1 The Procuring and Disposing Entity may terminate this Contract, by not less than thirty days written notice of termination to the Bidder, to be given after the occurrence of any of the events specified in paragraphs (a) to (e) of this Clause and 60 days' notice in the case of the event referred to in paragraph (f):
- (a) the Bidder fails to remedy a failure in the performance of its obligations under the Contract, within thirty days after being notified or within such period as the Procuring and Disposing Entity may have subsequently approved in writing;
 - (b) the Bidder becomes insolvent or bankrupt or enters into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary, other than for a reconstruction or amalgamation;
 - (c) the Bidder fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 16 hereof;
 - (d) the Bidder is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days;
 - (e) the Bidder, in the judgment of the Procuring and Disposing Entity, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
 - (f) the Procuring and Disposing Entity, in its sole discretion and for any reason whatsoever, decides to terminate the Contract.
- 13.2 The Bidder may terminate this Contract, by not less than thirty days written notice to the Procuring and Disposing Entity, such notice to be given after the occurrence of

any of the events specified in (a) to (d) below, if:

- (a) the Procuring and Disposing Entity fails to pay any money due to the Bidder pursuant to the Contract and not subject to dispute pursuant to GCC Clause 16, within forty-five days after receiving written notice from the Bidder that such payment is overdue;
- (b) the Procuring and Disposing Entity is in material breach of its obligations pursuant to the Contract and has not remedied the same within forty-five days (or such longer period as the Bidder may have subsequently approved in writing) following the receipt by the Procuring and Disposing Entity of the Bidder's notice specifying such breach;
- (c) the Procuring and Disposing Entity is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days; or
- (d) the Procuring and Disposing Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 16 hereof.

13.3 Upon termination of this Contract pursuant to Clauses 13.1 or 13.2, the Procuring and Disposing Entity shall make the following payments to the Bidder:

- (a) Remuneration pursuant to Clause 21 for Services satisfactorily performed prior to the effective date of termination
- (b) Except in the case of termination pursuant to paragraphs (a) to (d) of Clause 13.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the contract, including the cost of the return travel of the Personnel and their eligible dependents

14. Cessation of Rights and Obligations

14.1 Upon termination of the Contract pursuant to GCC Clause 13, or upon completion of the Contract pursuant to GCC Clause 19 hereof, all rights and obligations of the Parties shall cease, except -

- (a) such rights and obligations as may have accrued on the date of termination or expiry;
- (b) the Bidder's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Clause 29; and
- (c) any right which a Party may have under the Governing Law.

15. Cessation of Services

15.1 Upon termination of the Contract by notice of either Party to the other pursuant to GCC Clause 13, the Bidder shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.

16. Settlement of Disputes

16.1 The Procuring and Disposing Entity and the Bidder shall make every effort to resolve disputes amicably arising between them under or in connection with the Contract or

interpretation thereof.

- 16.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight days from the commencement of such consultation, either party may require that the dispute be referred for resolution in accordance with the Arbitration Law of the Republic of Malawi or such other formal mechanism specified in the SCC.

17. Liquidated Damages

- 17.1 Except as provided under GCC Clause 12, if the Bidder fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the Procuring and Disposing Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Procuring and Disposing Entity may terminate the Contract pursuant to GCC Clause 13.

18. Commencement of Services

- 18.1 The Bidder shall commence the Services within 30 days after the Contract becomes effective, or at such other date as may be specified in the SCC.

19. Completion Period and Completion of the Services

- 19.1 The completion period within which the Services are required to be performed shall be detailed in the SCC.

C Obligations of the Procuring and Disposing Entity

20. Provision of Information and Assistance

- 20.1 The Procuring and Disposing Entity shall supply the Bidder with any information or documentation at its disposal which may be relevant to the performance of the contract. Such documents shall be returned to the Procuring and Disposing Entity at the end of the period of the Contract.
- 20.2 The Procuring and Disposing Entity shall issue to its employees, agents and representatives all such instructions as may be necessary or appropriate to facilitate the prompt and effective performance of the Services.
- 20.3 The Procuring and Disposing Entity shall give the Bidder access to its premises, where required for the performance of the Services, and assist the Bidder with any security documentation necessary at the premises where the Services are to be performed in accordance with the Contract.

D Payment

21. Contract Price

- 21.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- 21.2 The Contract Price shall include the total cost for performing the Services and shall include payments for all Personnel, materials and supplies used for the Services and any other overhead or incidental costs except any costs specifically excluded and described in the SCC.
- 21.3 The Contract Price shall be paid in accordance with the payment schedule in the SCC.

21.4 The Contract Price may only be increased if the Parties have agreed to additional payments by contract amendment in accordance with GCC Clause 9.

22. Price Adjustments

22.1 Prices charged by the Bidder for the services performed under the Contract shall not vary from the prices quoted in the Contract, with the exception of any price adjustments authorised in the SCC.

23. General Payment Procedure

23.1 Unless otherwise specified in the SCC, payments shall be made by the Procuring and Disposing Entity, no later than 30 days after submission of a request for payment by the Bidder.

23.2 The Bidder's request for payment shall be made to the Procuring and Disposing Entity in writing, accompanied by invoices and supporting documents. The supporting documentation required shall be as specified in the SCC.

23.3 The Procuring and Disposing Entity shall notify the Bidder of the inadmissibility of a request for payment due to an error, discrepancy, omission or any other reason so that the Parties may resolve such error, discrepancy, omission or other fault and agree a solution to enable payment of the corrected request for payment. The Procuring and Disposing Entity shall not unreasonably withhold payment of any undisputed portion of a request for payment. Should any discrepancy be found to exist between actual payment made and costs authorised to be incurred by the Bidder, the Procuring and Disposing Entity may add or subtract the difference from any subsequent payments.

23.4 If the Procuring and Disposing Entity has delayed payments beyond fifteen (15) days after the due date stated in the SCC, interest shall be paid to the Bidder for each day of delay at the rate stated in the SCC.

23.5 The currency in which payments shall be made to the Bidder under this Contract shall be specified in SCC.

23.6 Unless otherwise stated in the SCC, where any payment is as an advance payment, payment shall be made against the provision by the Bidder of a bank guarantee for the same amount, and shall be valid for the period stated in the SCC.

E Obligations of the Bidder

24. Obligations of the Bidder

24.1 The Bidder shall perform the Services under the contract with due care, efficiency and diligence, in accordance with best professional practices.

24.2 The Bidder shall respect and abide by all laws and regulations in force. The Bidder shall indemnify the Procuring and Disposing Entity against any claims and proceedings arising from any infringement by the Bidder, its sub-contractors or their employees of such laws and regulations.

24.3 The Bidder shall ensure that services conform to applicable environmental and quality standards, that no chemical or other product/equipment is used in such a way as to cause negative impact on the environment in general and occupational health hazards for the personnel of the Procuring and Disposing Entity in particular, and shall employ the most recent technology, safe and effective equipment, machinery, materials and methods, as necessary. The Bidder shall always act, in respect of any matter relating to this Contract, to safeguard the Procuring and Disposing Entity's

legitimate interests, pursuant to Conditions of this Contract

- 24.4 The Bidder shall obtain the Procuring and Disposing Entity's prior approval in writing before taking any of the following actions:
- a) entering into a subcontract for the performance of any part of the Services, it being understood that the Bidder shall remain fully liable for the performance of the Services by the Sub-contractor and its Personnel pursuant to the Contract;
 - (b) any other action that may be specified in the SCC.
- 24.5 The Bidder shall furnish the Procuring and Disposing Entity with any personnel data or information required by the Procuring and Disposing Entity to arrange the provision of documentation required in accordance with GCC Clause 20.3.

25. Eligibility

- 25.1 The Bidder and its Subcontractors shall have the nationality of an eligible country. A Bidder or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 25.2 The Bidder and its Sub-contractors shall provide Personnel who shall be citizens of eligible countries and use supplies with their origin from an eligible country.

26. Code of Conduct

- 26.1 The Bidder shall at all times refrain from making any public statements concerning the Services without the prior approval of the Procuring and Disposing Entity, and from engaging in any activity which conflicts with its obligations towards the Procuring and Disposing Entity under the contract. It shall not commit the Procuring and Disposing Entity without its prior written consent, and shall, where appropriate, make this obligation clear to third parties.

27. Indemnification

- 27.1 At its own expense, the Bidder shall indemnify, protect and defend, the Procuring and Disposing Entity, its agents and employees, from and against all actions, claims, losses or damage arising from any act or omission by the Bidder in the performance of the Services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trade marks and other forms of intellectual property such as copyrights.
- 27.2 At its own expense, the Bidder shall indemnify, protect and defend the Procuring and Disposing Entity, its agents and employees, from and against all actions, claims, losses or damages arising out of the Bidder's failure to perform its obligations provided that:
- (a) the Bidder is notified of such actions, claims, losses or damages not later than 30 days after the Procuring and Disposing Entity becomes aware of them;
 - (b) the ceiling on the Bidder's liability shall be limited to an amount equal to the contract value, but such ceiling shall not apply to actions, claims, losses or damages caused by the Bidder's wilful misconduct;
 - (c) the Bidder's liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.
- 27.3 The aggregate liability of the Bidder to the Procuring and Disposing Entity shall not exceed the total contract value or such other amount specified in the SCC.

-
- 27.4 The Bidder shall have no liability whatsoever for actions, claims, losses or damages occasioned by:
- a) the Procuring and Disposing Entity omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Bidder, or requiring the Bidder to implement a decision or recommendation with which the Bidder disagrees or on which it expresses a serious reservation; or
 - b) the improper execution of the Bidder's instructions by agents, employees or independent contractors of the Procuring and Disposing Entity.
- 27.5 The Bidder shall remain responsible for any breach of its obligations under the contract for such period after the Services have been performed as may be determined by the law governing the contract.

28. Insurance to be Taken Out by the Bidder

- 28.1 The Bidder shall take out, maintain and shall cause any Sub-contractors to take out and maintain, at their own cost insurance coverage against the risks and on terms and conditions approved by the Procuring and Disposing Entity as shall be specified in the SCC.
- 28.2 The Bidder shall at the Procuring and Disposing Entity's request, provide evidence to the Procuring and Disposing Entity showing that such insurance has been taken out and maintained.

29. Accounting, Inspection and Auditing

- 29.1 The Bidder shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with generally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs.

F Performance of the Services

30. Scope of Services

- 30.1 The Services to be provided shall be as specified in the Statement of Requirements in the Contract.
- 30.2 The Services shall be performed at such sites as are specified in the Statement of Requirements.

31. Bidder's Personnel

- 31.1 The Bidder shall employ and provide such qualified and experienced Personnel and Sub-contractors as are required to carry out the Services. The Bidder shall be responsible for the performance of the Personnel.
- 31.2 If required by the Agreement, the Bidder shall ensure that a manager, acceptable to the Procuring and Disposing Entity, takes charge of the performance of the Services.

32. Working hours of the Personnel

- 32.1 Where the Services are performed on a regular basis at the premises of the Procuring and Disposing Entity, the Bidder shall work during the hours agreed with the Procuring and Disposing Entity where not specified in the Statement of Requirements or the SCC.

33. Replacement of Personnel

- 33.1 If the Procuring and Disposing Entity requests the Bidder in writing to remove a person who is a member of the Bidders staff or work force, stating the reasons, the

Bidder shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

34. Performance Security

- 34.1 If so stated in the SCC, the Bidder shall, within 30 days of the notification of contract award, provide a Performance Security for the due performance of the Contract in the amount and currency specified in the SCC or in a freely convertible currency acceptable to the Procuring and Disposing Entity.
- 34.2 The proceeds of the Performance Security shall be payable to the Procuring and Disposing Entity as compensation for any loss resulting from the Bidder's failure to complete its obligations under the Contract.
- 34.3 The Performance Security shall be in one of the forms stipulated by the Procuring and Disposing Entity in the SCC, or in another form acceptable to the Procuring and Disposing Entity.
- 34.4 The Performance Security shall be discharged by the Procuring and Disposing Entity and returned to the Bidder not later than 30 days following the date of completion of the Bidder's performance obligations under the Contract, unless specified otherwise in the SCC.

Section 8: Special Conditions of Contract

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

GCC clause reference	Special Conditions
GCC 1.1(h)	The Procuring and Disposing Entity is: Competition and Fair Trading Commission (CFTC)
GCC 1.1 (k)	The Site is: Lilongwe
GCC 4.1	The governing law shall be: The Laws of Malawi
GCC 5.1	The language shall be: English
GCC 6.1	For notices , the Procuring and Disposing Entity's address shall be: Attention: Chief Executive Officer Street Address: Convention Drive, Building: MERA Complex, Floor/ Room number: 1st Floor City: Lilongwe Post Code: N/A Country: Malawi Telephone: +265 891 001 441 Email address: procurement@cftc.mw For notices , the Supplier's address shall be: Attention: Street Address: Floor/ Room number: City: Post Code: Country: Telephone: Facsimile number: Email address:
GCC 11.1	The Bidder shall be responsible for all import duties and taxes except for the following: N/A
GCC 16.2	The formal mechanism for the resolution of disputes shall be: Arbitration
GCC 17.1	The liquidated damages shall be: 1 % per week

GCC clause reference	Special Conditions
GCC 17.1	The maximum total percentage for liquidated damages shall be: 2%
GCC 22.1	The price adjustment shall be: Allowed if the Minimum Wage threshold is revised by the Government
GCC 23.1	The terms of payment shall be: after-service delivery
GCC 23.5	The currency for payments shall be: Malawi Kwacha
GCC 23.6	An Advance Payment Guarantee SHALL NOT BE required. The period of validity of the Advance Payment Guarantee shall be:
GCC 28.1	The insurance coverage shall be: All risks cover for employees and equipment and theft by employees.
GCC 34.1	The amount of the Performance Security shall be: N/A The currency shall be: N/A
GCC 34.3	The types of acceptable Performance Securities are: N/A
GCC 34.4	Discharge of Performance Security shall take place: N/A

Section 9: Contract Forms

Table of Forms

Agreement	53
Performance Security	54
Advance Payment Security	55

Agreement

THIS AGREEMENT made the day of , 20 , between
..... of (hereinafter called “the Procuring
and Disposing Entity) of the one part, and of
..... (hereinafter called “the Supplier”), of the other part:

WHEREAS the Procuring and Disposing Entity invited bids for certain Services and
Related Goods, viz., and has
accepted a Bid by the Supplier for the provision of those Services and Related Goods in
the sum of (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 referred to.
2. The following documents shall be deemed to form and be read and construed as
 part of this Agreement, viz.:
 - (a) the General Conditions of Contract;
 - (b) the Special Conditions of Contract;
 - (c) the Statement of Requirements;
 - (e) the Bid Submission Sheet and the Price Schedules submitted by the Supplier;
 - (f) the Procuring and Disposing Entity’s Notification to the Supplier of award of
 Contract; and
 - (g) Letter of Acceptance
3. In consideration of the payments to be made by the Procuring and Disposing
 Entity to the Supplier as indicated in this Agreement, the Supplier hereby
 covenants with the Procuring and Disposing Entity to provide the Services and
 Related Goods and to remedy defects therein in conformity in all respects with
 the provisions of the Contract.
4. The Procuring and Disposing Entity hereby covenants to pay the Supplier in
 consideration of the provision of the Services and Related Goods 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 on
the day, month and year indicated above.

Namein the capacity of

Signature.....(for the Procuring and Disposing Entity)

Witness Name.....Signature.....

Namein the capacity of

Signature.....(for the Supplier)
Witness Name.....Signature

Performance Security

Date:
Procurement Reference Number:

To:

WHEREAS (hereinafter called “the Supplier”) has undertaken, pursuant to Contract No. dated, 20 to provide..... (hereinafter called “the Contract”).

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Supplier shall furnish you with a Performance Security issued by a reputable guarantor for the sum specified therein as security for compliance with the Supplier’s performance obligations in accordance with the Contract.

AND WHEREAS the undersigned, legally domiciled in, (hereinafter called “the Guarantor”), have agreed to give the Supplier a security:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract, without cavil or argument, any sum or sums within the limits of as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This security is valid until the day of, 20....

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

Name In the capacity of

Signed

Duly authorised to sign the authorisation for and on behalf of

Dated on day of, 20....

Advance Payment Security

Date:

Procurement Reference Number:

To:

In accordance with the payment provision included in the Contract, in relation to advance payments, (hereinafter called "the Supplier") shall deposit with the Purchaser a security consisting of, to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of

We, the undersigned, legally domiciled in (hereinafter "the Guarantor"), as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the Procuring and Disposing Entity on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding

This security shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until, 20 ...

Name In the capacity of

Signed

Duly authorised to sign the authorisation for and on behalf of

.....

Dated on day of; 20.....