



ZAMBIA RAILWAYS LIMITED

A Member of **IDC** Industrial Development Corporation Group of Companies

OPEN NATIONAL BIDDING DOCUMENT

TENDER No. ZRL/ORD/002/2021:

**TENDER FOR THE SUPPLY AND DELIVERY OF MILD STEEL
PLATES, STEEL BARS, INDUSTRIAL GAS AND WELDING
ELECTRODES AND ACCESSORIES ON A ONE YEAR CALL OFF
CONTRACT.**

Zambia Railways Limited
Corporate Office
Kafue River Road
P.O Box 80935
Kabwe, Zambia.

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May,2021



ZAMBIA RAILWAYS LIMITED

A Member of **IDC** Industrial Development Corporation Group of Companies

INVITATION FOR BIDS

TENDER FOR THE SUPPLY AND DELIVERY OF MILD STEEL PLATES, STEEL BARS, INDUSTRIAL GAS AND WELDING ELECTRODES AND ACCESSORIES ON A ONE YEAR CALL OFF CONTRACT.

TENDER No. ZRL/ORD/002 /2021

Issued date: [May, 2021]

The Zambia Railways Limited has made budgetary provisions towards the cost of various goods and intends to apply part of the funds to cover eligible payments under the contracts for the supply and delivery of the said goods.

The Zambia Railways Limited invites sealed bids for the supply and delivery of goods as follows:

LOT NUMBER	DESCRIPTION	QTY	FREQUENCY
LOT 1	Supply of Mild steel plates and steel bars	Schedule	As and when required
LOT 2	Supply of Gas	Schedule	As and when required
Lot 3	Supply of various Welding Electrodes and Welding Accessories	Schedule	As and when required
Lot 4	Supply of Carriage and Wagon Tools	Schedule	As and when required

Interested eligible bidders may obtain further information from the Manager Procurement and Supplies, Zambia Railways Limited, Top Office, Corner of Ghana and Buntingwa Avenue, Kabwe and inspect the bidding documents from 08:30 hours to 13:00 hours and 14:00 hours to 17:00 hours from Monday to Friday. A complete set of bidding documents may be purchased by interested bidders upon payment of a non-refundable fee of **ZMW 500.00** or its equivalent in any freely convertible currency.

Bids shall be valid for a period of **120 days** after Bid closing and must be accompanied by a duly authorized **Bid Securing Declaration** form duly signed by the Guarantor(s), and delivered together with the bidding documents.

Margins of preference during financial evaluation for each of the lots shall be applied as follows:

- a) For a citizen-influenced company, by – 4%
- b) For a citizen-empowered company by – 8%
- c) For a citizen-owned company by – 12%
- d) For domestically manufactured goods by a citizen influenced, citizen-empowered and citizen-owned company by – 15%

The bids should be sealed and clearly marked “**TENDER FOR SUPPLY AND DELIVERY OF MILD STEEL PLATES, STEEL BARS, INDUSTRIAL GAS AND WELDING ELECTRODES AND ACCESSORIES**” Addressed to the Manager Procurement, Top Office, Corner of Ghana and Buntungwa Avenue, P.O. Box 80935, Kabwe, Zambia.

A complete set of Bidding Documents in English language may be purchased by interested bidders upon payment of a non-refundable fee of ZMW500.00 or its equivalent in any freely convertible currency at the prevailing exchange rate in cash or Bank certified cheque. The telefax number is +260 5 224411. HOWEVER, TELEFAX OFFERS WILL NOT BE ACCEPTED.

Sealed bids clearly marked “**Tender No. ZRL/ORD/002/2021 for the Supply and Delivery of mild steel plates, steel bars, industrial gas and welding electrodes and accessories**” must be deposited in the Tender Box situated on Zambia Railways Limited, Top Office, Corner of Ghana and Buntungwa Avenue, P.O. Box 80935, Kabwe on or before **Thursday, 24th June, 2021 at 10:00hrs**. Electronic bidding will not be permitted. Late bids will be rejected.

Bids will be opened in the presence of representatives who choose to attend on **Thursday, 24th June, 2021 at 10:00hrs** in the ZRL Top Office Boardroom, Corner of Ghana and Buntungwa Avenue, Kabwe.

All bids must be accompanied by a Bid Securing Declaration duly signed and sealed by the Guarantor(s).

Bidders should pay attention to the following information:

Item No.	Description of Item	Date
1	Date and Time of commencement of inspection/sale of Bidding Documents	Friday, 7th May, 2021 at 08:30 hour’s local time. Bidders are advised to inspect and purchase the bidding documents at a non-refundable fee of ZMW500.00 or its equivalent.
2	Last Date for requesting any clarifications	14 days before the closing date.
4	Last Date and Time for Closing	Thursday 24th June, 2021 at 10:00hrs local time
5	Date and time of opening of bids	Thursday 24th June, 2021 at 10:00hrs local time

**Manager Procurement and Supplies
For/ CHIEF EXECUTIVE OFFICER
ZAMBIA RAILWAYS LIMITED**

Section I. Instructions to Bidders

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Instructions to Bidders

A. General

- 1. Scope of Bid**
- 1.1 The Employer, as defined in the **Bidding Data Sheet (BDS)**, invites bids for the Services, as described in the Appendix A to the Contract. The name and identification number of the Contract is **provided in the BDS**.
- 1.2 The successful Bidder will be expected to complete the performance of the Services by the Intended Completion Date **provided in the BDS**.
- 2. Source of Funds**
- 2.1 The Procuring Entity, as **defined in the BDS**, intends to apply part of the funds, **as defined in the BDS**, towards the cost of the Services, **as defined in the BDS**, to cover eligible payments under the Contract for the Services. Payments by the Procuring Entity will be made only at the request of the Project Manager and will be subject in all respects to the terms and conditions of the Contract.
- 3. Corrupt or Fraudulent Practices**
- 3.1 It is the Government's policy to require that Procuring Entities (including beneficiaries of the funds), as well as bidders, suppliers, and contractors and their subcontractors under Government-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.¹ 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"² is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) "fraudulent practice"³ is any act or omission, including a misrepresentation, that knowingly or recklessly

¹ In this context, any action taken by a bidder, supplier, contractor, or a sub-contractor to influence the procurement process or contract execution for undue advantage is improper.

² For the purpose of these SBDs, "another party" refers to a public official acting in relation to the procurement process or contract execution]. In this context, "public official" includes employees of other organizations taking or reviewing procurement decisions.

³ For the purpose of these SBDs, "party" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution.

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- misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “collusive practice”⁴ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice”⁵ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the Government’s inspection and audit rights provided for under Sub-Clauses 1.7 and 2.6.1 of the General Conditions of Contract.
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
 - (c) will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Procuring Entity or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during the procurement or the execution of that contract, without the Procuring Entity having taken timely and appropriate action satisfactory to the Government to remedy the situation;

- (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Government-financed contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a Government-financed contract. A bidder or supplier aggrieved by such a decision, may appeal in accordance with Section *sixty-nine* of the Public Procurement Act of 2008; and
- (e) will have the right to require that a provision be included in bidding documents and in contracts financed by Government, requiring bidders, suppliers, contractors and consultants to permit the Government to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the Government.

3.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clauses 1.7 and 2.6.1 of the General Conditions of Contract.

4. Eligible Bidders

4.1 This Invitation for Bids is open to all bidders from eligible countries as defined in the Procurement Guidelines. Any materials, equipment, and Services to be used in the performance of the Contract shall have their origin in eligible source countries.

4.2 All bidders shall provide in Section III, Bidding Forms, a statement that the Bidder (including all members of a joint venture and subcontractors) is not associated, nor has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Procuring Entity to provide Consultant Services for the preparation or supervision of the Services, and any of its affiliates, shall not be eligible to bid.

4.3 A statutory corporation or body or company in which Government has a majority or controlling interest shall be eligible only if they meet the provisions of Section 34 of the

⁴ For the purpose of these SBDs, “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

⁵ For the purpose of these SBDs, “party” refers to a participant in the procurement process or contract execution.

Public Procurement Act of 2008. To establish eligibility, the government-owned enterprise or institution should provide all relevant documents (including its charter) sufficient to demonstrate that it meets the provisions of Section 34(2) of the Public Procurement Act of 2008.

4.4 The Government prohibits a withdrawal from the funds for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council, taken under Chapter VII of the Charter of the United Nations.

4.5 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices by ZPPA in accordance with ITB Sub-Clause 3.1.

5. Qualification of the Bidder

5.1 All bidders shall provide in Section III, Bidding Forms, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.

5.2 In the event that prequalification of potential bidders has been undertaken **as stated in the BDS**, only bids from prequalified bidders shall be considered for award of Contract, in which case the provisions of sub-clauses 5.3 to 5.6 hereafter shall not apply. These qualified bidders should submit with their bids any information updating their original prequalification applications or, alternatively, confirm in their bids that the originally submitted prequalification information remains essentially correct as of the date of bid submission. The update or confirmation should be provided in Section IV.

5.3 If the Employer has not undertaken prequalification of potential bidders, all bidders shall include the following information and documents with their bids in Section IV, unless otherwise **stated in the BDS**:

- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
- (b) total monetary value of Services performed for each of the last five years;

-
- (c) experience in Services of a similar nature and size for each of the last five years, and details of Services under way or contractually committed; and names and address of clients who may be contacted for further information on those contracts;
 - (d) list of major items of equipment proposed to carry out the Contract;
 - (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
 - (f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five years;
 - (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
 - (h) authority to the Employer to seek references from the Bidder's bankers;
 - (i) information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount; and
 - (j) proposals for subcontracting components of the Services amounting to more than 10 percent of the Contract Price.

5.4 Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the **BDS**:

- (a) the Bid shall include all the information listed in ITB Sub-Clause 5.3 above for each joint venture partner;
- (b) the Bid shall be signed so as to be legally binding on all partners;
- (c) the Bid shall include a copy of the agreement entered into by the joint venture partners defining the division of assignments to each partner and establishing that all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; alternatively, a Letter of Intent to execute a joint

venture agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed agreement;

- (d) one of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- (e) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

5.5 To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria:

- (a) annual volume of Services of at least the amount **specified in the BDS;**
- (b) experience as prime contractor in the provision of at least two service contracts of a nature and complexity equivalent to the Services over the last 5 years (to comply with this requirement, Services contracts cited should be at least 70 percent complete) **as specified in the BDS;**
- (c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment **listed in the BDS;**
- (d) a Contract Manager with five years' experience in Services of an equivalent nature and volume, including no less than three years as Manager; and
- (e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified in the **BDS.**

A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.

5.6 The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of ITB Sub-Clause 4.4(a), (b) and (e); however, for a joint venture to qualify the partner in charge must meet at least 40 percent of those minimum criteria for an

individual Bidder and other partners at least 25% of the criteria. Failure to comply with this requirement will result in rejection of the joint venture's Bid. Subcontractors' experience and resources will not be taken into account in determining the Bidder's compliance with the qualifying criteria, unless otherwise **stated in the BDS**.

- 6. One Bid per Bidder** 6.1 Each Bidder shall submit only one Bid, either individually or as a partner in a joint venture. A Bidder who submits or participates in more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.
- 7. Cost of Bidding** 7.1 The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible or liable for those costs.
- 8. Site Visit** 8.1 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of required Services and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the Services. The costs of visiting the Site shall be at the Bidder's own expense.

B. Bidding Documents

- 9. Content of Bidding Documents** 9.1 The set of bidding documents comprises the documents listed in the table below and addenda issued in accordance with ITB Clause 11:
- | | |
|--------------|---|
| Section I | Instructions to Bidders |
| Section II | Bidding Data Sheet |
| Section III | Bidding Forms |
| Section IV | Eligible Countries |
| Section V | Activity Schedule |
| Section VI | General Conditions of Contract |
| Section VII | Special Conditions of Contract |
| Section VIII | Performance Specifications and Drawings (if Applicable) |

Section IX Contract Forms

9.2 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding documents. Failure to furnish all information required by the bidding documents or to submit a bid not substantially responsive to the bidding documents in every respect will be at the Bidder's risk and may result in the rejection of its bid. Sections III, V, and IX should be completed and returned with the Bid in the number of copies specified in the **BDS**.

10. Clarification of Bidding Documents

10.1 A prospective Bidder requiring any clarification of the bidding documents may notify the Employer in writing or by cable ("cable" includes telex and facsimile) at the Employer's address indicated in the invitation to bid. The Employer will respond to any request for clarification received earlier than 14 days prior to the deadline for submission of bids. Copies of the Employer's response will be forwarded to all Procuring Entitys of the bidding documents, including a description of the inquiry, but without identifying its source.

11. Amendment of Bidding Documents

11.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda.

11.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated in writing or by cable to all Procuring Entitys of the bidding documents. Prospective bidders shall acknowledge receipt of each addendum by cable to the Employer.

11.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer shall extend, as necessary, the deadline for submission of bids, in accordance with ITB Sub-Clause 21.2 below.

C. Preparation of Bids

12. Language of Bid

12.1 The bid prepared by the Bidder, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer shall be written in **English**. Supporting documents and printed literature furnished by the Bidder 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, the translation shall govern.

13. Documents Comprising the Bid

13.1 The Bid submitted by the Bidder shall comprise the following:

- (a) The Form of Bid (in the format indicated in Section III);
- (b) Singed Bid Securing declaration form or Bid security;
- (c) Priced Activity Schedule;
- (d) Qualification Information Form and Documents;

and any other materials required to be completed and submitted by bidders, as **specified in the BDS**.

13.2 Bidders bidding for this contract together with other contracts stated in the IFB to form a package will so indicate in the bid together with any discounts offered for the award of more than one contract

14. Bid Prices

14.1 The Contract shall be for the Services, as described in Appendix A to the contract and in the Specifications, Section VIII, based on the priced Activity Schedule, Section V, submitted by the Bidder.

14.2 The Bidder shall fill in rates and prices for all items of the Services described in the in Specifications (or Terms of Reference), Section VIII and listed in the Activity Schedule, Section V. Items for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.

14.3 All duties, taxes, and other levies payable by the Service Provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the total Bid price submitted by the Bidder.

14.4 If **provided for in the BDS**, the rates and prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and/or Special Conditions of Contract. The Bidder shall submit with the Bid all the information required under the Special Conditions of Contract and of the General Conditions of Contract.

14.5 For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Bidder in the form of Appendices D and E to the Contract

15. Currencies of Bid and Payment

15.1 The lump sum price shall be quoted by the Bidder separately in the following currencies:

(a) for those inputs to the Services which the Bidder expects to provide from within Zambia, the prices shall be quoted in **Zambian Kwacha**, unless otherwise **specified in the BDS**; and

(b) for those inputs to the Services which the Bidder expects to provide from outside Zambia, the prices shall be quoted in up to any three freely convertible currencies.

15.2 Bidders shall indicate details of their expected foreign currency requirements in the Bid.

15.3 Bidders may be required by the Employer to justify their foreign currency requirements and to substantiate that the amounts included in the Lump Sum are reasonable and responsive to ITB Sub-Clause 15.1.

16. Bid Validity

16.1 Bids shall remain valid for the period **specified in the BDS**.

16.2 In exceptional circumstances, the Employer may request that the bidders extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A Bidder may refuse the request without forfeiting the Bid Security. A Bidder agreeing to the request will not be required or permitted to otherwise modify the Bid, but will be required to extend the validity of Bid Security for the period of the extension, and in compliance with ITB Clause 17 in all respects.

16.3 In the case of contracts in which the Contract Price is fixed (not subject to price adjustment), if the period of bid validity is extended by more than 60 days, the amounts payable in local and foreign currency to the Bidder selected for award, shall be increased by applying to both the local and the foreign currency component of the payments, respectively, the factors specified in the request for extension, for the period of delay beyond 60 days after the expiry of the initial bid validity, up to the notification of

award. Bid evaluation will be based on the Bid prices without taking the above correction into consideration.

17.

Bid Security 17.1 The Bidder shall furnish, as part of the Bid, a Bid Security or a Bid-Securing Declaration, if required, as **specified in the BDS**.

17.2 The Bid Security shall be in the amount **specified in the BDS** and denominated in Zambian Kwacha or a freely convertible currency, and shall:

- (a) at the bidder's option, be in the form of either a letter of credit, or a bank guarantee from a banking institution, or a bond issued by a surety;
- (b) be issued by a reputable institution selected by the bidder and located in any eligible country. If the institution issuing the bond is located outside Zambia, it shall have a correspondent financial institution located in Zambia to make it enforceable.
- (c) be substantially in accordance with one of the forms of Bid Security included in Section IX, Contract Forms, or other form approved by the Employer prior to bid submission;
- (d) be payable promptly upon written demand by the Employer in case the conditions listed in ITB Sub-Clause 17.5 are invoked;
- (e) be submitted in its original form; copies will not be accepted;
- (f) remain valid for a period of 28 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Sub-Clause 16.2;

17.3 If a Bid Security or a Bid-Securing Declaration is required in accordance with ITB Sub-Clause 17.1, any bid not accompanied by a substantially responsive Bid Security or Bid Securing Declaration in accordance with ITB Sub-Clause 17.1, shall be rejected by the Employer as non-responsive.

17.4 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 35.

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

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Sub-Clause 16.2; or
- (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB Clause 34;
 - (ii) furnish a Performance Security in accordance with ITB Clause 35.

17.6 The Bid Security or Bid- Securing Declaration of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security or Bid- Securing Declaration shall be in the names of all future partners as named in the letter of intent to constitute the JV.

18. Alternative Proposals by Bidders

18.1 **Unless otherwise indicated in the BDS**, alternative bids shall not be considered.

18.2 When alternative times for completion are explicitly invited, a statement to that effect will be **included in the BDS**, as will the method of evaluating different times for completion.

18.3 Except as provided under ITB Sub-Clause 18.4 below, bidders wishing to offer technical alternatives to the requirements of the bidding documents must first submit a Bid that complies with the requirements of the bidding documents, including the scope, basic technical data, graphical documents and specifications. In addition to submitting the basic Bid, the Bidder shall provide all information necessary for a complete evaluation of the alternative by the Employer, including calculations, technical specifications, breakdown of prices, proposed work methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer. Alternatives to the specified performance levels shall not be accepted.

18.4 When bidders are **permitted in the BDS** to submit alternative technical solutions for specified parts of the Services, such parts shall be described in the Specifications (or Terms of Reference) and Drawings, Section VIII. In such case, the method for evaluating such alternatives will be as **indicated in the BDS**.

19. Format and Signing of Bid

19.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB Clause 11 of these

Instructions to Bidders, bound with the volume containing the Form of Bid, and clearly marked “ORIGINAL.” In addition, the Bidder shall submit copies of the Bid, in the number **specified in the BDS**, and clearly marked as “COPIES.” In the event of discrepancy between them, the original shall prevail.

- 19.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to Sub-Clauses 5.3(a) or 5.4(b), as the case may be. All pages of the Bid where entries or amendments have been made shall be initialed by the person or persons signing the Bid.
- 19.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

D. Submission of Bids

20. Sealing and Marking of Bids

- 20.1 The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as “ORIGINAL” and “COPIES”.
- 20.2 The inner and outer envelopes shall
- (a) be addressed to the Employer at the address **provided in the BDS**;
 - (b) bear the name and identification number of the Contract as **defined in the BDS** and Special Conditions of Contract; and
 - (c) provide a warning not to open before the specified time and date for Bid opening as **defined in the BDS**.
- 20.3 In addition to the identification required in ITB Sub-Clause 20.2, the inner envelopes shall 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 22.

- 20.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.
- 21. Deadline for Submission of Bids**
- 21.1 Bids shall be delivered to the Employer at the address specified above no later than the time and date **specified in the BDS.**
- 21.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with ITB Clause 11, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.
- 22. Late Bids**
- 22.1 Any Bid received by the Employer after the deadline prescribed in ITB Clause 21 will be returned unopened to the Bidder.
- 23. Modification and Withdrawal of Bids**
- 23.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in ITB Clause 21.
- 23.2 Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with ITB Clauses 19 and 20, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL," as appropriate.
- 23.3 No Bid may be modified after the deadline for submission of Bids.
- 23.4 Withdrawal of a Bid between the deadline for submission of bids and the expiration of the period of Bid validity specified in the BDS or as extended pursuant to ITB Sub-Clause 16.2 may result in the forfeiture of the Bid Security pursuant to ITB Clause 17.
- 23.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids by submitting Bid modifications in accordance with this clause, or included in the original Bid submission.

E. Bid Opening and Evaluation

- 24. Bid Opening**
- 24.1 The Employer will open the bids, including modifications made pursuant to ITB Clause 23, in the presence of the bidders'

representatives who choose to attend at the time and in the place **specified in the BDS.**

24.2 Envelopes marked “WITHDRAWAL” shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 23 shall not be opened.

24.3 The bidders’ names, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid modifications and withdrawals, the presence or absence of Bid Security, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No bid shall be rejected at bid opening except for the late bids pursuant to ITB Clause 22; Bids, and modifications, sent pursuant to ITB Clause 23 that are not opened and read out at bid opening will not be considered for further evaluation regardless of the circumstances. Late and withdrawn bids will be returned unopened to the bidders.

24.4 The Employer will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with ITB Sub-Clause 24.3.

25. Process to Be Confidential

25.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder is notified of the award. Any effort by a Bidder to influence the Employer’s processing of bids or award decisions may result in the rejection of his Bid.

25.2 If, after notification of award, a bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Employer, who will provide written explanation. Any request for explanation from one bidder should relate only to its own bid; information about the bid of competitors will not be addressed.

26. Clarification of Bids

26.1 To assist in the examination, evaluation, and comparison of bids, the Employer may, at the Employer’s discretion, ask any Bidder for clarification of the Bidder’s Bid, including breakdowns of the prices in the Activity Schedule, and other information that the Employer may require. The request for clarification and the response shall be in writing or by cable, telex, or facsimile, but no change in the price

or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with ITB Clause 28.

26.2 Subject to ITB Sub-Clause 26.1, no Bidder shall contact the Employer on any matter relating to its bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, he should do so in writing.

26.3 Any effort by the Bidder to influence the Employer in the Employer's bid evaluation or contract award decisions may result in the rejection of the Bidder's bid.

**27. Examination
of Bids and
Determination
of
Responsiveness**

27.1 Prior to the detailed evaluation of bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in ITB Clause 4; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the bidding documents.

27.2 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Services; (b) which limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

27.3 If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

**28. Correction of
Errors**

28.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Arithmetical errors will be rectified by the Employer on the following basis: if there is a discrepancy between unit prices 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; 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; if there is a discrepancy between the amounts in figures and in words, the amount in words will prevail.

28.2 The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid will be rejected, and the Bid Security may be forfeited in accordance with ITB Sub-Clause 17.5(b).

29. Currency for Bid Evaluation

29.1 The Employer will convert the amounts in various currencies in which the Bid Price, corrected pursuant to ITB Clause 28, is payable (excluding Provisional Sums but including Daywork where priced competitively) to either:

(a) Zambian Kwacha at the selling rates established for similar transactions by the authority **specified in the BDS** on the date **stipulated in the BDS**;

or

(b) a currency widely used in international trade, such as the U.S. dollar, **stipulated in the BDS**, at the selling rate of exchange published in the international press as **stipulated in the BDS** on the date **stipulated in the BDS**, for the amounts payable in foreign currency; and, at the selling exchange rate established for similar transactions by the same authority specified in ITB Sub-Clause 29.1 (a) above on the date **specified in the BDS** for the amount payable in Zambian Kwacha.

30. Evaluation and Comparison of Bids

30.1 The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with ITB Clause 27.

30.2 In evaluating the bids, the Employer will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:

(a) making any correction for errors pursuant to ITB Clause 28;

(b) excluding provisional sums and the provision, if any, for contingencies in the Activity Schedule, Section V, but including Day work, when requested in the Specifications (or Terms of Reference) Section VIII;

- (c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with ITB Clause 18; and
 - (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with ITB Sub-Clause 23.5.
- 30.3 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in Bid evaluation.
- 30.4 The estimated effect of any price adjustment conditions under Sub-Clause 7.6 of the General Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in Bid evaluation.
- 31. Preference for Domestic Bidders** 31.1 Domestic bidders shall be eligible for margin of preference in Bid evaluation.

F. Award of Contract

- 32. Award Criteria** 32.1 Subject to ITB Clause 33, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of ITB Clause 4, and (b) qualified in accordance with the provisions of ITB Clause 5.
- 32.2 If, pursuant to ITB Sub-Clause 13.2 this contract is being let on a “slice and package” basis, the lowest evaluated Bid Price will be determined when evaluating this contract in conjunction with other contracts to be awarded concurrently. Taking into account any discounts offered by the bidders for the award of more than one contract.
- 33. Employer’s Right to Accept any Bid** 33.1 Notwithstanding ITB Clause 32, the Employer reserves the right to accept or reject any Bid, and to cancel the bidding process and

- and to Reject any or all Bids** reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Employer's action.
- 34. Notification of Award and Signing of Agreement**
- 34.1 The Bidder whose Bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period by cable, telex, or facsimile confirmed by registered letter from the Employer. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the Service provider in consideration of the execution, completion, and maintenance of the Services by the Service provider as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 34.2 The notification of award will constitute the formation of the Contract.
- 34.3 The Contract, in the form provided in the bidding documents, will incorporate all agreements between the Employer and the successful Bidder. It will be signed by the Employer and sent to the successful Bidder along with the Letter of Acceptance. Within 21 days of receipt of the Contract, the successful bidder shall sign the Contract and return it to the Employer, together with the required performance security pursuant to Clause 35.
- 34.4 Upon fulfillment of ITB Sub-Clause 34.3, the Employer will promptly notify the unsuccessful Bidders the name of the winning Bidder and that their bid security will be returned as promptly as possible.
- 34.5 If, after notification of award, a bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Employer. The Employer will promptly respond in writing to the unsuccessful Bidder.
- 35. Performance Security**
- 35.1 Within 21 days after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security in the amount and in the form (Bank Guarantee and/or Performance Bond) **stipulated in the BDS**, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the General Conditions of Contract.

- 35.2 If the Performance Security is provided by the successful Bidder in the form of a Bank Guarantee, it shall be issued either (a) at the Bidder's option, by a bank located in Zambia or a foreign bank through a correspondent bank located in Zambia, or (b) with the agreement of the Employer directly by a foreign bank acceptable to the Employer.
- 35.3 If the Performance Security is to be provided by the successful Bidder in the form of a Bond, it shall be issued by a surety which the Bidder has determined to be acceptable to the Employer.
- 35.4 Failure of the successful Bidder to comply with the requirements of ITB Sub-Clause 35.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security.
- 36. Advance Payment and Security** 36.1 The Employer will not provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to the amount **stated in the BDS**.
- 37. Adjudicator** 37.1 The Employer proposes the person **named in the BDS** to be appointed as Adjudicator under the Contract, at an hourly fee **specified in the BDS**, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in the Bid. If, in the Letter of Acceptance, the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.

Section II. Bidding Data Sheet

Instructions to Bidders Clause Reference

31

ITB Clause Reference	A. General
ITB 1.1	The Procuring Entity is: Zambia Railways Limited
ITB 1.1	The identification number and name of the ONB are: TENDER NO. ZRL/ORD/002/2021: - Tender for supply and delivery of mild steel plates, steel bars, industrial gas and welding electrodes and accessories on a one year call off contract to Zambia Railways Limited.
ITB 2.1	The name of the Project/Programme is: Tender for supply and delivery of mild steel plates, steel bars, industrial gas and welding electrodes and accessories on a one year call off contract to Zambia Railways Limited
ITB 4.3	A list of firms debarred from participating in Government-financed projects is available at https://www.zppa.org.zm/
	B. Contents of Bidding Documents
ITB 7.1	<p>For Clarification of bid purposes only, the Procuring Entity's address is:</p> <p>Attention: Manager Procurement</p> <p>Address: Zambia Railways Limited, Top Office, Corner of Ghana and Buntungwa Avenue, P.O. Box 80935,</p> <p>City: Kabwe, Zambia</p> <p>Telephone: +260-215-221-005</p> <p>Facsimile number: +260-215-224-411</p> <p>Mobile: +260-950-010445, 950-011491</p> <p>Electronic mail address: tenders@zrl.com.zm ,sampaya.sankombo@zrl.com.zm, sinati.mvula@zrl.com.zm</p> <p>NOTE: Clarifications should be received on or before Thursday, 24th June, 2021, at 10:00 hour's local time.</p>
	C. Preparation of Bids
ITB 10.1	The language of the bid is: English.

ITB 11.1 (f)	The Bidder shall submit the following additional documents in its bid: N/A
ITB 13.1	Alternative Bids shall not be considered.
ITB 14.5	The Incoterms edition is <i>Incoterms 2010</i>
ITB 14.6 (a)	Place of Destination: Zambia Railways Limited, Kabwe Main Stores
ITB 14.6 (b)	The prices quoted shall be Ex Works. The price of inland transportation, insurance and other costs incidental to delivery of the goods to the final destination must be quoted in addition to the Ex Works price.
ITB 14.7	Prices quoted for each lot shall correspond at least to 100% of the items specified. THE PRICES SHALL BE FIXED FOR THE DURATION OF THE CALL OFF CONTRACT WHICH IS ONE YEAR. NO PRICE ADJUSTMENT SHALL BE ENTERTAINED. THEREFORE, BIDDERS MUST STATE THAT CLEARLY IN THEIR BIDS.
ITB 15.1	The Bidder is required to quote in Zambian Kwacha.
ITB 17.1 (a)	After sales service is: Not required
ITB 18.1	The bid validity period shall be at least One Hundred and Twenty (120) days after the deadline for bid submission as specified below in reference to ITB Clause 19.1.
ITB 19.1	Bid shall include a Bid Security (issued by bank or surety) in the format included in Section IV Bidding Forms. i) The amount of the Bid Security shall be: N/A
ITB 19.2	If the Bidder incurs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Procuring Entity will declare the Bidder ineligible to be awarded contracts by the Procuring Entity for a period of one (01) year.
ITB 20.1	In addition to the original bid, the number of copies is: 05 (Five)
	D. Submission and Opening of Bids
ITB 21.1	Bidders shall not have the option of submitting their bids electronically.
ITB 21.1 (b)	If bidders shall have the option of submitting their bids electronically, the electronic bidding submission procedures shall be: N/A
ITB 21.2 (c)	The envelopes shall bear the following additional identification marks: “TENDER NO. ZRL/ORD/002/2021: - Tender for supply and delivery of mild steel plates, steel bars, industrial gas and welding electrodes and accessories on a one year call off contract to Zambia Railways Limited”

<p>ITB 22.1</p>	<p>For bid submission purposes, the Procuring Entity’s address is:</p> <p>Attention: Manager Procurement and Supplies</p> <p>Address: Corner Buntungwa Street and Ghana Avenue, Zambia Railways Limited, Kafue River Road, P.O. Box 80935,</p> <p>City: Kabwe, Zambia</p> <p>Telephone: 260-215-227005</p> <p>Facsimile number: N/A</p> <p>Mobile: +260 950010445 / +260960912617</p> <p>The deadline for the submission of bids is:</p> <p>Date: Thursday 24th June, 2021</p> <p>Time: 10:00 hour’s local time</p>
<p>ITB 25.1</p>	<p>The bid opening shall take place at:</p> <p>Street Address: Zambia Railways Limited, Top Office,</p> <p>Corner Butungwa Street and Ghana Avenue</p> <p>Floor/ Room number: Main Board Room</p> <p>City: Kabwe, Zambia</p> <p>Date: Thursday 24th June, 2021</p> <p>Time: 10:00 hour’s local time</p>
<p>ITB 25.1</p>	<p>If electronic bid submission is permitted in accordance with ITB sub-clause 23.1, the specific bid opening procedures shall not apply</p>
<p>ITB 25.1</p>	<p>Request for clarifications should be sent within 14 days after tender floatation date. Any requests received after this period will not be admitted.</p>
<p style="text-align: center;">E. Evaluation and Comparison of Bids</p>	
<p>ITB 32.1</p>	<p>This tender has domestic preference for bidders registered with the Citizen Economic Empowerment Commission (CEEC) as follows:</p> <ul style="list-style-type: none"> i) Citizen Influenced Companies - 4 percent ii) Citizen Empowered Companies - 8 percent iii) Citizen Owned Companies - 12 percent v) Domestically manufactured goods by a citizen influenced company, citizen-empowered company and citizen-owned company – Fifteen (15) percent. <p>Proof of registration with CEEC must be provided.</p>

ITB 32.2	<p>Preliminary Evaluation</p> <ul style="list-style-type: none"> (i) Certificate of Company Registration (ii) Valid Tax Clearance Certificate (iii) Written Power of Attorney (iv) Company’s Litigation Status (v) Duly signed Bid submission on company letter head (vi) Bid Validity of 120 days (vii) Bid Securing declaration (viii) Duly signed Price Schedule (ix) Proof of purchase of the tender document <p>Other qualification Criteria</p> <ul style="list-style-type: none"> (i) Evidence of ZMW250,000.00 line of credit from a recognized financial institution or audited financial statement for the period 2018, 2019 and 2020. (ii) The Bidder must have three proven track record of satisfactorily having handled similar supplies. Bidders shall provide information on Contract values, description of services performed, goods delivered, purchaser’s name and address. Submission of only experience of the manufacturer where the bidder is not a manufacturer shall not suffice. Proof of unsatisfactory performance shall result in the bid being declared non-responsive. Bidders should provide references from their past three clients on their performance. (iii) Letter of Confirmation on a company letter head indicating that the prices shall be firm during the Contract call off period of one year and that Payment terms for any delivered product shall be 60 days credit starting from the date of the invoice <p>THE ABSENCE OF ANY OF THIS INFORMATION SHALL RENDER THE BID NON-RESPONSIVE.</p> <ul style="list-style-type: none"> • Bidders must keep the prices firm during the Contract period. Payment terms for any delivered product shall be 60 days credit starting from the date of the invoice. All invoices shall be due for payment only 60 days from the date of invoice for local bidders; • ZRL shall call off against the contract by issuing purchase orders as and when need arises. Any payment under the rate contract shall be for the actual quantity delivered or performed during the time period covered by the contract, using the fixed unit prices specified in the contract. The rates contract shall include an estimated quantity or value, but shall not commit ZRL to purchase the estimated quantity or value. • THE TENDER SHALL BE AWARDED IN LOTS THEREFORE BIDDERS ARE ADVISED TO SUBMIT BIDS FOR ALL THE ITEMS IN EACH LOT.
ITB 32.3	The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: N/A
ITB 32.4	Bidders shall not be allowed to quote separate prices.
F. Award of Contract	

ITB 34.1	<p>The maximum percentage by which quantities may be increased is: 25%</p> <p>The maximum percentage by which quantities may be decreased is: 25%</p>
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Section III. Bidding Forms

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Bid Security (Bank Guarantee)Error! Bookmark not defined.

Bid Security (Bid Bond)Error! Bookmark not defined.

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Service Provider's Bid

[date]

To: *[name and address of Employer]*

Having examined the bidding documents including addenda No, we offer to execute the *[name and identification number of Contract]* in accordance with the Conditions of Contract, specifications, drawings and activity schedule accompanying this Bid for the Contract Price of *[amount in numbers], [amount in words] [names of currencies]*.

The Contract shall be paid in the following currencies:

Currency	Amount payable in currency	Inputs for which foreign currency is required
(a)		
(b)		

We accept the appointment of *[name proposed in the Bidding Data Sheet]* as the Adjudicator.

[or]

We do not accept the appointment of *[name proposed in the Bidding Data Sheet]* as the Adjudicator, and propose instead that *[name]* be appointed as Adjudicator, whose daily fees and biographical data are attached.

This Bid and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this Bid complies with the Bid validity and Bid Security required by the bidding documents and specified in the Bidding Data Sheet.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____
(if none, state "none")		

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

Qualification Information

- 1. Individual Bidders or Individual Members of Joint Ventures**
- 1.1 Constitution or legal status of Bidder: *[attach copy]*
- Place of registration: *[insert]*
- Principal place of business: *[insert]*
- Power of attorney of signatory of Bid: *[attach]*
- 1.2 Total annual volume of Services performed in five years, in the internationally traded currency specified in the BDS: *[insert]*
- 1.3 Services performed as prime Service Provider on the provision of Services of a similar nature and volume over the last five years. The values should be indicated in the same currency used for Item 1.2 above. Also list details of work under way or committed, including expected completion date.

Project name and country	Name of employer and contact person	Type of Services provided and year of completion	Value of contract
(a)			
(b)			

- 1.4 Major items of Service Provider's Equipment proposed for carrying out the Services. List all information requested below. Refer also to ITB Sub-Clause 5.4(c).

Item of equipment	Description, make, and age (years)	Condition (new, good, poor) and number Available	Owned, leased (from whom?), or to be purchased (from whom?)

(a)
(b)

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to ITB Sub-Clause 5.4(e) and GCC Clause 9.1.

Position	Name	Years of experience (general)	Years of experience in proposed position
(a)			
(b)			

1.6 Proposed subcontracts and firms involved. Refer to GCC Clause 7.

Sections of the Services	Value of subcontract	Subcontractor (name and address)	Experience in providing similar Services
(a)			
(b)			

- 1.7 Financial reports for the last five years: balance sheets, profit and loss statements, auditors' reports, etc. List below and attach copies.
- 1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents. We certify/confirm that we comply with eligibility requirements as per ITB Clause 4.
- 1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Employer.
- 1.10 Information regarding any litigation, current or within the last five years, in which the Bidder is or has been involved.

Other party(ies)	Cause of dispute	Details of litigation award	Amount involved
(a)			
(b)			

- 1.11 Statement of compliance with the requirements of ITB Sub-Clause 4.2.
- 1.12 Proposed Program (service work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the bidding documents.

Joint Ventures 2.1 The information listed in 1.1 - 1.11 above shall be provided for each partner of the joint venture.

- 2.2 The information in 1.12 above shall be provided for the joint venture.

-
- 2.3 Attach the power of attorney of the signatory(ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.
- 2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that
- (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture;
And
 - (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
- 3. Additional Requirements**
- 3.1 Bidders should provide any additional information required in the BDS and to fulfill the requirements of ITB Sub-Clause 5.1, if applicable.

Letter of Acceptance
[letterhead paper of the Employer]

[date]

To: *[name and address of the Service provider]*

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

Note: Insert one of the 3 options for the second paragraph. The first option should be used if the Bidder has not objected the name proposed for Adjudicator. The second option if the Bidder has objected the proposed Adjudicator and proposed a name for a substitute, who was accepted by the Employer. And the third option if the Bidder has objected the proposed Adjudicator and proposed a name for a substitute, who was not accepted by the Employer.

We confirm that *[insert name proposed by Employer in the Bidding Data]*,

or

We accept that *[name proposed by bidder]* be appointed as the Adjudicator

or

We do not accept that *[name proposed by bidder]* be appointed as Adjudicator, and by sending a copy of this letter of acceptance to *[insert the name of the Appointing Authority]*, we are

hereby requesting *[name]*, the Appointing Authority, to appoint the Adjudicator in accordance with Clause 37.1 of the Instructions to Bidders

You are hereby instructed to proceed with the execution of the said contract for the provision of Services in accordance with the Contract documents.

Please return the attached Contract dully signed

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract

Form of Contract
[letterhead paper of the Employer]

LUMP-SUM REMUNERATION

This CONTRACT (hereinafter called the “Contract”) is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Employer]* (hereinafter called the “Employer”) and, on the other hand, *[name of Service Provider]* (hereinafter called the “Service Provider”).

WHEREAS

- (a) the Employer has requested the Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);
- (b) the Service Provider, having represented to the Employer that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of.....;
- (c) the Employer has received funds towards the cost of the Services and intends to apply a portion of the proceeds of the funds to eligible payments under this Contract, it being understood (i) that payments by the Employer will be made only at the request of the Project Manager, (ii) that such payments will be subject, in all respects, to the terms and conditions of the Contract, and (iii) that no party other than the Employer shall derive any rights from the proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as part of this Agreement, and the priority of the documents shall be as follows:

- (a) the Letter of Acceptance;
- (b) the Service Provider’s Bid
- (c) the Special Conditions of Contract;
- (d) the General Conditions of Contract;
- (e) the Specifications Or Schedule Of Services;
- (f) the Priced Activity Schedule; and
- (g) The following Appendices: [*Note: If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.*]

Appendix A: Description of the Services	
Appendix B: Schedule of Payments	
Appendix C: Key Personnel and Subcontractors	Not Used
Appendix D: Breakdown of Contract Price in Foreign Currency	Not Used
Appendix E: Breakdown of Contract Price in Local Currency	
Appendix F: Services and Facilities Provided by the Employer	

2. The mutual rights and obligations of the Employer and the Service Provider shall be as set forth in the Contract, in particular:
- (a) the Service Provider shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the Employer shall make payments to the Service Provider in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[name of Employer]*

[Authorized Representative]

For and on behalf of *[name of Service Provider]*

[Authorized Representative]

[Note: *If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]*

For and on behalf of each of the Members of the Service Provider

[name of member]

[Authorized Representative]

[name of member]

[Authorized Representative]

Bid-Securing Declaration

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

Date: _____

Bid No.: _____

Alternative No.: _____

To: _____

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Procuring Entity for the period of time of three (3No.) years starting on 20th September, 2019, if we are in breach of our obligation(s) under the bid conditions, because we:

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

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

Signed: _____

In the capacity of: _____

Name: _____

Duly authorized to sign the bid for and on behalf of: _____

Dated on _____ day of _____, _____

Corporate Seal (where appropriate)

Section IV. Eligible Countries

Eligibility for the Provision of Goods, Works and Services in Zambia

1. In accordance with Section 61 of the Public Procurement Act No. 12 of 2008 and Clause 155 of the Public Procurement Regulations of 2011, the Government permits firms and individuals from all countries to offer goods, works and services for Government-financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:

- (i): as a matter of law or official regulation, the Government prohibits commercial relations with that Country, provided that Cooperating Partners involved are satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works required, or
- (ii): 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 prohibits any import of goods from that Country or any payments to persons or entities in that Country.

2. For the information of Procuring Entities and bidders, at the present time firms, goods and services from the following countries are excluded from this bidding:

- (a) With reference to paragraph (i) above:

- (b) With reference to paragraph (ii) above:

Part II –Requirements

Section V: Schedule of Requirements and Specifications

LOT NUMBER	DESCRIPTION	QTY	FREQUENCY
LOT 1	Supply of Mild steel plates and steel bars	Schedule	As and when required
LOT 2	Supply of Gas	Schedule	As and when required
Lot 3	Supply of various Welding Electrodes and Welding Accessories	Schedule	As and when required
Lot 4	Supply of Carriage and Wagon Tools	Schedule	As and when required

Note: Refer to page 66 for detailed specifications.

Part III – Conditions of Contract and Contract Forms

Section VI. General Conditions of Contract

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Section V. General Conditions of Contract

A. General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) The Adjudicator is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder.
- (b) “Activity Schedule” is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Bid;
- (c) “Completion Date” means the date of completion of the Services by the Service Provider as certified by the Employer
- (d) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (e) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (f) “Dayworks” means varied work inputs subject to payment on a time basis for the Service Provider’s employees and equipment, in addition to payments for associated materials and administration.
- (g) “Employer” means the party who employs the Service Provider
- (h) “Foreign Currency” means any currency other than the currency of Zambia;
- (i) “GCC” means these General Conditions of Contract;
- (j) “Government” means the Government of the Republic of Zambia, any Procuring Entity or the relevant approvals authority as defined in the Public Procurement Act of 2008;

-
- (k) “Local Currency” means Zambian Kwacha;
 - (l) “Member,” in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Service Provider’ rights and obligations towards the Employer under this Contract;
 - (m) “Party” means the Employer or the Service Provider, as the case may be, and “Parties” means both of them;
 - (n) “Personnel” means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof;
 - (o) “Service Provider” is a person or corporate body whose Bid to provide the Services has been accepted by the Employer;
 - (p) “Service Provider’s Bid” means the completed bidding document submitted by the Service Provider to the Employer
 - (q) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented;
 - (r) “Specifications” means the specifications of the service included in the bidding document submitted by the Service Provider to the Employer
 - (s) “Services” means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider’s Bid.
 - (t) “Subcontractor” means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4.

1.2 Applicable Law The Contract shall be interpreted in accordance with the laws of the **Republic of Zambia.**

1.3 Language This Contract has been executed **English**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

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- 1.4 Notices** Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address **specified in the SCC**.
- 1.5 Location** The Services shall be performed at such locations as are specified in Appendix A, in the specifications and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Employer may approve.
- 1.6 Authorized Representatives** Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Employer or the Service Provider may be taken or executed by the officials **specified in the SCC**.
- 1.7 Inspection and Audit by the Government** The Service Provider shall permit the Government to inspect its accounts and records relating to the performance of the Services and to have them audited by auditors appointed by the Government, if so required by the Government.
- 1.8 Taxes and Duties** The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2. Commencement, Completion, Modification, and Termination of Contract

- 2.1 Effectiveness of Contract** This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be **stated in the SCC**.
- 2.2 Commencement of Services**
- 2.2.1 Program** Before commencement of the Services, the Service Provider shall submit to the Employer for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.

2.2.2 Starting Date	The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be specified in the SCC .
2.3 Intended Completion Date	Unless terminated earlier pursuant to Sub-Clause 2.6, the Service Provider shall complete the activities by the Intended Completion Date, as is specified in the SCC . If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.
2.4 Modification	Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties and shall not be effective until the consent of the relevant approvals authority as defined by the Public Procurement Act of 2008 has been obtained.
2.5 Force Majeure	
2.5.1 Definition	For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
2.5.2 No Breach of Contract	The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
2.5.3 Extension of Time	Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
2.5.4 Payments	During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily

incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Employer

The Employer may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Sub-Clause 2.6.1:

- (a) if the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing;
- (b) if the Service Provider become insolvent or bankrupt;
- (c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Service Provider, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purposes of this Sub-Clause:

- (i) "corrupt practice"⁶ is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) "fraudulent practice"⁷ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) "collusive practice"⁸ is an arrangement between two or more parties designed to achieve an improper purpose,

⁶ For the purpose of this Contract, "another party" refers to a public official acting in relation to the procurement process or contract execution. In this context, "public official" includes employees of other organizations taking or reviewing procurement decisions.

⁷ For the purpose of this Contract, "party" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution.

⁸ For the purpose of this Contract, "parties" refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

including to influence improperly the actions of another party;

- (iv) “coercive practice”⁹ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the Government’s inspection and audit rights provided for under Sub-Clause 1.7 above.

2.6.2 By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days’ written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Sub-Clause 2.6.2:

- (a) if the Employer fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

⁹ For the purpose of this Contract, “party” refers to a participant in the procurement process or contract execution.

-
- 2.6.3 Suspension of Funding** In the event that the Government suspends funding to the Employer, from which part of the payments to the Service Provider are being made:
- (a) The Employer is obligated to notify the Service Provider of such suspension within 7 days of having received the suspension notice.
 - (b) If the Service Provider has not received sums due to by the due date stated in the SCC in accordance with Sub-Clause 6.5 the Service Provider may immediately issue a 14 day termination notice.
- 2.6.4 Payment upon Termination** Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, the Employer shall make the following payments to the Service Provider:
- (a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
 - (b) except in the case of termination pursuant to paragraphs (a), (b), (d) of Sub-Clause 2.6.1, 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.

3. Obligations of the Service Provider

3.1 General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Employer, and shall at all times support and safeguard the Employer's legitimate interests in any dealings with Subcontractors or third parties.

3.2 Conflict of Interests

-
- 3.2.1 Service Provider Not to Benefit from Commissions and Discounts.** The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contract or the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.
- 3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project** The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
- 3.2.3 Prohibition of Conflicting Activities** Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:
- (a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract;
 - (b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees in active duty or on any type of leave, to perform any activity under this Contract;
 - (c) after the termination of this Contract, such other activities as may be **specified in the SCC**.
- 3.3 Confidentiality** The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Employer's business or operations without the prior written consent of the Employer.

-
- 3.4 Insurance to be Taken Out by the Service Provider** The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- 3.5 Service Provider's Actions Requiring Employer's Prior Approval** The Service Provider shall obtain the Employer'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,
 - (b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),
 - (c) changing the Program of activities; and
 - (d) any other action that may be **specified in the SCC**.
- 3.6 Reporting Obligations** The Service Provider shall submit to the Employer the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.
- 3.7 Documents Prepared by the Service Provider to Be the Property of the Employer** All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of the Employer, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Employer, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC**.
- 3.8 Liquidated Damages**
- 3.8.1 Payments of Liquidated Damages** The Service Provider shall pay liquidated damages to the Employer at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Employer may deduct liquidated damages

from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Correction for Overpayment

If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.

3.8.3 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC.**

3.9 Performance Security

The Service Provider shall provide the Performance Security to the Employer no later than the date specified in the Letter of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 days from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

4. Service Provider's Personnel

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Employer.

4.2 Removal and/or Replacement of Personnel

(a) Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall

provide as a replacement a person of equivalent or better qualifications.

- (b) If the Employer finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Employer's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.
- (c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. Obligations of the Employer

5.1 Assistance and Exemptions

The Employer shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as **specified in the SCC.**

5.2 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities

The Employer shall make available to the Service Provider the Services and Facilities listed under Appendix F.

6. Payments to the Service Provider

6.1 Lump-Sum Remuneration

The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause

5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub-Clauses 2.4 and 6.3.

- 6.2 Contract Price** (a) The price payable in local currency is **set forth in the SCC**.
 (b) The price payable in foreign currency is **set forth in the SCC**.
- 6.3 Payment for Additional Services, and Performance Incentive Compensation**
- 6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.
- 6.3.2 **If the SCC so specify**, the service provider shall be paid performance incentive compensation as set out in the Performance Incentive Compensation appendix.
- 6.4 Terms and Conditions of Payment**
- Payments will be made to the Service Provider according to the payment schedule **stated in the SCC**. **Unless otherwise stated in the SCC**, the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period **stated in the SCC**. Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Service Provider have submitted an invoice to the Employer specifying the amount due.
- 6.5 Interest on Delayed Payments**
- If the Employer has delayed payments beyond fifteen (15) days after the due date stated in the SCC, interest shall be paid to the Service Provider for each day of delay at the rate stated in the SCC.
- 6.6 Price Adjustment**
- 6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \frac{L_{mc}}{L_{oc}} + C_c \frac{I_{mc}}{I_{oc}}$$

Where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency “c”.

A_c , B_c and C_c are coefficients specified in the SCC, representing: A_c the nonadjustable portion; B_c the adjustable portion relative to labor costs and C_c the adjustable portion for other inputs, of the Contract Price payable in that specific currency “c”; and

L_{mc} is the index prevailing at the first day of the month of the corresponding invoice date and L_{oc} is the index prevailing 28 days before Bid opening for labor; both in the specific currency “c”.

I_{mc} is the index prevailing at the first day of the month of the corresponding invoice date and I_{oc} is the index prevailing 28 days before Bid opening for other inputs payable; both in the specific currency “c”.

If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Z_o/Z_n will be applied to the respective component factor of p_n for the formula of the relevant currency. Z_o is the number of units of currency of the country of the index, equivalent to one unit of the currency payment on the date of the base index, and Z_n is the corresponding number of such currency units on the date of the current index.

6.6.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

6.7 Dayworks

6.7.1 If applicable, the Daywork rates in the Service Provider’s Bid shall be used for small additional amounts of Services only when the Employer has given written instructions in advance for additional services to be paid in that way.

6.7.2 All work to be paid for as Dayworks shall be recorded by the Service Provider on forms approved by the Employer. Each completed form shall be verified and signed by the Employer representative as indicated in Sub-Clause 1.6 within two days of the Services being performed.

6.7.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Sub-Clause 6.7.2

7. Quality Control

7.1 Identifying Defects

The principle and modalities of Inspection of the Services by the Employer shall be as **indicated in the SCC**. The Employer shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Employer may instruct the Service Provider to search for a Defect and to uncover and test any service that the Employer considers may have a Defect. Defect Liability Period is as **defined in the SCC**.

7.2 Correction of Defects, and Lack of Performance Penalty

- (a) The Employer shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.
- (b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Employer's notice.
- (c) If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

8. Settlement of Disputes

8.1 Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

8.2 Dispute Settlement

8.2.1 If any dispute arises between the Employer and the Service Provider in connection with, or arising out of, the Contract or the provision of the Services, whether during carrying out the Services or after their completion, the matter shall be referred to the

Adjudicator within 14 days of the notification of disagreement of one party to the other.

8.2.2 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.

8.2.3 The Adjudicator shall be paid by the hour at the rate **specified in the BDS and SCC**, together with reimbursable expenses of the types **specified in the SCC**, and the cost shall be divided equally between the Employer and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

8.2.4 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place **shown in the SCC**.

8.2.5 Should the Adjudicator resign or die, or should the Employer and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Service Provider. In case of disagreement between the Employer and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the SCC** at the request of either party, within 14 days of receipt of such request.

Section VII. Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1	The words “in the Government’s country” are amended to read “in <i>Zambia</i> .”
1.1(a)	The Adjudicator is : <i>TBA</i>
1.1(e)	The contract name is TENDER NO. ZRL/ORD/002/2021: - Tender for supply and delivery of mild steel plates, steel bars, industrial gas and welding electrodes and accessories on a one year call off contract to Zambia Railways Limited.
1.1(h)	The Employer is The Zambia Railways Limited.
1.1(m)	The Member of staff in Charge is : <i>TBA</i>
1.1(p)	The Service Provider is <i>successful bidder for each lot</i>
1.4	<p>The addresses are:</p> <p>Employer: Zambia Railways Limited.</p> <p>Attention: Chief Executive Officer</p> <p>Telex:</p> <p>Facsimile:</p> <p>Service Provider: _____</p> <p>Attention: _____</p> <p>Telex: _____</p> <p>Facsimile: _____</p>
1.6	<p>The Authorized Representatives are:</p> <p>For the Employer: Chief Executive Officer</p> <p>For the Service Provider: TBA</p>
2.1	The date on which this Contract shall come into effect is: TBA
2.2.2	The Starting Date for the commencement of Services is: TBA
2.3	The Intended Completion Date is : <i>TBA</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
3.2.3	Activities prohibited after termination of this Contract are: Use of any Information or materials in the services provider's custody.
3.4	<p>The risks and coverage by insurance shall be: N/A</p> <ul style="list-style-type: none"> (i) Third Party motor vehicle: N/A (ii) Third Party liability: N/A (iii) Employer's liability and workers' compensation: N/A (iv) Professional liability: N/A (v) Loss or damage to equipment and property: N/A
3.5(d)	The other actions are: N/A
3.7	<p>Restrictions on the use of documents prepared by the Service Provider are:</p> <p>None</p>
3.8.1	<p>The liquidated damages rate is 0.05 per week</p> <p>The maximum amount of liquidated damages for the whole contract is <i>ten</i> percent of the final Contract Price.</p>
3.8.3	The percentage to be used for the calculation of lack of performance penalty(ies) is TEN .
5.1	<p>The assistance and exemptions provided to the Service Provider are:</p> <p>Schedule of insured staff and property</p>
6.2(a)	The amount in local currency is: Contract amount .
6.2(b)	The amount in foreign currency or currencies is: N/A .
6.3.2	The performance incentive paid to the Service Provider shall be: N/A .
6.4	<p>Payments shall be made according to the following schedule: N/A.</p> <p>Advance for Mobilization, Materials and Supplies: _____ percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same.</p> <p>Progress payments in accordance with the milestones established as follows, subject to certification by the Employer, that the Services have been rendered satisfactorily, pursuant to the performance indicators:</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>➤ _____ (indicate milestone and/or percentage) _____</p> <p>➤ _____ (indicate milestone and/or percentage) _____ and</p> <p>➤ _____ (indicate milestone and/or percentage) _____</p> <p>Should the certification not be provided, or refused in writing by the employer within one month of the date of the milestone, or of the date of receipt of the corresponding invoice, the certification will be deemed to have been provided, and the progress payment will be released at such date.</p> <p>The amortization of the Advance mentioned above shall commence when the progress payments have reached 25% of the contract price and be completed when the progress payments have reached 75%. N/A.</p> <p>The bank guarantee for the advance payment shall be released when the advance payment has been fully amortized. N/A.</p>
6.5	<p>Payment shall be made within thirty days of receipt of the invoice and the relevant documents specified in Sub-Clause 6.4, and within thirty days in the case of the final payment.</p> <p>The interest rate is N/A.</p>
6.6.1	<p>Price adjustment is _____ in accordance with Sub-Clause 6.6. N/A</p> <p>The coefficients for adjustment of prices are _____ :</p> <p>(a) For local currency:</p> <p>AL is _____</p> <p>BL is _____</p> <p>CL is _____</p> <p>L_{mc} and L_{oc} are the index for Labor from _____</p> <p>I_{mc} and I_{oc} are the index for _____ from _____</p> <p>(b) For foreign currency</p> <p>AF is _____</p> <p>BF is _____</p> <p>CF is _____</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>L_{mc} and L_{oc} are the index for Labor from _____</p> <p>I_{mc} and I_{oc} are the index for _____ from _____</p>
7.1	<p>The principle and modalities of inspection of the Services by the Employer are as follows: TBA</p> <p>The Defects Liability Period is: N/A.</p>
8.2.3	<p>The Adjudicator is TBA. Who will be paid a rate of TBA per hour of work. The following reimbursable expenses are recognized: N/A.</p>
8.2.4	<p>The arbitration procedures of the Judicial systems in Zambia will be used</p>
8.2.5	<p>The designated Appointing Authority for a new Adjudicator is: TBA</p>

Section VIII. Performance Specifications

LOT 1: SUPPLY AND DELIVERY OF MILD STEEL PLATES AND BARS

S/NO.	DESCRIPTION	SPECIFICATIONS	UNIT	QTY
1	MILD STEEL PLATES 2MM	2.4m x 1.2 m x 2 mm	EACH	20
2	MILD STEEL PLATES 4MM	2.4m x 1.2 m x 4 mm	EACH	500
3	MILD STEEL PLATES 5MM	2.4m x 1.2 m x 5 mm	EACH	10
4	MILD STEEL PLATES 6MM	1.2 m x 6 m x 6 mm	EACH	50
5	MILD STEEL PLATES 10MM	2.4m x 1.2 m x 10 mm	EACH	20
6	MILD STEEL PLATES 12MM	2.4m x 1.2 m x 12 mm	EACH	10
7	MILD STEEL PLATES 16MM	2.4m x 1.2 m x 16 mm	EACH	10
8	MILD STEEL ROUND BARS 8MM X 6M	8mm diameter x 6 m	EACH	10
9	MILD STEEL ROUND BAR 12MM X 3M	12 mm diameter x 3 m	EACH	20
10	MILD STEEL ROUND BAR 20MM X 6M	20 mm diameter x 6 m	EACH	700
11	MILD STEEL ROUND BARS 25MM X 6M	25 mm diameter x 6 m	EACH	50
12	PERSPEX SHEETS 5MM	5MM (1220 X 1830MM)	EACH	40
13	PERSPEX SHEETS 6MM	6MM (1220X1830MM)	EACH	40
14	TRAIN PIPE GI 2 1/2"		EACH	209
15	TRAIN PIPE GI 2"		EACH	111
16	Y12 DEFORMED BARS	12mmx diameter x6m	EACH	30
17	ANGLE BARS	40x40x6m	EACH	23

LOT 2: SUPPLY AND DELIVERY OF INDUSTRIAL GAS

S/NO.	DESCRIPTION	SPECIFICATIONS	UNIT	QTY
2	BULK OXYGEN (kg)		KG	12,000
3	LIQUID PETROLIUM GAS(Bulk)	LPG	KG	4000
4	OXYGEN GAS CYLINDERS	9.2KG	EACH	408
6	PROPANE GAS CYLINDERS	45KG	EACH	111

LOT3: SUPPLY OF WELDING ELECTRODES AND WELDING ACCESSORIES

S/NO.	DESCRIPTION	SPECIFICATIONS	UNIT	QTY
2	WELDING ELECTRODE MILD STEEL 4MM	General Purpose Electrode, suitable for welding mild steel in all positions, Operating current of 140-165A	KG	3790
3	WELDING ELECTRODE MILD STEEL 3.25MM	General Purpose Electrode, suitable for welding mild steel in all positions, Operating current of 110-130A	KG	595
4	LOW HYDROGEN ELECTRODES 4MM	Moisture Resistance Coating, C-Mn, Low Alloy Steels, Tensile Strength of upto 650Mpa, Rbaking of 5.10mlH2/100g: 250-270 Degrees Celsius for 1 hour, <5mlH2/100g: 370-400 Degrees Celsius for 1 Hour	KG	1520
6	WELDING REGULATOR PROPANE		EACH	08
7	WELDING REGULATOR OXYGEN		EACH	08
8	ACETYLENE HOSE		METER	140
9	OXYGEN HOSE		METER	140
10	WELDING ELECTRODE HOLDER 600 AMPS		EACH	25
11	CUTTING TORCH COMPLETE		EACH	8
13	CUTTING NOZZLES		EACH	17
15	CUTTING DISC 4'' (STEEL)		EACH	100
16	CUTTING DISC 9''(STEEL)		EACH	545
17	CUTTING DISC 16''		EACH	750
18	GRINDING DISC 4''		EACH	100
19	BRAZING TORCH		EACH	02

LOT 4: SUPPLY OF CARRIAGE AND WAGON TOOLS

S/NO.	DESCRIPTION	UNIT	QTY
1	GRIP JAWS	EACH	72
2	CUTTING INSERT BORING TMNG 220408	EACH	360
3	TOOL HOLDER L175-32-3223-30	EACH	12
4	TOOL HOLDER R175-32-3223-30	EACH	12
5	TOOL HOLDER L P/N LEFT 175-32-3223-19	EACH	12
6	TOOL HOLDER R P/N RIGHT 175-32-3223-19	EACH	12
7	CUTTING INSERT TNMG 220412	EACH	480
8	CUTTING INSERTS SNMG 120408	EACH	120
9	CUTTING INSERTS LNUX 191940	EACH	240
10	CUTTING INSERT CNMG 1906TN400	EACH	480
11	BURNISHING TOOL NO 253C787	EACH	12
12	BURNISHING TOOL NO 253C788	EACH	12
13	CUTTING INSERT L175-33-190640-23	EACH	480
14	CUTTING INSERTS LNUX 301940 PR	EACH	120
15	HIGH SPEED STEEL TOOL BLANKS 20MM X 20MM	EACH	12

16	CUTTING INSERTS TNMG 160404-PM 4025	EACH	360
17	BORING SHIMS 179-3-852M	EACH	120
18	RIGHT TURNING TOOLS (GENERAL)	EACH	96
19	LEFT TURNING TOOLS (GENERAL)	EACH	96
20	POWER SAW BLADES (650 X 50 X2.5)	EACH	36

Section IX. Contract Forms

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Performance Bank Guarantee (Conditional)

This Agreement is made on the _____ day of _____, _____ between _____ of _____ (hereinafter called “the Guarantor”) of the one part and _____ of _____ (hereinafter called “the Employer”) of the other part.

Whereas

(1) This Agreement is supplemental to a contract (hereinafter called the Contract) made between _____ of _____ (hereinafter called the Service Provider) of the one part and the Employer of the other part whereby the Service Provider agreed and undertook to execute the Services of _____ for the sum of _____ being the Contract Price; and

(2) The Guarantor has agreed to guarantee the due performance of the Contract in the manner hereinafter appearing.

Now therefore the Guarantor hereby agrees with the Employer that upon receipt of

- (1) a written notice to the Guarantor from the Service Provider, or
- (2) a written notice to the Guarantor from the Adjudicator, or
- (3) a binding arbitration or Court award confirming that the amount of the Guarantee is payable to the Employer,

the Guarantor will indemnify and pay the Employer the sum of _____, _____ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, provided that the Employer or his authorized representative has notified the Guarantor to that effect and has made a claim against the Guarantor not later than the date of issue of the Defects Liability Certificate.

The Guarantor shall not be discharged or released from his Guarantee by an arrangement between the Service Provider and the Employer, with or without the consent of the Guarantor, or by any alteration in the obligations undertaken by the Service Provider, or by any forbearance on the part of the Service Provider, whether as to the payment, time, performance or otherwise, and any notice to the Guarantor of any such arrangement, alteration, or forbearance is hereby expressly waived.

Given under our hand on the date first mentioned above.

Signed by _____

for and on behalf of the Guarantor in the presence of _____

Signed by _____

for and on behalf of the Employer in the presence of _____

Performance Bank Guarantee (Unconditional)

To: _____

Whereas _____ (hereinafter called “the Service Provider”) has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (hereinafter called “the Contract”);

And whereas it has been stipulated by you in the said Contract that the Service Provider shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

And whereas we have agreed to give the Service Provider such a Bank Guarantee;

Now therefore we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Service Provider, up to a total of _____, _____, such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and 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 for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Service Provider before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Services to be performed there under or of any of the Contract documents which may be made between you and the Service Provider shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date 28 days from the date of issue of the Certificate of Completion.

Signature and seal of the Guarantor _____

Name of Bank _____

Address _____

Date _____

Performance Bond

By this Bond, _____ as Principal (hereinafter called “the Service Provider”) and _____ as Surety (hereinafter called “the Surety”), are held and firmly bound unto _____ as Obligee (hereinafter called “the Employer”) in the amount of _____ / for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Service Provider and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas the Service Provider has entered into a Contract with the Employer dated the _____ day of _____, _____ for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

Now, therefore, the Condition of this Obligation is such that, if the Service Provider shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect. Whenever the Service Provider shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations there under, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or

- (2) obtain a Bid or bids from qualified bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by the Employer to the Service Provider under the Contract, less the amount properly paid by the Employer to the Service Provider; or

-
- (3) pay the Employer the amount required by the Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issuance of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Service Provider has hereunto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its legal representative, this _____ day of _____, _____.

Signed by _____

on behalf of _____

In the capacity of _____

In the presence of _____

Date _____

Signed by _____

on behalf of _____

In the capacity of _____

In the presence of _____

Date _____