



SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

Works Contract For Design and Build

For

The Construction of a Museum in Honour of SADC Founders at the SADC Headquarters, Gaborone, Botswana

TENDER NO: SADC/3/5/1/68

VERSION 1,1

**SOUTHERN AFRICAN DEVELOPMENT COMMUNITY,
PLOT 54385 CBD
P/BAG 0095
GABORONE.
BOTSWANA**

NOVEMBER 2022

	TENDERING PROCEDURES	TENDER NOTICE AND INVITATION TO TENDER
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Tender No. SADC/3/5/1/68

Title of the Contract: Works Contract for Design and Build for the Construction of a Museum in Honour of SADC Founders at the SADC Headquarters, Gaborone, Botswana

- Tender offers are invited from contractors for the provision of a works contract for Design and Build for the construction of a museum in honour of SADC Founders at the SADC Headquarters in Gaborone , Botswana
- The Procuring Entity is Southern African Development Community (SADC) Secretariat, Private Bag 0095, Gaborone, Botswana.
- Procurement Method: **Open Bidding (SADC member states only)**
- Tenderers who are domiciled in Botswana must, in order to be considered for the award of the contract, be registered with the Public Procurement & Asset Disposal Board (PPADB) in the following categories:

Code 01 (Building Construction Works and Maintenance), Sub-code 01 (Building Construction), Grade E

Foreign companies must be domicile and be registered in any of the SADC 16 member countries to be eligible to participate in this tender and must be in possession of relevant trading documentation defining the constitution or legal status, place of registration and principal place of business

- Tender documents are available free of charge from SADC website www.sadc.int .
- Queries relating to the issue of these documents shall be addressed to Head of Procurement Attention: Mr. Thomas Chabwera : email tchabwera@sadc.int and Eng. Martin Malongo email : mmalongo@sadc.int and Ms. Yaone Phillip-Monkge email : yphillip@sadc.int. The closing date for receipt of requests for clarification and information shall be 16th December 2022 at 1630 Hours Botswana Time. The deadline for issuing responses for clarifications is 6th January 2023 by midnight Botswana Time.
- A **compulsory pre-tender clarification** site meeting with representatives of the Procuring Entity will take place at the SADC Head Quarters in Gaborone, Botswana on 13th December 2022. Bidders are supposed to assemble at SADC Head Office at 09:00 hours, ready commence the site meeting at 09:30 Hours. Bidders, who arrive at the site after 11:00 Hours, shall not be admissible. All costs in connection with the attendance of the pretender site meeting shall be borne by the bidders.
- The Technical Proposal and Financial Proposal shall be submitted separately. Bidders must submit electronic version of the **technical proposal only**. Only Bidders passing the threshold under 2.3 below (i.e. technically responsive bids) will be asked to submit the financial proposals. The Financial Proposals **must** be kept ready for submission within **one day** of being requested. The technical proposal **shall not** include any financial information.

If financial information is included in the technical proposal, the bid will be automatically disqualified.

1. Technical Proposal: Submission to be labelled;

Technical Proposal: **Works Contract for Design and Build for the Construction of a Museum in Honour of SADC Founders at the SADC Headquarters, Gaborone, Botswana**

TENDER No. SADC/3/5/1/68

Bidders shall be submitting their bids electronically. The electronic bidding submission procedures shall be:

Bids should be submitted (uploaded) electronically in PDF format through the link below:


Upload URL: <https://collab.sadc.int/s/zrreQ6yoGecnr3A>

- a) For bid submissions with multiple documents, these must be submitted or uploaded as a **single folder**.
- b) Late Bids will be rejected.

The closing time and date for receipt of tender is by midnight, Botswana Time on the 17th January 2023.

Tender offers received after the closing date/time, and telegraphic, faxed or emailed submissions will not be accepted.

Notwithstanding anything in the foregoing, SADC Secretariat is not bound to accept the lowest or any tender offer, nor incur expenses in the preparation thereof.

	TENDERING PROCEDURES	TENDER DATA
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Title of the Contract: Works Contract for Design and Build for the Construction of a Museum in Honour of SADC Founders at the SADC Headquarters, Gaborone, Botswana: Tender No: SADC/3/5/1/68

1.1	The Procuring Entity is the SADC Secretariat
1.2	<p>The tender documents issued by the Procuring Department comprise:</p> <p>One Volume approach</p> <p>TENDER SECTION</p> <p>TENDERING PROCEDURE</p> <ul style="list-style-type: none"> • Tender Data • List of returnable documents • Tender Schedule <p>CONTRACT SECTION</p> <p>Part 1 Agreements & Contract Data</p> <ul style="list-style-type: none"> • Contract Data <p>Part 2 Pricing Data (to be submitted separately)</p> <ul style="list-style-type: none"> • Form of offer and Acceptance • Financial Proposals <p>Part 3 Scope of Work</p> <p>Part 4 Site Information</p>
1.3	<p>The eligibility criteria for tenderers are:</p> <p>The tender is open to companies domiciled and registered in any of the 16 SADC Member States. For companies domiciled and registered in Botswana, the main contractors are required to be registered with the Public Procurement & Asset Disposal Board (PPADB) in Botswana in the following categories:</p>

Code: 01 (Building Construction Works and Maintenance)
 Sub-code: 01 (Building Construction)
 Grade and financial ceiling: E

For companies domiciled and registered in any of the other SADC Member States (except for Botswana), companies must be in possession of relevant trading documentation defining the constitution or legal status, place of registration and principal place of business, in order to be eligible to participate in the tender.

For companies domiciled and registered in Botswana, tenderers are similarly advised that the following specialist works and associated works shall be carried out by sub-contractors (domiciled and registered in Botswana) who are registered in the respective categories with PPADB as indicated below:

Mechanical Engineering Works: Code 08 (Mechanical Engineering Works)

Grade and Financial ceiling: E

Electrical Engineering Works: Code 02 (Electrical Engineering Works)

Grade and Financial ceiling: E

Companies domiciled and registered outside Botswana but within the SADC Region can propose to use subcontractors domiciled and registered in a SADC member country. The sub-contractors must be in possession of relevant trading documentation defining the constitution or legal status, place of registration and principal place of business.

1.4 A compulsory pre-tender clarification site meeting with representatives of the Procuring Entity will take place at the SADC Head Quarters in Gaborone, Botswana on 13th December 2022. Bidders are supposed to assemble at SADC Head Office at 09:00 hours, ready commence the site meeting at 0930 Hours. Bidders, who arrive at the site after 1100 Hours, shall not be admissible. All costs in connection with the attendance of the pretender site meeting shall be borne by the bidders. The Attendance Register will be used to confirm proof of attendance by the bidder.

1.5 The offer price and the rates are to be stated in US Dollars (USD) currency. The tender is for a **fixed price contract**

1.6 Form of Contract to be used is : SADC Standard Contract for Construction Works

1.7 Bidders shall be submitting their bids electronically. The electronic bidding submission procedures shall be:

Bids should be submitted (uploaded) electronically in PDF format through the link below :
 Upload URL: <https://collab.sadc.int/s/zrreQ6yoGecnr3A>

	a) Late Bids will be rejected.
1.8	<p>Technical Proposal: Submission must be labelled</p> <p>Technical Proposal: Works Contract for Design and Build for the Construction of a Museum in Honour of SADC Founders at the SADC Headquarters, Gaborone</p> <p>TENDER No. SADC/3/5/1/68</p>
1.9	<p>The Procuring Entity's address for tender offers and identification details to be shown on each tender offer package are:</p> <p>SADC Secretariat, SADC House, Plot 54385, Central Business District, Gaborone, Botswana.</p> <p>With the submission labelled:</p> <p>Works Contract for Design and Build for the Construction of a Museum in Honour of SADC Founders at the SADC Headquarters, Gaborone, Botswana</p> <p>TENDER No. SADC/3/5/1/68</p> <p>And the submission shall be uploaded to the following link: https://collab.sadc.int/s/zrreQ6yoGecnr3A</p>
2.0	The closing time and date for receipt of tender is by midnight Botswana Time on the 17th January 2023.
2.1	Telephonic, telegraphic, telex, facsimile or emailed tender offers will NOT be accepted.
2.2	The tender validity period is 180 calendar days

2.3 TENDER EVALUATION CRITERIA

The procedure for evaluation of responsive tender offers is **Quality and Cost Based Selection**

The tender will be evaluated in terms of **Quality and Cost Based Selection**. The first stage will be based on compliance; tenderers who fail to comply with the compliance requirement will be disqualified to proceed further. The second stage will be the Technical Evaluation. The contractor failing to score the minimum marks which is 70% will be disqualified from proceeding to the last stage which is the financial stage. The last stage will be financial evaluation which will be based on the formulas in Stage 3 below. Only bidders achieving a technical score of 70% and above shall be invited to submit their financial proposals. **Financial proposals must be ready for submission within one day of being requested.**

Stage 1: Preliminary Responsiveness/ Compliance with requirements

The first phase of the evaluation will be an assessment of the preliminary responsiveness of each tender received to establish the following:

That the tender is complete in all respects in accordance with general instructions to tenderers as contained in the tender document. In particular, the following are fundamental requirements and failure of the tenderer to include any of these in the tender will result in the tender being rejected:

- a) Certified Copy of company registration / Certificate of incorporation from country of residence
- b) Copy of Valid Tax Clearance Certificate of the main contractor (to be verified on line via BURS website for Botswana registered companies.); For companies domiciled and registered in any of the other SADC Member States, except for Botswana, the company's relevant tax payment certificate from country of origin must be submitted.
- c) Copy of PPADB Registration of the main Contractor (to be verified on line via PPADB website), for Botswana domiciled and registered companies; SADC Region domiciled and registered companies must submit relevant trading documentation defining the constitution or legal status of the company, place of registration and principal place of business.
- d) Duly completed Certificate of Authority of Signatory; of the main contractor
- e) Duly completed Directors and Shareholders Declaration Form; of the main contractor. In the case of Joint Venture, all parties shall submit a duly completed Directors and Shareholders Declaration Form.
- f) Form of Intent to provide a performance bond from the main contractor
- g) Copy of Joint Venture (JV) or Association agreement (**if applicable**); the agreement shall state the % value of works to be undertaken by each party.
- h) Curriculum Vitae of key proposed personnel. See Table 3 of the Technical Evaluation
- i) Attendance at the compulsory site meeting by the main contractor (Attendance Register is to be used to confirm whether the tenderer attended
- j) Duly completed Sworn statement sworn at Commissioner of Oath (see page 54), by all parties participating in of a joint venture.

- k) A certified copy of valid Professional Indemnity from the Architect and Civil / Structural engineer to be engaged. To be obtained from an Insurance Company **[NOT a BROKER]**

Stage 2: Technical Evaluation: 70 Points

Those tenders judged to be responsive and compliant in terms of Stage 1 shall be evaluated technically based upon the submission of information required below:

The criteria for evaluating Technical Proposals will be as follows:

- l) Checking the responsibilities and degree of involvement of team members; organization chart to illustrate the structure of the work team and its interfacing with project stakeholders.
- m) Checking successful Project Management experience in the execution of fast tracking projects of this nature and complexity comparable to the proposed project.
- n) Checking Project team Managerial capabilities to achieve the Project Programme milestones.
- o) Appraisal of projects carried out by the tenderer in terms of value, quantity, location, type and performance will be taken into consideration.
- p) Evaluation of the Tenderer's equipment and general assets will also be undertaken. The tenderer should indicate equipment to be hired & owned.
- q) Evaluation of the Tenderer's Financial Resources to undertake the project will also be Undertaken.
- r) Overall design scheme of the project in line with Client's requirements shall be evaluated. The site location plan is hereby duly attached.
- s) Method statement**
The tenderer is to provide a method statement of how the firm proposes to undertake the work at the post contract stage.
- t) Work Plan and Programme**
The tenderer is to provide a work plan and programme of how the firm proposes to under take the works throughout the project duration to meet practical completion date of the whole project. The tenderer should indicate in detail how he will make show that he meets the deadlines above. The programme should show milestones.
- u) Quality Assurance Plan (statement)**
The tenderer is to provide a brief statement outlining the procedures and measures the tenderer intend to put in place for quality assurance to be employed on this assignment.
- v) Litigation History**
The Applicant shall provide accurate information on any litigation or arbitration resulting from contracts completed or under execution by him over the last five (5) years.
- w) Templates in **Table 1 & 2 & 3** below shall be used for assessment of the above criteria.

DESIGN SCHEME EVALUATION SHEET**Table 1 – Marks Allocation for Design Scheme (Best Scheme Scores Highest)**

The contractor shall be required to submit with their Technical Tender proposal, indicative scheme designs/drawings of the building and the overall proposed site layout, shown by means of plans and perspectives to give the Client an appreciation of what the designer is proposing. This shall not have page limitation. The scheme design drawings shall be in A4 size. One soft copy each to be submitted.

S/N	Item Description	Total Marks	Score	Comments
1.	Preliminary building designs for ground floor and first floor, NO sections , simple elevations. Also submit in 3 - Dimension	30		
2.	Preliminary proposed layout plan for the site, indicating the position of the building and general arrangement of the buildings on site .Also submit in 3 – Dimension	20		
6.	Detail works programme	10		
	TOTAL	60		

PROJECT PLANT,EQUIPMENT AND SUPPORTING SERVICES**Table 2 - Mark allocation**

S/ N	Evaluation Criteria	Mark Allocation Description	Total Score	Tenderers Score	Comments of Evaluator
1	Project Reference <i>(the contractor to include current on-going projects here)</i>	Projects undertaken for the last 5years, 1 Point per Project under taken.	10		
3	Equipment & Assets(Submission of proof of ownership or lease of Plant and Equipment)	1No. JCB 1No. Bulldozer 2No. Dumper trucks 1No. Heavy duty concrete mixer 1No. Mobile crane	5		
4	Management Plan <i>(Method statement)</i>	The tenderers should submit a detailed Method Statement /Management Plan relevant to this project.	5		
	TOTAL		20		

PROJECT KEY PERSONNEL SHEET.

Table 3-Mark Allocation for Key personnel for the project

S/N	Evaluation Criteria	Requirements	Total Score	Tenderer Score	Comments of Evaluator
1	Project Manager	Minimum of First Degree in Construction related course and minimum of 10 years post qualification experience in Design projects.	3		
2	Architect	Registered Architect with internationally recognised body or related course and minimum of 10 years post qualification experience in Design projects.	3		
3	Civil and Structural Engineer	Minimum of First Degree in Civil & Structural Engineering or related course and minimum of 10 years post qualification experience in Design projects.	3		
4	Mechanical Engineer	Minimum of First Degree in Mechanical Engineering or related course and minimum of 10 years post qualification experience in Design projects.	3		
5	Electrical Engineer	Minimum of First Degree in Electrical Engineering or related course and minimum of 10 years post qualification experience in Design projects.	3		
6	Quantity Surveyor	Minimum of First Degree in Quantity Surveying or related course and minimum of 10 years post qualification experience in Design projects.	3		
7	Site Agent	Minimum of Diploma in Construction related course and minimum of 10 years post qualification experience in construction site.	2		

8	Total		20		
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The tenderer is to submit **certified copies** of academic certificates and identification documents for the proposed key personnel.

For Botswana based companies all Engineers should be registered with Engineers Registration Board (ERB) and in possession of registration and practising certificates (certified by ERB).

Similarly, Architects should be registered with Architects' Registration Council (ARC) and in possession of registration and practising certificates (certified by ARC).

Quantity Surveyors should be registered with Quantity Surveyors' Registration Council (QSRC) and in possession of registration and practising certificates (certified by QSRC).

For foreign companies, relevant registrations for proposed engineers, architects and quantity surveyors should be submitted from countries of operation

Each CV of proposed project personnel **must** be accompanied by a signed Consent Form include d in the tender documents. Zero marks shall be awarded against a CV, which is not accompanied by a signed Consent Form.

Any bidder who scores less than 70 / 100 shall not proceed to the next stage of evaluation, i.e. Financial Evaluation.

Bids not reaching 70 points shall be considered not compliant. If no bid reaches 70 points the procedure shall be cancelled. Out of the 70 points threshold, the best technical offer is awarded 100 points. The others receive points calculated using the following formula:
 Technical score = (final score of the technical offer in question/final score of the best technical offer) x100.

Stage 3: Evaluation of Financial Proposals: 30 Points

General Information

Tenderers are advised that SADC Secretariat shall only request for Financial Proposals of the tenderer who scores at least 70% in Stage 2 – Technical Evaluation.

Evaluation Criteria

The Financial Proposals will be checked for the following:

x) Admissibility of Tender submission:

All submissions shall be checked against the tender compliance requirement in stage 1 above. If a tenderer does not meet the requirement, the tender will be considered **'non-compliant'** and shall be rejected from further consideration.

y) The tenderer has to submit detailed elemental Cost Analysis for the proposed works.

z) The tenderer has to submit a Detailed Bill of Quantities for measured works with detailed schedule of rates for items of proposed works that cannot be measured at this stage. The rates for the works shall remain fixed for the whole contract. The bill will be Analyzed to check the reasonableness of the rates and build up of the tender price

Reasonableness of Preliminaries and General Items build up, Establishing that the tender has allowed for all costs for the satisfactory and timely completion of the works and Consistency of rate within trades

aa) Arithmetic Check:

The tender will be checked for arithmetic errors. Tenderers will be notified in writing of any errors and asked if they wish to stand by their original bid.

bb) Qualifications made to the Tenderer's Financial Bid:

Any qualifications made in a tenderer's financial bid will be evaluated. Should such a qualification have a material effect on the tender or on the performance of the contract, then it will be considered in the final recommendations made for the appointment of the bidder and may also result in the rejection of the bid.

Financial Score

The maximum score for financial offers is 30 points.

The offer with the lowest total fees shall receive 100 points. The others are awarded points by means of the following formula: Financial score = (lowest total fees /total fees of the tender being considered) x 100. Financial scores will then be multiplied/weighted by 0.3.

The criteria for evaluating financial proposal, taking into account the price preferences above, will be as follows:

$$\text{Financial score, } T_s = \frac{\text{Lowest Financial Bid}}{\text{Financial Bid of Tenderer}} \times 100$$

$$\text{Weighted financial score, } W_f = 30\% \times T_s$$

Weighting of Technical and Financial Proposals

The overall assessment shall be weighted as follows:

$$\begin{aligned} \text{Technical Proposal} &= 70\% \\ \text{Financial Proposal} &= 30\% \end{aligned}$$

Final Weighted Score

The assessed final weighted score will be calculated for each bid found to be admissible by using the tenderer's scores from the Technical Evaluation (W_T), Financial Evaluation (W_F)

$$\text{Total weighted score} = W_T + W_F$$

$$\text{TW} = 0.7 \times \text{Technical Score} + 30 \times \text{Lowest Financial Bid} / \text{Financial Bid of Tenderer}$$

Recommendation for Award

The tenderer with the highest number of total weighted score will be recommended for the award of the contract, unless there are compelling and justifiable reasons not to do so.

Acceptance

SADC Secretariat is not obliged to accept the lowest evaluated offer or any of the tenders submitted, or to incur expenses in the preparation of the tender offers.



STANDARDISED CONDITIONS OF TENDER

CONTENTS:

- 1 General
- 2 Tenderer's obligations
- 3 The Procuring Entity Undertakings

1 GENERAL

- | | | |
|-------------------------------------------------------------------------|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Actions | 1 | The Procuring Entity and each tenderer submitting a tender offer shall comply with these Conditions of Tender. The Procuring Entity will, in addition, act in a manner that is fair, equitable and transparent. |
| Tender documents | 2 | The documents issued by the Procuring Entity for the purpose of a tender offer are listed in the Tender Data. |
| Interpretation and definitions | 3 | The Tender Data and any additional requirements contained in the Tender Schedules that are included in the Returnable Documents are deemed to be part of these Conditions of Tender. |
| | 4 | These Conditions of Tender, the Tender Data and Tender Schedules, which are, only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender. |
| | 5 | Comparative Offer means the tenderer's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration. |
| Communication and Procuring Entity agent | 6 | Each communication between the Procuring Entity and a tenderer shall be to or from the Procuring Entity agent only, and in a form that can be read, copied and recorded. Writing shall be in the English language. The Procuring Entity will not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the Procuring Entity agent are stated in the Tender Data |
| The Procuring Entity rights to accept or reject any tender offer | 7 | The Procuring Entity may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tenders offers at any time prior to the formation of a contract. The Procuring Entity will not accept or incur any liability to a tenderer for such cancellation and rejection, but will give reasons for the action. |
| | 8 | After the cancellation of the tender process or the rejection of all tender offers, the Procuring Entity may abandon the proposed procurement and have it performed in any other manner, or re-issue a similar Tender Notice to Invitation to Tender at any time. |

2 TENDERER'S OBLIGATIONS

The tenderer shall comply with the following obligations:

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|-----------------------------------------------------------|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eligibility | 1 | Submit a tender offer only if the tenderer complies with the criteria stated in the Tender Data. |
| Cost of tendering | 2 | Accept that the Procuring Entity will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer. |
| Check documents | 3 | Check the tender documents on receipt, including pages within them, and notify the Procuring Entity of any discrepancy or omissions. |
| Confidentiality and copyright of documents | 4 | Treat as confidential all matters arising in connection with the tender. Use and copy the documents provided by the Procuring Entity only for the purpose of preparing and submitting a tender in response to this invitation. |
| Standardised specifications and other publications | 5 | Obtain, as necessary for submitting a tender offer, copies of the latest revision of standardised specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference. |
| Acknowledge addenda | 6 | Acknowledge receipt of Addenda to the <i>tender documents</i> , which the Procuring Entity may issue, and if necessary apply for an extension to the closing time stated in the Tender Data, in order to take the addenda into account. |
| Site visit and / or clarification meeting | 7 | Attend a site visit and/or clarification meeting at which tenderers may familiarise themselves with the proposed work, services or supply, (and location, etc.) and raise questions. Details of the meeting(s) are stated in the Tender Data. |
| Seek clarification | 8 | Request clarification of the tender documents, if necessary, by notifying the Procuring Entity - before the closing time stated in the Tender Data. |
| Insurance | 9 | Be aware that the extent of insurance to be provided by The Procuring Entity (if any) may not be for the full cover required in terms of the conditions of contract identified in the Contract Data. The tenderer is advised to seek qualified advice regarding insurance. (Insurance not required; very short contract) |
| Pricing the tender offer | 10 | Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable prior to the closing time stated in the invitation to submit financial proposals. |
| | 11 | Show Value Added Tax (VAT) payable by the Procuring Entity separately as an addition to the tendered total of the prices. |
| | 12 | Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the Contract Data. |
| | 13 | State the rates and prices in United States Dollars, unless instructed otherwise in the Tender Data. |
| Alterations to documents | 14 | Not make any alterations or additions to the tender documents, except to comply with instructions issued by the Procuring Entity or if necessary to |

correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

- Alternative tenders** 15 May submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted. The alternative tender offer is to be submitted with the main tender offer together with a schedule that compares the requirements of the tender documents with the alternative requirements the tenderer proposes. **(Not applicable)**
- 16
- Submitting a tender offer** 17 Submit a tender for providing the whole of the works, services or supply identified in the Contract Data unless stated otherwise in the Tender Data.
- 18 Return the Returnable Documents to the Procuring Entity , after completing in their entirety, r electronically
- Information & data to be completed in all respects** 19 Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the Procuring Entity as non-responsive.
- 20 Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the Tender Data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the Procuring Entity .
- 21 Sign the original and all copies of the tender where indicated. The Procuring Entity will hold all authorised signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as Joint Ventures shall state which of them is the lead partner whom the Procuring Entity shall hold liable for the purpose of the tender offer.
- 22 Seal the original and each copy of the tender as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the Procuring Entity address and identification details stated in the Tender Data, as well as the tenderer's name and contact address.
- 23 Where a two-envelope system is required in terms of the tender data, place and seal the Returnable Documents listed in the Tender Data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the Procuring Entity address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- 24 Seal the original tender offer and copy packages together in an outer package that states on the outside only the Procuring Entity address and identification details stated in the Tender Data
- 25 Accept that the Procuring Entity will not assume any responsibility for the misplacement or premature opening of the tender if the outer package is not sealed and marked as stated.
- Closing time** 26 Ensure that the Procuring Entity receives the tender offer at the address specified in the Tender Data not later than the closing time stated in the Tender Data. Proof of posting will not be accepted as proof of delivery. The Procuring Entity will **NOT** accept a tender offers submitted by telegraph, telex or facsimile unless stated otherwise in the Tender Data.

	27	Accept that, if the Procuring Entity extends the closing time stated in the Tender Data for any reason, the requirements of these Conditions of Tender apply equally to the extended deadline.
Tender offer validity	28	Hold the tender offer(s) valid for acceptance by the Procuring Entity at any time during the validity period stated in the Tender Data after the closing time stated in the Tender Data.
	29	If requested by the Procuring Entity, consider extending the validity period stated in the Tender Data for an agreed additional period.
Clarification of tender after submission	30	Provide clarification of a tender offer in response to do so from the Procuring Entity during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by adjustment of certain rates and / or item prices. No change in the total of the prices or substance of the tender offer is sought, offered or permitted. The total of the prices stated by the tenderer shall be binding upon the tenderer.
Provide other material	31	Provide, on request from the Procuring Entity, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarised joint venture agreements), or the referencing and / or reservation arrangements considered necessary by the Procuring Entity for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time of the submission stated in the Procuring Entity request, the Procuring Entity may regard the tender offer as non-responsive.
Submit securities, bonds, policies etc.	32	If requested, submit for the Procuring Entity acceptance before the formation of a contract, all securities, the bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the Contract Data.
	33	Check the final draft of the contract provided by the Procuring Entity, within the time available for the Procuring Entity to issue the contract.
Return of other tender documents	34	If so instructed by the Procuring Entity, return all retained tender documents within 28 days after the expiry of the validity period stated in the Tender Data.


3 THE PROCURING DEPARTMENT UNDERTAKINGS

The Procuring Entity undertakes to:

Respond to clarification	1	Respond to a request for clarification received up to at least eleven calendar days prior to the closing time stated in the Tender Data and notify all tenderers who attended the site / clarification meetings of those responses.
Issue Addenda	2	If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date of the Tender Notice until seven days before the closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Procuring Department may grant such an extension and will notify it to all tenderers.
Return late tenders offers	3	Return tenders offers received after the closing time stated in the Tender Data, unopened, to the tenderer concerned.

Tender offer opening	4	To be done by procuring entity	
	5	Names of tender received will be known during opening	
Two-envelope system	6	Technical and Financial Tenders to be submitted separately.	
	7	Evaluate the quality of the technical proposals offered by tenderers, before evaluating financial proposals	
Non-disclosure	8	Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.	
Grounds for rejection and disqualification	9	Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he offered an inducement to or colluded with any person with a view to influencing the award of the contract.	
Test for responsiveness	10	Determine on opening and before detailed evaluation, whether each tender offer properly received: <ul style="list-style-type: none"> • meets the requirements of these Conditions of Tender, • has been properly and fully completed and signed, and • is responsive to the requirements of the tender documents. <p>A <i>responsive tender</i> as one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Procuring Entity opinion would:</p> <ul style="list-style-type: none"> • detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Contract Data, • change the Procuring Entity or the tenderer's risks and responsibilities under the contract, or • affect the competitive position of other <i>tenderers</i> presenting responsive tenders, if it were to be rectified. 	
Non-responsive tenders	11	Reject a non-responsive tender, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.	
Arithmetical errors	12	Check responsive tenders for arithmetical errors, correcting them in the following manner: <ul style="list-style-type: none"> • Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern. • If a bill of quantities (or schedule of quantities or schedule of rates) applies and there is an error in the line item total, resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall not be corrected. Where there is an obviously gross misplacement of the decimal point in the rate, the line item total as quoted shall govern, and the rate will not be corrected. • Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will not be asked to revise selected item prices (and their rates if a bill of quantities applies) to achieve the tendered total of the prices. 	
		13	Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of his arithmetical errors in the manner described above.
		14	Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.
Clarification of a tender offer			

Acceptance of tender	15	Notify the successful tenderer of the Procuring Entity acceptance of his tender offer by completing and returning one copy of the Form of Offer and Acceptance before the expiry of the validity period stated in the Tender Data, or agreed additional period. Providing the Form of Offer and Acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the Procuring Entity and the successful tenderer as described in the Form of Offer and Acceptance.
Notice to unsuccessful tenderers	16	After the successful tenderer has acknowledged the Procuring Entity notice of acceptance, notify other tenderers that their tenders have not been accepted.
Prepare contract documents	17	<p>If necessary, revise documents that will form part of the contract and were issued by the Procuring Entity as part of the tender documents to take account of:</p> <ul style="list-style-type: none"> • Addenda issued during the tender period, • inclusion of some of the Returnable Documents, • other revisions agreed between the Procuring Entity and the successful tenderer, and • the Schedule of Deviations attached to the Form of Offer and Acceptance.
Issue final contract	18	Prepare and issue the final draft of contract documents to the successful tenderer for acceptance as soon as possible after the date of the Procuring Entity execution of the Form of Offer and Acceptance (including the Schedule of Deviations). Only those documents that the Conditions of Tender require the tenderer to submit, after acceptance by the Procuring Entity, will be included.
Complete adjudicator's Contract	19	Unless alternative arrangements have been agreed, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.
Provide copies of the contracts	20	Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after signing of the Form of Offer and Acceptance.

	<p>TENDER TECHNICAL PROPOSALS</p>	<p>SPECIFIC NOTES AND INSTRUCTION TO CONTRACTORS</p>
-----------------------------------------------------------------------------------	----------------------------------------------	-----------------------------------------------------------------

1.0 SPECIFIC NOTES AND INSTRUCTION TO CONTRACTORS

- 1.1. Tenderers are required to use the templates in the schedules of this tender document to prepare their submissions for both technical and financial proposals.
- 1.2. Technical proposal shall be in two separate parts:

a) The technical submission

This shall be in **numbered A4 sheets**, single-sided printing only. The minimum font shall be size 12 point. **Annexure 1** should immediately follow the cover page of Technical submission followed by the “contents” page, which shall be page No. 2. Each of the returnable tender schedules (in the same order) must start on a new page (see page list of returnable schedule below). Architectural, electrical, Mechanical and Civil/structural Design drawings to be submitted in A3 or A4 paper size.

b) Appendix to technical submission

This shall comprise of the following documents:

- Certified Copy of company registration from country of residence
- Certified copy of tax clearance for tender purposes (burs certified for Companies domiciled in Botswana)
- Certified copies of proposed staff academic certificates,
- Certified copies of professional membership certificates for proposed staff if any.
- A certified copy of valid Professional Indemnity Insurance or Proof of valid Professional Insurance Policy obtained from Insurance Company **[NOT a BROKER]**

The copies of work permits should clearly indicate the employees’ name, validity period, name of the employing firm and the permit number. Proof of employment with the firm must be provided for holders of exemption certificates.

- **Certification of required documents shall be done by institution/ Departments that have issued such documents or a Commissioner of Oaths.**
- **The Client shall verify the information in the technical proposals prior to final evaluation**

- 1.3. Staff qualification **must** be supported by certified copies of academic certificates. Similarly certified proof of current membership to professional bodies must be provided.
- 1.4. The procuring Entity may, after award of tender, request the Contractor to replace the individual(s) whose performance is not acceptable for the project.
- 1.5. The Procuring Entity shall request the contractor to replace individuals with staff of equal or higher qualifications should any of the proposed staff leave the firm after award of tender.

- 1.6. The successful tenderer is advised that the Conditions of Contract for Design and Build for this assignment shall be the SADC Standard Works Contract
- 1.7. The Contractor and the Employer will be expected to sign the Agreement before commencement of the assignment.
- 1.8. Tenderers should further take note of the following:
 - a. These terms of reference contain pages numbered consecutively. The tenderer should check the number of pages and if any are found missing or duplicated, or the figures or writing indistinctive, or the TOR contain any obvious errors, he should apply to SADC at once and have the same rectified, as no liability whatsoever will be admitted by SADC in respect of errors in the tender due to the foregoing.
 - b. Electronic copies of the formats provided in this TOR are available
 - c. Any addendums issued with regard to these representations will be published in SADC Website.
- 1.9. Technical and Financial Proposals to be submitted separately. Technical proposals submitted with financial proposals will be disqualified.

	TENDER RETURNABLE DOCUMENTS	LIST OF RETURNABLE DOCUMENTS
-----------------------------------------------------------------------------------	--------------------------------------------	-----------------------------------------

The tenderer must complete the following returnable documents:

1. Returnable Documents required for tender evaluation purposes and incorporation within the contract.

- | | | |
|-------|---------|--------------------------------------------------------|
| 1.1. | T2.2 GA | Certificate for authority of signatory |
| 1.2. | T2.2GM | Declaration by directors and shareholders |
| 1.3. | T2.2 GG | Proposed subcontractors |
| 1.4. | T2.2 GK | Curriculum Vitae of Key proposed for the project |
| 1.5. | T2.2 GL | Experience of Tenderer |
| 1.6. | T2.2GM | Declaration by directors and shareholders |
| 1.7. | T2.2 WB | Basis of Design (Design / build and turnkey contracts) |
| 1.8. | T2.2 WC | Plant and Equipment |
| 1.9. | T2.2 WD | Management plan/ Methodology and Work plan |
| 1.10. | T2.2 GH | Quality Plan |

2. Other documents required for tender evaluation purposes


- | | |
|------|----------------------------------------------------------------------------------------------------------|
| 2.1. | Certified Copy of company registration from country of residence |
| 2.2. | Certified copy of tax clearance for tender purposes (BURS certified for companies domiciled in Botswana) |
| 2.3. | Certified copies proposed staff academic certificates |
| 2.4. | Certified copies of professional membership certificates for proposed staff and CVs |

4 Other returnable documents that will be incorporated into the contract

- | | |
|-----|--------------------------------------------------------------|
| 4.1 | Value Added Tax |
| 4.2 | T2.2 GB Certificate of attendance at compulsory site meeting |
| 4.3 | T2.2 GC Record of addenda to tender documents |
| 4.4 | T2.2 GE Form of intent to provide a performance bond |
| 4.5 | T2.2 WE Health and Safety |

- | | |
|-------------|------------------------------------------------------|
| C1.1 | Offer and acceptance |
| C1.2 | Contract Data provided by the contractor |
| C1.3 | Form of Performance Security-Demand Guarantee |

- | | |
|----------|----------------------------|
| 7 | Financial Proposals |
|----------|----------------------------|

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES CERTIFICATE OF AUTHORITY OF SIGNATORY
-----------------------------------------------------------------------------------	--------------------------------------------	-----------------------------------------------------------------------

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category.

A COMPANY	B PARTNERSHIP	C JOINT VENTURE	D SOLE PROPRIETOR

A. Certificate for company

I, _____, chairperson of the board of directors of _____, hereby confirm that by resolution of the board taken on _____ 20...., Mr/Ms _____, acting in the capacity of _____, was authorised to sign all documents in connection with this tender offer and any contract resulting from it on behalf of the company.

Chairperson

Date

As witnesses:

1. _____

Date

2. _____

Date

B. Certificate for partnership

We, the undersigned, being the key partners in the business trading as _____
 _____ hereby authorise Mr/Ms _____,
 acting in the capacity of _____, to sign all documents in
 connection with the tender offer for Contract _____ and any contract
 resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

NOTE: This certificate is to be completed and signed by all of the partners. Attach additional pages if more space is required.

C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms
 _____, an authorised signatory of the company _____
 _____, acting in the capacity of lead partner, to sign all documents
 in connection with the tender offer for Contract _____ and any contract resulting from it on
 our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised
 signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates
 a statement that all partners are liable jointly and severally for the execution of the contract and
 that the lead partner is authorised to incur liabilities, receive instructions and payments and be
 responsible for the entire execution of the contract for and on behalf of any and all the partners.

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME & CAPACITY
Lead partner		

D. Certificate for sole proprietor.

I, _____, hereby confirm that I am the sole owner
of the business trading as _____ and thereby the only authorised
signatory to all documents in connection with tender offer for contract _____
and any contract resulting from it.

Chairperson

Date

As witnesses:

1. _____

Date

2. _____

Date

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES CERTIFICATE OF ATTENDANCE AT COMPULSORY SITE MEETING
-----------------------------------------------------------------------------------	--------------------------------------------	----------------------------------------------------------------------------------------------

This is to certify that we

_____ (Tenderer)

of _____ (address)

_____ was represented by the person(s) named below at the compulsory meeting held for all tenderers at **Gaborone** on.....starting at **1000hrs.**

We acknowledge that the purpose of the meeting was to acquaint ourselves with the Site of the works and / or matters incidental to doing the work specified in the tender documents in order for us to take account of everything necessary when compiling our rates and prices included in the tender offer.

Particulars of person(s) attending the meeting:

Name _____ Signature _____

Capacity _____

Name _____ Signature _____

Capacity _____

Attendance of the above persons at the meeting confirmed by the Procuring Entity representative as follows:

Name _____ Signature _____

Capacity

Date & time

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES RECORD OF ADDENDA TO TENDER DOCUMENTS
-----------------------------------------------------------------------------------	--------------------------------------------	-----------------------------------------------------------------------

We confirm that the following communications received from the Procuring Department before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.


Signed

Date

Name

Position

Tenderer

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES FORM OF INTENT TO PROVIDE A PERFORMANCE BOND
-----------------------------------------------------------------------------------	--------------------------------------------	----------------------------------------------------------------------------------

Note that performance bonds may be provided only by a financial institution registered in Botswana, and regulated by the Bank of Botswana or the Non-Bank Financial Institutions Regulatory Authority.

It is hereby agreed that a Performance Bond drafted exactly as provided in the tender documents will be provided by the Surety named below, which is a bank registered in Botswana.


Name of Surety (Bank) _____
Address _____

Signed _____
Name _____
Capacity _____
On behalf of (name of tenderer) _____

Date _____

CONFIRMED BY Surety's Authorised Representative

Signature(s) _____
Name (print) _____
Capacity _____
On behalf of Surety (Bank) _____
Date _____

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES PROPOSED SUBCONTRACTORS / SUBCONSULTANTS
-----------------------------------------------------------------------------------	--------------------------------------------	------------------------------------------------------------------------------

We notify you that it is our intention to employ the following sub-contractors/ sub-consultants for work in this contract. If we are awarded the contract we agree that this notification does not change any contractual obligation for us to submit the names of proposed sub-contractors/ sub-consultants. If there are no such requirements in the contract, then your written acceptance of this list shall be binding between us.

	Name and address of proposed sub-contractor / sub-consultant	Nature and extent of work	Previous experience with sub-contractor / sub-consultant
1.			
2.			
3.			
4.			
5.			

Attach additional pages if more space is required.


Signed

Date

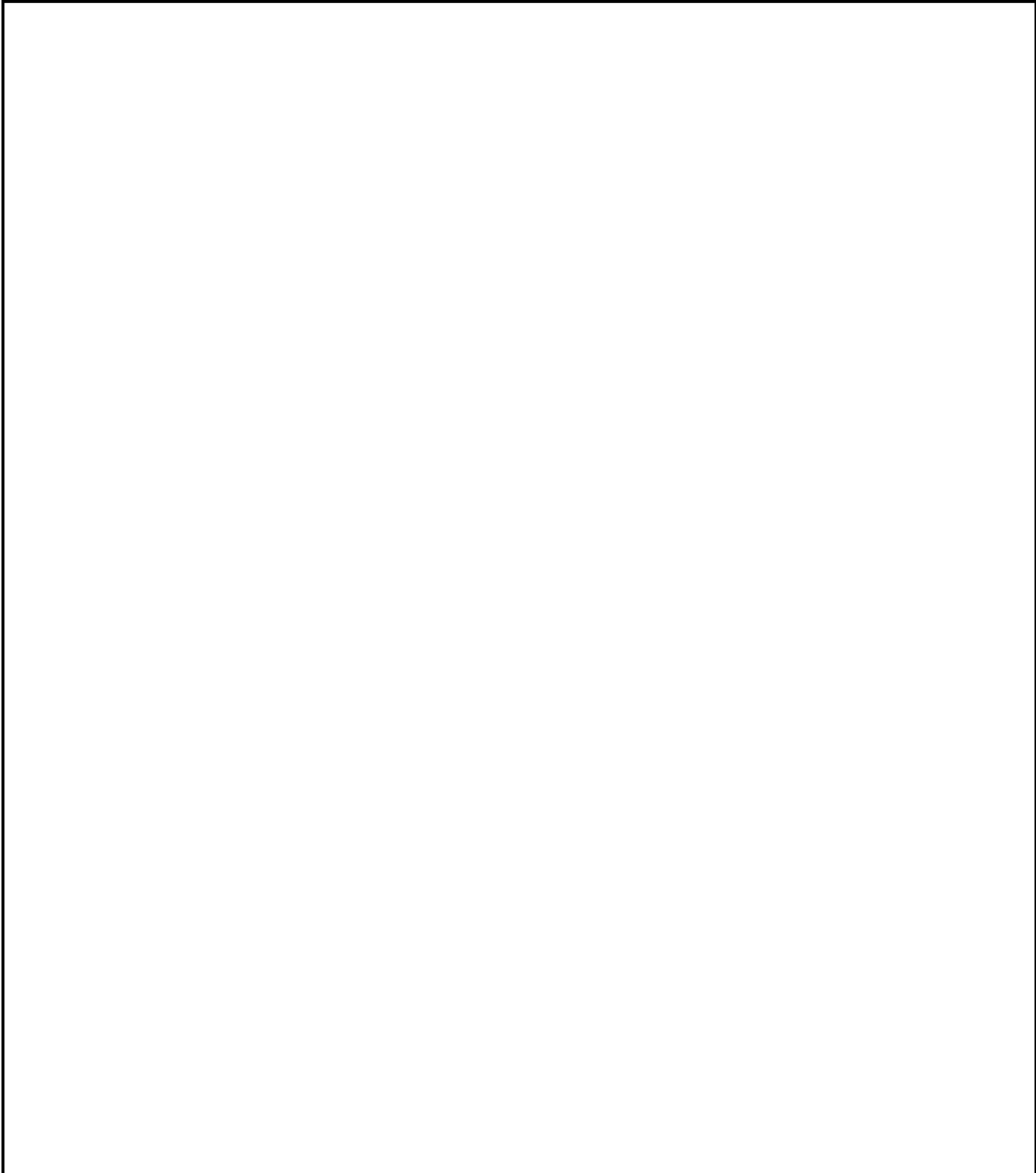
Name


Position

Tenderer

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES QUALITY PLAN
-----------------------------------------------------------------------------------	--------------------------------------------	------------------------------------------

Note to tenderers: Please provide details of your quality plan here. Alternatively, you may attach a copy of your quality plan. Tenderers are to indicate the standard upon which their plan is based.



	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES CURRICULUM VITAE OF KEY PERSONNEL
-----------------------------------------------------------------------------------	--------------------------------------------	-------------------------------------------------------------------

Tenderers are required to provide a list of Key Personnel, clearly indicating their roles on the project, accompanied by a detailed CV as outlined below [complete a separate pro-forma for each. Each CV to start on a new page].

CV-Template

Name:

Date of Birth:

Profession:

Nationality:

Current Position:

Years with the firm:

Qualification and Experience:

Education:

Professional Membership

Experience Record

Languages:

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this data correctly describes me, my qualifications and my experience.

_____ **Date:** _____
[Signature of staff member]

[Print full name of staff member]

_____ **Date:** _____
[Signature of authorized representative of the firm]

Signature of authorized representative of the firm]

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	TENDER Professional and Technical Staff	TENDER SCHEDULES Proposed Staff
-----------------------------------------------------------------------------------	--------------------------------------------------------------------	--------------------------------------------------

STAFF PROPOSED FOR DEPLOYMENT ON THIS ASSIGNMENT

The list must be followed by CV's (see CV template below)

a. PROFESSIONAL/TECHNICAL STAFF			
Name and Nationality	Position	Task(s)	Qualifications

b. SUPPORT STAFF			
Name	Position	Task(s)	Qualifications

Signed

.....

Date

.....

Name

.....

Position

.....

Tenderer

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES EXPERIENCE OF TENDERER
-----------------------------------------------------------------------------------	--------------------------------------------	--------------------------------------------------------

The following is a statement of similar works successfully executed by myself/ourselves for the past Ten (10) years						
Employer, contact person and telephone number.	Description of contract	Value of work Original / Actual		Date completed Proposed / Actual		Other relevant Info.

Signed

.....

Date

.....

Name

.....

Position

.....


Tenderer

.....

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	TENDER RETURNABLE DOCUMENTS	DECLARATION BY DIRECTORS AND SHAREHOLDERS
-----------------------------------------------------------------------------------	--------------------------------------------	------------------------------------------------------

DECLARATION ON BEHALF OF OWNERS, PARTNERS/ SHAREHOLDERS AND /OR DIRECTORS

I, _____(full name), in my capacity as a director/shareholder/partner/owner (tick as applicable) hereby declare that on my behalf, and on behalf of the owners, partners and /or directors

of:
..... (name of company)

of :
.....

.....(postal/ physical address)

that, in connection with the enclosed tender,

1. All information contained herein is true and not misleading, and it is to the best of my knowledge factual and binding on the company and/or its representatives.
2. I state that the resolution executed by the Board of Directors of in pursuance of this tender, was executed following a declaration by all Directors (as reflected in the ROC Form 2 (c) and (d), and / or subsequent share transfer forms and share certificates as may from time to time be filed with Company Secretary) present or by proxy, confirming that they have not, through other registered companies, participated in the same tender.
3. I,....., in my capacity as aforesaid, declare and confirm that we have in fact not participated in the same tender through any other registered company or other entity.
4. I attach hereto certified copies of ROC Forms 2(c) and (d) or other registration documents listing the Directors and current shareholders of the Company and certified copies of the share certificates of the company/entity.
5. We further acknowledge that should any of the directors, partners, and shareholders be found to be associated in a similar or other manner in another company/entity, participating in this tender, this shall disqualify this company, and whichever company the said director/partner/shareholder is consequently involved in.
6. We further acknowledge that should the company or any of its affiliates or subsidiaries be found to have participated in the same tender, the said company and its affiliates or subsidiaries shall be disqualified.
7. The Company, through its agents, employees or directors has not illegally communicated with any member of the procuring department or the Public Procurement and Asset Disposal Board, except as may be permitted in the relevant "instructions to tenderers" or by law.
8. The Company, through its agents, employees or directors has not paid or offered to pay any consideration, favour or promise to any member of the procuring department or any person employed by or associated with Public Procurement and Asset Disposal Board.

- 9. We declare that this tender is submitted in our own right and we have not colluded in any way with any other potential tenderer in the production and submission of this tender other than in the establishment of a joint venture or sub-contractor arrangement as fully and correctly declared in the tender.
- 10. We acknowledge that if after the award of this tender any of these declarations are found to be false then any contract(s) between ourselves and the procuring department and/or PPADB shall be terminated forthwith and we may be barred from future tendering for government services and liable to possible prosecution.

SIGNED: NAME:


DATED:.....

.....
Company Stamp

THUS SIGNED AND SWORN TO BEFORE ME COMMISSIONER OF OATHS AT GABORONE ON THIS _____ DAY OF _____ 20____, AT ____AM / PM, THE DEPONENT HAVING ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS DECLARATION AND THAT IT IS BINDING ON HIS CONSCIENCE.

COMMISSIONER OF OATHS

CAPACITY:

	<p>TENDER RETURNABLE DOCUMENTS</p>	<p>TENDER SCHEDULES BASIS OF DESIGN (Design & Build / Turnkey Contracts)</p>
-----------------------------------------------------------------------------------	---------------------------------------------------	-----------------------------------------------------------------------------------------------------

Note to tenderers: Describe the design you propose for this contract. You are requested to include as a minimum:

1. Identification of the key systems or subsystems within the works, if not already described in the Employer's description of the works.
2. Motivation for the overall design philosophy in terms of proposed location of the works, key operational features and abilities of operating staff.
3. The basis for the design and engineering of each system to meet the requirements of the Employer's key performance criteria described in the Scope of Work.
4. Indicate who will be appointed to carry out the design and in which country.
5. Provide examples of previous works of this nature undertaken by you, with contact details of persons in the customer's organisation currently operating the works. The Procuring Department may contact such persons for reference purposes.
6. Explain the basis for training of operators and transfer of technology necessary to operate and maintain the works which you have included in your tender offer.
7. Point out any special consideration which the Procuring Entity needs to take into account for purposes of the environment, health and safety, availability of feedstock, maintenance (routine and complete overhaul), expected life cycle of the works, decommissioning and disposal, and any other feature which the tenderer considers may be of interest to the Procuring Entity.

Summary of items attached to this schedule:



**TENDER
RETURNABLE
DOCUMENTS**

**TENDER SCHEDULES
PLANT &
EQUIPMENT**

The following are lists of major items of relevant equipment that I/we presently own or lease and will have available for this contract or will acquire or hire for this contract if my/our tender is accepted.

(a) Details of major relevant equipment immediately available for this contract.

Quantity	Description, size, capacity, etc.

Attach additional pages if more space is required.

(b) Details of major relevant equipment that will be hired, or acquired for this contract if my/our tender is acceptable.

Quantity	Description, size, capacity, etc.

Attach additional pages if more space is required.


Signed

Date

Name

Position


Tenderer

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES MANAGEMENT PLAN
-----------------------------------------------------------------------------------	--------------------------------------------	-------------------------------------------------

Note to tenderers: Please describe the management arrangements for the work in this contract. You are requested to include:

8. An organisation chart showing on-site and off-site management personnel
9. CV's for people proposed for all identified posts.
10. Details of the location (and functions) of offices from which the work will be managed.
11. Details of the experience of the staff who will be working on the project with respect to
 - Working with the chosen form of contract.
 - (Insert other experience that is important for the contractor's staff to have)If staff experience of these matters is limited, an indication of relevant training that they have attended would be helpful.
12. An explanation of how you propose to allocate adequate resources to enable you to comply with the requirements and prohibitions imposed on you by or under the statutory provisions relating to health and safety.

Summary of items attached to this schedule:

	<p>TENDER RETURNABLE DOCUMENTS</p>	<p>TENDER SCHEDULES METHODOLOGY AND WORK PLAN</p>
-----------------------------------------------------------------------------------	---------------------------------------------------	------------------------------------------------------------------

Note to tenderers: Describe the design you propose for this contract. You are requested to include as a minimum:

13. Motivation for the overall design philosophy in terms of proposed location of the works, key operational features and abilities of operating staff.
14. The basis for the design and engineering of each system to meet the requirements of the Employer's key performance criteria described in the Scope of Work. design guidelines as well as specifications and codes of practice (if applicable) to be utilized
15. Provide examples of previous works of this nature undertaken by you, with contact details of persons in the customer's organisation currently operating the works. The Procuring Entity may contact such persons for reference purposes.
16. Indicate who will be appointed to carry out the design and in which country.
17. Explain the basis for training of operators and transfer of technology necessary to operate and maintain the works which you have included in your tender offer.
18. Point out any special consideration which the Procuring Entity needs to take into account for purposes of the environment, health and safety, availability of stock, maintenance (routine and complete overhaul), expected life cycle of the works, decommissioning and disposal, and any other feature which the tenderer considers may be of interest to the Procuring Department.
19. An organisation chart showing on-site and off-site management personnel
20. Details of the location (and functions) of offices from which the work will be managed.
21. Details of the experience of the staff who will be working on the project with respect to Designing and supervision during construction.
22. An explanation of how you propose to allocate adequate resources to enable you to complete all the works, this must include a fully resourced program of the works (Gantt Chart in MS project)

Summary of items attached to this schedule

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES HEALTH AND SAFETY PLAN
--	--------------------------------------------	--------------------------------------------------------

Health and safety – Competence and resources	
Tenderers to indicate the standard upon which the plan is based upon	
1.	The procedures we propose to adopt for developing and implementing a Health and Safety Plan are:
2.	Our proposed approach and time allowance to deal with the high risk areas, particularly _____ identified in the Scope of Work, are:
3.	We have allowed the following time period from acceptance of this tender offer for the development of a construction phase Health and Safety Plan:

We confirm that the foregoing responses will enable us to comply with the requirements of all health and safety legislation.


Signed _____

Date _____

Name _____


Position _____

Tenderer _____

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES TAX CLEARANCE CERTIFICATE
-----------------------------------------------------------------------------------	--------------------------------------------	-----------------------------------------------------------

TAX CLEARANCE CERTIFICATE


- **Certified** copies of valid tax clearance from the Botswana Unified Revenue Service (BURS) for the Main Contractor , if domiciled in Botswana
- Certification of BURS certificates shall be done by BURS
- Failure to comply with this requirement will render the tender non-responsive and will be disqualified.

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES CERTIFICATE OF REGISTRATION WITH PPADB
-----------------------------------------------------------------------------------	--------------------------------------------	------------------------------------------------------------------------

PROOF OF REGISTRATION WITH PPADB ONLY FOR COMPANIES DOMICILED IN BOTSWANA

- The tenderer must provide proof, in the form of a **certified** copy of registration certificate, that they are registered in the required grade with the Public Procurement and Asset Disposal Board (PPADB).
- Certification of PPADB certificates shall be done by the PPADB.
- Failure to comply with this requirement will render non-responsive and

For companies domiciled and registered in any of the other SADC Member States (except for Botswana), companies must be in possession of relevant trading documentation defining the constitution or legal status, place of registration and principal place of business, in order to be eligible to participate in the tender.


	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES VALUE ADDED TAX (Only for companies Domiciled in Botswana)
-----------------------------------------------------------------------------------	--------------------------------------------	------------------------------------------------------------------------------------------------

- The Botswana Value Added Tax was passed by Parliament in December 2001 and was gazetted on 1st February 2001. This is Act of Parliament No.1.
- The commencement date of the said Act is 1st July 2002. This Act is applicable to Construction Contracts.
- The Main Contractor shall observe and allow for complying with and also ensure that all Sub-Contractors (domestic as well as nominated) comply with the conditions of the Act.
- I/We hereby certify that we are familiar with the provisions contained in the above Act and due allowance has been incorporated within my/our-tendered amount.

Signed _____ Date _____


Name _____ Position _____

Tenderer _____

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES PROPOSED PROGRAMME OF WORKS AND METHOD STATEMENT
-----------------------------------------------------------------------------------	--------------------------------------------	--------------------------------------------------------------------------------------

PROPOSAL PROGRAMME OF WORKS AND METHOD STATEMENT

- The Contractor should provide a detailed method statement showing how he intends to carry out the works and proposal programme of works.
- This should be part of submission under item T2.2.WD – Management Plan.

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES STOCK HOLDING OF SPARE PARTS
-----------------------------------------------------------------------------------	--------------------------------------------	--------------------------------------------------------------

Please note that this form is applicable to Mechanical and Electrical works. Tenderers must;

- list the items most likely to be in need of regular replacement during the life cycle of the plant, materials and equipment that is the subject of supply under this contract.
- supply a separate undertaking regarding back up for operational advisory services and commitment to the availability of spares providing full details of local agency, stocks held locally, and standard parts listing with prices ex works at time of tender.

Item Code	Description	Expected operating life (years)	Availability (Use Code below)	Price (Pula) including delivery

The following codes should be used in the 'Availability' column. In each case the time for delivery must take account of the location of the plant into which the item is to be installed, using the most cost effective and logical means of transport. The Price must include cost of supply by the method indicated.

CRIT means critical spare that should be kept in stock by the user at all times.

EX means available ex stock in Botswana within one (1) days' delivery time.

EX[] means available ex stock within the number of days indicated in brackets. After the number of days state

A if delivery is to include airfreight to Gaborone / Johannesburg,

R if delivery is by road from a source within the SADC region, and


S if the delivery involves sea freight from an overseas source plus road delivery from RSA Port.

For example:

B[10A] means available ex stock at site within 10 calendar days using air freight, and

B[60S] means available ex stock in 60 days using sea freight to a designated Port and road delivery to site.

LL[] means available only on special order within the lead time (including delivery and method) stated in brackets. For example **LL[120A]** means special order, available at site in 120 days using air

	TENDER RETURNABLE DOCUMENTS	TENDER SCHEDULES TAX CLEARANCE FOR TENDER PURPOSES (Only for Companies Domiciled in Botswana)
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NOTES - TAX CLEARANCE CERTIFICATE FOR TENDER PURPOSES

- 1) The Tax Clearance Certificate for Tender Purposes is required pursuant to Cabinet Directive No. 32/2003 which clearly states that anybody bidding for Public tender must be in possession of a tax clearance certificate issued by the Botswana Unified Revenue Services (BURS);
- 2) In pursuance of (1) above, all registered taxpayers bidding for Public tenders must complete the application form for a Tax Clearance Certificate for Tender Purposes;
- 3) The Completed Application form must be submitted to BURS Headquarters or to the nearest BURS Regional Office;
- 4) All sections (A to E) on the Application form must be completed in full to minimize delays in the processing of the Certificate;
- 5) In the event that a company, partnership or an individual is interested in bidding for a public tender but is not registered with the BURS, such persons must contact the BURS Headquarters or nearest BURS Regional Office for registration and subsequent processing for a tax clearance certificate;
- 6) Any foreign company bidding for the public tenders in Botswana must obtain tax clearance/exemption from the BURS;
- 7) Due to the Tax Clearance Certificate requirement, PPADB will not consider any bidder who is not in possession of a tax clearance certificate or exemption thereof;
- 8) To expedite processing of Tax Clearance Certificate, taxpayers are implored to ensure that their tax affairs are in order and all taxes have been paid;
- 9) Applicants are advised to submit applications for certificates at least 5 working days in advance of the date on which they require such Certificate;
- 10) Certificates are valid for a period of 12 months from the date on which the Certificate is awarded. Once the validity period is exhausted, the certificate will no longer be valid and cannot be used for future tenders. Taxpayers are also advised to ensure that their tax affairs continue to be in order to avoid possible revocation of the Certificate;
- 11) Bidders in possession of Exemption Certificates are, when successful, required to register with the BURS. They may also be required to register even if they are not successful under the provisions of the Income Tax Act, Cap 52.01;
- 12) The Application forms for Tax Clearance Certificate are available at the following BURS offices:

OFFICE*	POSTAL ADDRESS	TELEPHONE NUMBERS
BURS Headquarters	Private Bag 0013, Gaborone	3614600
Francistown (Taxes)	Private Bag 38, Francistown	2412734/5
Lobatse (Customs)	P O Box 263, Lobatse	5330566
Maun (Customs)	P O Box 219, Maun	6861376/6861321
Selebi Phikwe (Taxes)	Private Bag 13 Selebi Phikwe	2610785/2614862

* All completed forms may also be deposited at the same offices for speedy processing of the application form.

(To be signed by all parties participating in of a joint venture)

To be submitted on the headed notepaper of the legal entity concerned

<Date>

To: Southern African Development Community (SADC) Secretariat

CBD Plot 54385

Gaborone, Botswana

Your ref: < Publication reference >

Dear Sir/Madam

In response to your prequalification notice < Publication reference >, we, < Name(s) of legal entity or entities>,

hereby declare that we do not fall into any of the following situations:

- being bankrupt or wound up, are having our affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are being subject of proceedings concerning those matters, or are being in any similar situations arising from a similar procedure provided for in the national legislation or regulations of the SADC member states.*
- have been convicted of offences concerning our professional conduct by a judgment, which has the force of res judicata; (i.e. against which no appeal is possible).*
- have been declared guilty of grave professional misconduct proven by any means which Procuring Entity can justify.*
- have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Procuring Entity' financial interests.*
- are being currently subject to an administrative penalty.*

We further declare that in case we get shortlisted we will provide necessary supporting documents that will prove that we do not fall into any of



CONTRACT

CONTRACT :

Title of the Contract: Works Contract for Design and Build for the Construction of a Museum in Honour of SADC Founders at the SADC Headquarters , Gaborone , Botswana

PART 1: AGREEMENTS AND CONTRACT TEMPLATE

SADC Standard Contract for Construction works : See the End

PART 2: PRICING DATA

C2.2 Financial Proposals

Part 3: SCOPE OF WORK

C3 Scope of work

PART 4: SITE INFORMATION

C4 Site Information

	CONTRACT PART 1 AGREEMENTS & CONTRACT DATA	SADC STANDARD WORKS CONTRACT
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The Conditions of Contract are

The Contract Data shall comprise and the Tenderer shall base his Tender upon the following:

- a) The Conditions of Contract for SADC Standard Works Contract
- b) The Particular Conditions of Contract;
- c) Civil Engineering Specifications
- d) Mechanical Engineering Specifications
- e) Electrical Engineering Specifications
- f) The Scheme Drawings (if any) as listed in the Tender Schedules;
- g) The Employer's Requirements;

This documents shall be taken as read, examined and understood as to the extend and meaning of each clause.

The Appendix to Tender

Notes:

- 1 With the exception of the items for which the Employer's requirements have been inserted, the following information must be completed before the Tender is submitted
- 2 The person who signs the Tender shall initial each page of this Appendix.

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The Conditions of Contract are

The Contract Data shall comprise and the Tenderer shall base his Tender upon the following:

- h) The Conditions of Contract for SADC Standard Works Contract
- i) The Particular Conditions of Contract;
- j) Civil Engineering Specifications
- k) Mechanical Engineering Specifications
- l) Electrical Engineering Specifications
- m) The Scheme Drawings (if any) as listed in the Tender Schedules;
- n) The Employer's Requirements;

This documents shall be taken as read, examined and understood as to the extend and meaning of each clause.


The Appendix to Tender

Notes:

- 3 With the exception of the items for which the Employer's requirements have been inserted, the following information must be completed before the Tender is submitted
- 4 The person who signs the Tender shall initial each page of this Appendix.

Sub-Clause	Item and data : Project Specific Conditions
1.1.2.2 & 1.3	Employers name and address The Procuring Entity is Southern African Development Community (SADC) Secretariat, Private Bag 0095, Gaborone, Botswana.
1.1.2.3 & 1.3	Contractor's name and address
1.1.2.4 & 1.3	Engineer's name and address
1.1.3.3	Time for Completion of the Works is days. DURATION OF THE CONTRACT TO BE PROPOSED BY THE BIDDERS
1.1.3.7	Defects Notification Period is 365 days
1.3	Electronic transmission systems for communications shall be as follows: Email
1.4	Governing Law: The laws of the Republic of Botswana
1.4	Ruling Language: English
1.4	Language for communications: English.
2.1	Time for access to the Site is 28 days after Commencement Date.
4.2	Amount of Performance Security is 10% of the Accepted Contract Amount, in the currencies and proportions in which the Contract Price is payable.
5.1	Period for notifying unforeseeable errors, faults and defects in the Employer's Requirements is 14 days
5.2	Provide Performance Bond equivalent to 10 % contract amount
5.3	Provide all risk insurance cover
6.5	Normal working hours are As established by the statutes of the Republic of Botswana
8.7 & 14.15 (b)	Delay damages for the Works are 0.03% of the final Contract Price per day, in the currencies and proportions in which the Contract Price is payable.
8.7	Maximum amount of delay damages is 5% of the final Contract Price.
13.5 (b)	Percentage for adjustment of Provisional Sums : Fixed Price Contract
14.2	Total advance payment: N/A
14.3	Percentage of retention is 5 %
14.3	Limit of Retention Money 5% of the Accepted Contract Amount.
14.5 (c)	List of Plant & Materials for payment when delivered to the Site to be determined by the Engineer.
14.6	Minimum amount of Interim Payment Certificates is 10 % of the Accepted Contract Amount

14.15	Currency/currencies of payment as named in the Form of Offer and Acceptance are United States Dollars Only
18.1	Periods for submission of insurance: (a) evidence of insurance 7 days (b) relevant policies 21 days.
18.2 (d)	Minimum amount of insurance for works and Contractor's Equipment is the tendered amount plus 10 % of value of the works.
18.3	Minimum amount of third party insurance is P1,000,000.00

	CONTRACT PART 2 AGREEMENTS & CONTRACT DATA	FORM OF OFFER AND ACCEPTANCE
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TENDER NO. SADC/3/5/1/68

Offer

The Procuring Entity , Southern African Development Community (SADC) Secretariat, Private Bag 0095, Gaborone, Botswana., has solicited offers to enter into a contract for the procurement of:

A WORKS CONTRACT FOR DESIGN-BUILD FOR THE CONSTRUCTION OF A MUSEUM IN HONOUR OF SADC FOUNDERS AT THE SADC HEADQUARTERS IN GABORONE , BOTSWANA

The tenderer, identified in the signature block below, has examined the documents listed in the Tender Data, Bills of Quantities and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By attaching the signature of a duly authorised representative to this part of this Form of Offer and Acceptance, the tenderer offers to perform all of the obligations and liabilities of the Contractor under the Contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the Conditions of Contract identified in the Contract Data.

The total of the amount tendered, brought forward from the Final Summary of the Bills of Quantities, is ___ ----- _____ United States Dollars , (in words); USD _____ (in figures) (All tenderers are to be the nearest five thebe [5t])

We undertake to complete the entire works in **calendar days**, in accordance with the Appendix to the Form of Contract.

We understand and agree that the above stated period is inclusive of all gazetted public and customary builder’s holidays in Botswana.

The Tender shall remain valid for a period of one hundred and Eighty calendar days (180 days) from the closing date of tender.

This Offer, of which the tenderer has signed two originals, may be accepted by the Procuring Entity by signing the form of Acceptance overleaf and returning one fully executed original of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, whereupon the tenderer becomes the party named as the Contractor, in the Conditions of Contract identified in the Contract Data.

For the tenderer:

Signature(s)

Name(s)

Capacity

(Insert name and address of organisation)

Name &
signature of
witness

Date

Acceptance

By attaching the signature of a duly authorised representative to this part of this Form of Offer and Acceptance, the Procuring Entity accepts the tenderer’s Offer. In consideration thereof, the Procuring Entity shall pay the Contractor, the amount due in accordance with the Conditions of Contract identified in the Contract Data. Acceptance of the tenderer’s Offer shall form an Agreement between the Procuring Department and the tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

The terms of the Contract, are contained in:

- Part 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part 2 Pricing Data
- Part 3 Scope of Work
- Part 4 Site Information.

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Procuring Entity during this process of Offer and Acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be signed by the duly authorised representative(s) for both parties.

The tenderer shall within one week of receiving a fully executed original of this Agreement, including the Schedule of Deviations (if any), contact the Procuring Entity agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data at, or just after, the date this Agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the tenderer receives one fully executed original of this document, including the Schedule of Deviations (if any). Unless the tenderer (now Contractor, Consultant or Supplier) within five days of the date of such receipt notifies the Procuring Department in writing of any reason why he cannot accept the contents of this Form of Offer and Acceptance, this Agreement shall constitute a binding contract between the Parties.

For the Procuring Entity

Signature(s)

Name(s)

Capacity

(Insert name and address of organisation)

Name &
signature of
witness

Date

Schedule of Deviations

Note:

1. The extent of deviations from the tender documents issued by the Procuring Entity prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
2. In the event of conflict between the contents of this Schedule of Deviations and any other list or record of tender stage amendments or addenda, this Schedule shall take precedence.

1 Subject _____

Details _____

2 Subject _____

Details _____

3 Subject _____

Details _____

4 Subject _____

Details _____

5 Subject _____

Details _____

By affixing the signatures of the duly authorised representatives below, the Procuring Entity and the tenderer both agree to and accept the foregoing Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any changes to the terms of the Offer agreed by the tenderer and the Procuring Entity during this process of Offer and Acceptance.

It is expressly agreed that no information, documentation or communication not listed in the Schedule of Deviations shall have any meaning or effect in the contract between the parties arising from this Agreement.

For the tenderer:

Signature(s)

Name(s)

Capacity

(Insert name and address of organisation)

Name &
signature of
witness

Date

For the Procuring Entity

Signature(s)


Name(s)

Capacity

(Insert name and address of organisation)

Name &
signature of
witness

Date

	CONTRACT PART 2 PRICING DATA	FINANCIAL PROPOSALS
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Financial Proposals


FINANCIAL PROPOSAL DATA SHEET –

Financial proposals for the works shall comprise of the following:

1. Design and Build of a museum in honour of SADC Founders at the SADC Head Quarters in Gaborone , Botswana : includes all associated infrastructure to meet quality, specification and requirements. The Contractor should provide detailed fees of all consultants which include Project Management, Architectural, Civil/Structural, Electrical Engineers, Mechanical Engineers and Quantity Surveying Consultants.
2. The contractor to provide detailed fees for the following major deliverables :
 - a) Submission and approval of inception report and scheme design drawings
 - b) Submission and approval of preliminary design report and preliminary design drawings
 - c) Submission and approval of final design report and final design drawings ,
 - d) Submission of building permit and approved and stamped construction drawings and all approvals and permits needed from local authorities and utility organizations
 - e) Submission of detailed Bills of Quantities to be used during construction
 - f) Submission of Council Occupation Certificate upon completion of construction works
 - g) Submission of project close out report
- 3.
4. The Contractor should provide detail cost of Design and Construction works to the structure. All items of measured work are to be priced in detail. All rates and prices shall bare reasonable relation to each other and similar items in the various sections of the Bill of Quantities shall bare analogy. Should any tender contain lump sums to cover trades or group of items or trades where there are no measured items for the proposed trades, a schedule of rates for the anticipated measurable items should accompany the lump sum provision.
5. Maintenance of the facility during defects liability period (DLP =twelve [12]months)
6. Reimbursable expenses envisaged by the Contractor during design and construction such as but not limited to: travelling costs, accommodation, testing and commissioning, soil and topographic surveys, printing, copying, tender document production etc.
7. The Offer Price shall be inclusive of Value Added Tax (VAT) currently at 14%.
8. Tenderers are advised that this Contract is a Fixed Price Contract and they should therefore, allow for escalations, if necessary. The Employer shall not pay for escalations other than **statutory** increases in Labour and Fuel.

Offer Validity Period

Contractor shall remain open for consideration for a **period of 128 days** from the closing date of the Tender. In line with SADC requirement, SADC may request for one further extension of the validity period (for a Specified period) as the need arises.

	CONTRACT PART 3 SCOPE OF WORK	SCOPE OF WORK: WORKS CONTRACT
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<p>1.1</p>	<p>Overview of the works</p> <p>1.1. Client</p> <p>Southern African Development Community (herein after referred to as SADC), the organization for economic integration, comprising of 16 member states and headquartered in Gaborone, Botswana, established by Article 2 of the Treaty establishing SADC.</p> <p>1.2. Project</p> <p>Works contract for Design and Build for the proposed construction of a museum in honour of SADC founders at the SADC Headquarters in Gaborone, Botswana.</p> <p>The museum will be constructed on an existing open space measuring approximately 30m x30m , inside the premises of the SADC Headquarters , plot 54385 CBD , Gaborone , Botswana. The plot is fully serviced with sewer reticulation, water reticulation, roads and stormwater drainages, electricity reticulation etc. The existing master plan shows that this open space, on the Northern side of the SADC plot, was not earmarked for any future office extensions hence can be used to erect the museum. However, there is a sewer line and an underground power cable traversing across the open space. These services will be relocated during the construction phase.</p> <p>During August 2020 Summit, the construction of a modern museum was identified as one of the major initiatives to sustain the legacy of SADC Founders in perpetuity. The museum will be viewed as a very useful one-stop-shop for archiving artefacts and documents about the Founders and their legacy.</p> <p>Moreover, the museum’s purpose is to ensure the permanent survival of the SADC Founders’ historical record, Southern Africa liberation struggle and progress made in regional integration, as well as wide accessibility of such information to the public. The museum will collect and display the heritage of the Founders through a collection of books, artefacts, memorabilia, regalia, movies and works of art.</p> <p>1.3. Project Manager</p> <p>The officer appointed by SADC Secretariat who shall have responsibility of the administration of the project.</p> <p>1.4 The Project Reference</p> <p>This project under tender reference SADC/3/5/1/68 shall be for the Works contract for Design and Build for the proposed construction of a museum in honour of SADC founders at the SADC Headquarters Gaborone, Botswana</p> <p>1.5 The Project Site</p> <p>The project site is an existing open space within the premises of the SADC Headquarters; plot 54385 CBD, Gaborone, Botswana. The size of the open space is approximately 900 square meters, vizily 30m x30m. The plot is fully serviced with water reticulation, sewer reticulation, roads and storm water drainages, electricity reticulation etc. The existing master plan shows that this open space, on the Northern side of the SADC plot, was not earmarked for any future office extensions hence can be used to erect the museum. However, there is a sewer line and an underground power cable traversing across the open space. These services will be relocated during the construction phase. The contractor must do a thorough site investigation to prepare accurate and comprehensive tender documents to avoid variations during construction phase. As built drawings of the external services layout will be issued during the compulsory site visit.</p>
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1,6 Buildings and Infrastructure

The project comprises of Design and Build for the proposed construction of a museum in honour of SADC founders at the SADC Headquarters in Gaborone, Botswana.

The works will include the designs and construction of the museum building and associated infrastructure services.

1,7 Change of Land Use and Acquisition of Land Servitudes

Should the change of land use or acquisition of land servitudes become necessary, the contractor shall apply for the permit or the needed land, and ensure they are granted to enable the success of the project.

1.8 Development Master Plans

All the necessary physical planning documents should be sourced from the Department of town and regional planning by the contractor, to ensure compliance, in order for the development proposals to receive the necessary approval by the planning authorities.

1.9 Proposed Buildings and Infrastructure

The following is the Proposed Scope of Building Work

1. Double Storey Museum Block.

The building to be equipped with the following building services, (but not limited to) as deemed appropriate:

- Electrical installation
- Heating , ventilating and air conditioning (HVAC) installations
- Wet services
- Fire protection systems
- Fire detection and evacuation systems
- Access control
- Closed circuit television (CCTV)
- Lifts, escalators and travelators
- Communication systems
- Building management systems
- Security systems
- Data systems

The following is the Proposed Scope of Supporting Infrastructure

1. Roads & Stormwater drainages
2. Water Reticulation
3. Sewer Reticulation
4. Electricity Reticulation
5. Telecommunications and Security Systems

The contractor can propose any other services deemed necessary for such a project

<p>1.2</p>	<p>1. Proposed design and construction material list</p> <p>The locally available materials that conform to performance specifications shall be given preference for incorporation in the works over materials that shall be procured outside Botswana.</p> <p>2. Copyright</p> <p>(a) The deliverables and other creative work of the contractor and his consultants called for by this Agreement, including all works of architecture, designs, plans, sketches, works of drawings, photographic works, illustrations, written, graphic, audio, visual and other materials; contributions, applicable work product and production elements contained therein, whether on paper, disk, tape, digital file or any other media (the “deliverable work”) is being specially commissioned as work made for hire in accordance with the copy right laws of the Republic of Botswana. The Client is the sole proprietor of the deliverable work from the time of its creation and owns all rights, title and interests therein throughout the work including, without limitation, the copyright and all related rights.</p> <p>(b) To the extend that it is determined that the deliverable work does not qualify as work made for hire within the meaning of the copyright laws of the Republic of Botswana, then the contractor and his Consultant hereby irrevocably transfers and assigns to the Client all of its rights, title and interest, throughout the world and in perpetuity, in and to the deliverable work, including without limitation all of its rights, title and interest in copyright and related rights free of any claims by the contractor and his Consultant or any other person or entity.</p>
<p>1.4</p>	<p>Location of the works:</p> <p>The project site is an existing open space within the premises of the SADC Headquarters; plot 54385 CBD, Gaborone, Botswana. The size of the open space is approximately 900 square meters, vizily 30m x30m</p>
<p>1.5</p>	<p>Contractor’s Proposal</p> <p>The Contractor’s Proposal shall comprise the following:</p> <p>i) Architectural Designs in A3 or A4 paper sizes . . . The designs must include:</p> <ul style="list-style-type: none"> • Detailed Site Plan, • Plans of typical building • Sections of typical building • Elevations of typical building • Plan and section of services <p>ii) Electrical Designs</p> <p>iii) Mechanical Designs</p> <p>iv) Civil/’Structural Designs</p> <p>i) Detailed elemental Cost Analysis for the proposed works. (Submit with financial proposals)</p> <p>ii) Detailed Bills of Quantities for measured works with detailed schedule of rates for items of proposed works that cannot be measured at this stage. The rates for the works shall remain fixed for the whole contract as per clause 2.2 here before. (Submit with financial proposals)</p>

- iii) Proposed Construction Programme for Completion of Works
- iv) Methodology to Carry out the Works
- v) Manpower Resources for the Project (Design Team and Management Team & Construction)
- vi) Audited Financial Statement for the last five (5) years to assess Financial Capability of the Contractor

<p>Republic of Botswana</p>	<p>CONTRACT PART 4 SITE INFORMATION</p>	<p>SITE INFORMATION</p>
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SITE INFORMATION

General

The museum will be constructed on an existing open space measuring approximately 30m x30m , inside the premises of the SADC Headquarters , plot 54385 CBD , Gaborone , Botswana. The plot is fully serviced with sewer reticulation, water reticulation, roads and stormwater drainages, electricity reticulation etc. The existing master plan shows that this open space, on the Northern side of the SADC plot, was not earmarked for any future office extensions hence can be used to erect the museum. However, there is a sewer line and an underground power cable traversing across the open space. These services will be relocated during the construction phase.

TOPOGRAPHICAL SURVEY REPORT

The Contactor shall, at his own expense where necessary, conduct a topographical survey to obtain the necessary information for designing the works.

GEOTECHNICAL REPORT

The Contractor shall, at his own expense where necessary carry out the geotechnical investigations to obtain the necessary information for designing the works.



**VOLUME 1
PART 1 : AGREEMENTS
AND CONTRACT TEMPLATE**

**SADC WORKS CONTRACT
AND SPECIAL CONDITIONS
OF CONTRACT**

**WORKS CONTRACT
FOR
THE CONSTRUCTION OF
CONTRACT NUMBER:
BETWEEN
SADC SECRETARIAT
("THE CONTRACTING AUTHORITY")
AND
("THE CONTRACTOR")**

Form of Contract

This CONTRACT (hereinafter called the "Contract") is made this the ____ day of the month of _____ 2022 between, on the one hand, **SADC Secretariat** (hereinafter called the "Contracting Authority") and, on the other hand, _____ (hereinafter called the "Contractor").

WHEREAS

- (a) the Contracting Authority wishes to have the Contractor engaged to perform the services hereinafter referred to;

and

- (c) the Contractor, having demonstrated to the Contracting Authority that he has the required professional skills, personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereby agree as follows:

1.1 The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices:

Appendix A:

Appendix B:

Appendix C:

2. The mutual rights and obligations of the Contracting Authority and the Contractor shall be as set forth in the Contract, in particular:

- (a) the Contractor shall carry out the Services in accordance with the provisions of the Contract; and
- (b) the Contracting Authority shall make payments to the Contractor 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 **SADC Secretariat**

Name:

Title: Executive Secretary

Date:

Place:

For and on behalf of _____

Name:

Title:

Date:

Place:

General Conditions of Contract

1. General Provisions

1.1 Definitions

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

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Contracting Authority's country, or in such other country as may be specified in the Special Conditions of Contract (SC), as they may be issued and in force from time to time.
- (b) "Contracting Authority" means legal entity named in the SC who procures the Services described in Appendix A hereto from the Contractor.
- (c) "Contractor" means any private or public entity named in the SC that will provide the Services to the Contracting Authority under the Contract.
- (d) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is these General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (e) "Day" means calendar day.
- (f) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (h) "GC" means these General Conditions of Contract.
- (k) "Member" means any of the entities that make up the joint venture/association; and "Members" means all these entities.
- (l) "Party" means the Contracting Authority or the Contractor, as the case may be, and "Parties" means both of them.
- (m) "Personnel" means professionals and support staff provided by the Contractor or by any Sub-Contractor and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the Contracting Authority's country; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile inside the Contracting Authority's country; and "Key Personnel" means the Personnel referred to in Clause GC 4.2(a).
- (n) "Reimbursable expenses" means all assignment-related costs other than Contractor's remuneration.
- (o) "Special Conditions of Contract" or "SC" means the Conditions of the Contract that are peculiar to the Contract between the Contracting Authority by which the GC may be amended or supplemented.

- (p) "Services" means the work to be performed by the Contractor pursuant to this Contract, as described in Appendix A hereto.
- (q) "Sub-Contractors" means any person or entity whom/which the Contractor subcontracts any part of the Services.
- (r) "Third Party" means any person or entity other than the Contracting Authority, the Contractor or a Sub-Contractor.
- (s) "In writing" means communicated in written form with proof of receipt.

- 1.2 Relationship Between the Parties**
Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Contracting Authority and the Contractor. The Contractor, subject to this Contract, has complete charge of his/her Personnel and Sub-Contractors, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.
- 1.3 Law Governing Contract**
This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 1.4 Language**
This Contract has been executed in the English language which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 1.5 Headings**
The headings shall not limit, alter or affect the meaning of this Contract.
- 1.6 Notices**
 - 1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorised representative of the Party to whom the communication is addressed, or when sent to such Party at the address **specified in the SC.**
 - 1.6.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address **specified in the SC.**
- 1.7 Location**
The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Contracting Authority's country or elsewhere, as the Contracting Authority may approve.
- 1.8 Authority of Member in Charge**
In case the Contractor consists of a joint venture/ association of more than one entity, the Members hereby authorise the entity **specified in the SC** to act on their behalf in exercising all the Contractor's rights and obligations towards the Contracting Authority under this Contract, including without limitation the receiving of instructions and payments from the Contracting Authority.
- 1.9 Authorized Representatives**
 - 1.9.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Contracting Authority or the

Contractor may be taken or executed by the officials **specified in the SC.**

1.9.2. The Contracting Authority's authorised representative shall be called Task Manager. The Task Manager may exercise the authority attributable to him/her **as specified in the SC.**

1.9.3. The Task Manager shall have no authority to amend the Contract.

1.9.4. The Contractor's authorised representative shall be called Project Director and he/she may exercise the authority attributable to him/her **as specified in the SC.**

1.9.5. Either Party shall promptly inform the other of any change of their authorised representative or of any change to the authority attributed to their authorised representative.

1.10 Taxes and Duties The Contractor, its Sub-Contractors and Personnel shall pay such indirect taxes, duties, fees and other impositions levied under the Applicable Law **as specified in the SC.**

1.11 Fraud and Corruption If the Contracting Authority determines that the Contractor and/or its Sub-Contractors have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices, in competing for or in executing the Contract, then the Contracting Authority may, after giving 14 days' notice to the Contractor, terminate the Contractor's employment under the Contract, and the provisions of Clause 2 shall apply as if such expulsion had been made under Sub-Clause 2.9.1(d).

Should any personnel of the Contractor be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the execution of the Contract, then that personnel shall be removed in accordance with Sub-Clause 4.5

1.11.1 Definitions For the purposes of this Sub-Clause, the terms set-forth below are defined as follows:

- (i) "corrupt practice"¹ 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"² 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;

¹ "Another party" refers to a public official acting in relation to the selection process or contract execution. In this context, "public official" includes SADC Secretariat staff and employees of other organizations taking or reviewing procurement decisions.

² A "party" refers to a public official; the terms "benefit" and "obligation" relate to the selection process or contract execution; and the "act or omission" is intended to influence the selection process or contract execution.

- (iii) "collusive practice"³ 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"⁴ 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 that 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 SADC Secretariat 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 SADC Secretariat's inspection and audit rights provided for under Clause 3.6.

1.11.2 Commissions and Fees

The Contracting Authority will require the successful Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

³ "Parties" refers to participants in the selection process (including public officials) attempting to establish bid prices at artificial, non-competitive levels.

⁴ A "party" refers to a participant in the selection process or contract execution.

2. Commencement, Completion, Modification and Termination of Contract

- 1.1 Effectiveness of Contract** This Contract shall come into force and effect on the date (the "Effective Date") **specified in the SC.**
- 1.2 Termination of Contract for Failure to Become Effective** If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as **specified in the SC**, either Party may, by not less than fourteen (14) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
- 1.3 Commencement of Services** The Contractor shall begin carrying out the Services not later than the number of days after the Effective Date **specified in the SC.**
- 1.4 Expiration of Contract** Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as **specified in the SC.**
- 1.5 Entire Agreement** This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

2.6 Modifications, or Variations

- 2.6.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- 2.6.2. Substantial modifications to the contract, including modifications of the General or Special Conditions of the contract, changes in the scope or the duration of the contract, to the total contract amount and replacement of Key Experts, must be made by means of an addendum. If the request for an amendment comes from the Contractor, the latter must submit such a request to the Contracting Authority at least 15 days before the amendment is intended to enter into force, except in cases which are duly substantiated by the Contractor and accepted by the Contracting Authority.
- 2.6.3. However, where the amendment does not affect the basic purpose of the contract and, for a time based contract, the financial impact is limited to a transfer within the remuneration or between the remuneration and the provision for reimbursable expenses involving a variation of less than 15% of the original amount (or as modified by addendum) for the categories of expense where the money was taken from, the Task Manager shall have the power to order any variation to any part of the services necessary for the proper implementation of the tasks, without changing the object or scope of the contract. Such variations may include additions, omissions, substitutions, changes in quality, quantity, specified sequence, method or timing of performance of the services, changes in contact details and reporting requirements.
- 2.6.4. Prior to any administrative order for variation, the Task Manager shall notify the Contractor of the nature and form of such variation. As soon as possible, after receiving such notice, the Contractor shall submit to the Task Manager a written proposal containing:
- (a) a description of the Service to be performed or the measures to be taken and a programme for implementation of the tasks; and
 - (b) any necessary modifications to the programme of implementation of the tasks or to any of the Contractor's obligations under the contract; and
 - (c) for a time based contract, any adjustment to the contract value in accordance with the following principles:
 - (i) where the task is of similar character and executed under similar conditions to an item priced in the budget breakdown, the equivalent numbers of working days shall be valued at the fee rates contained therein;

- (ii) where the task is not of a similar character or is not executed under similar conditions, the fee rates in the contract shall be applied to the estimated numbers of working days so far as is reasonable, failing which, a fair estimation shall be made by the Task Manager;
 - (3) where a variation is necessitated by a default or breach of contract by the Contractor, any additional cost attributable to such variation shall be borne by the Contractor.
- 2.6.5. Following the receipt of the Contractor's proposal, the Task Manager shall decide as soon as possible whether or not the variation shall be carried out. If the Task Manager decides that the variation shall be carried out he/she shall issue the variation order stating that the variation shall be carried out under the conditions given in the Contractor's proposal or as modified by the Task Manager in accordance with or pursuant to Clause GC 2.6.4.
- 2.6.6. On receipt of the variation order requesting the variation, the Contractor shall proceed to carry out the variation and be bound by these General Conditions in so doing as if such variation were stated in the contract.
- 2.6.7. No amendment shall be made retroactively except in cases which are duly substantiated by the Contractor and accepted by the Contracting Authority.
- 2.6.8. Any change to the contract which has not been made in the form of an variation order or an addendum or in accordance with this Clause shall be considered null and void.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Contracting Authority agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Contractors or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.8 Suspension

The Contracting Authority may, by written notice of suspension to the Contractor, suspend all payments to the Contractor hereunder if the Contractor fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Contractor to remedy such failure within a period not exceeding fifteen (15) days after receipt by the Contractor of such notice of suspension.

2.9 Termination

2.9.1 By the Contracting Authority

The Contracting Authority may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (g) of this Clause GC 2.9.1. In such an occurrence the Contracting Authority shall give a not less than fifteen (15) days' written notice of termination to the Contractor, and fifteen (15) days' also in case of the event referred to in (g).

- (a) If the Contractor fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 above herein, within fifteen (15) days of receipt of such notice of suspension or within such further period as the Contracting Authority may have subsequently approved in writing.
- (b) If the Contractor becomes (or, if the Contractor consists of more than one entity, if any of its Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.
- (c) If the Contractor fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.
- (d) If the Contractor, in the judgment of the Contracting Authority, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.
- (e) If the Contractor submits to the Contracting Authority a false statement which has a material effect on the rights, obligations or interests of the Contracting Authority.
- (f) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than fifteen (15) days.
- (g) If the Contracting Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 By the Contractor

The Contractor may terminate this Contract, by not less than thirty (30) days' written notice to the Contracting Authority, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2.

- (a) If the Contracting Authority fails to pay any money due to the Contractor pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Contractor that such payment is overdue.
- (b) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Service for a period of not less than fifteen (15) days.
- (c) If the Contracting Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.
- (d) If the Contracting Authority is in material breach of its obligations pursuant to this Contract and has not remedied the same within fifteen (15) days (or such longer period as the Contractor may have subsequently approved in writing) following the receipt by the Contracting Authority of the Contractor's notice specifying such breach.

2.9.3 Cessation of Rights and Obligations Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Contractor's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and (iv) any right which a Party may have under the Applicable Law.

2.9.4 Cessation of Services Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Contractor shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Contractor and equipment and materials furnished by the Contracting Authority, the Contractor shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.5 Payment upon Termination Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Contracting Authority shall make the following payments to the Contractor:

- (a) remuneration pursuant to Clause GC 6 hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (b) except in the case of termination pursuant to paragraphs (a) through (e) of Clause GC 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract including the cost of travel of the Personnel.

2.9.6 Disputes about If either Party disputes whether an event specified in paragraphs (a) through (f) of Clause GC 2.9.1 or in Clause GC

Events of Termination 2.9.2 hereof has occurred, such Party may, within fourteen (14) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. Obligations of the Contractor

3.1 General

3.1.1 Standard of Performance The Contractor shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Contractor shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Contracting Authority, and shall at all times support and safeguard the Contracting Authority's legitimate interests in any dealings with Sub-Contractors or Third Parties.

3.1.2 Law Governing Services The Contractor shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Contractor, as well as the Personnel of the Contractor and Sub-Contractor, comply with the Applicable Law. The Contracting Authority shall notify the Contractor in writing of relevant local customs, and the Contractor shall, after such notification, respect such customs.

3.2 Conflict of Interests The Contractor shall hold the Contracting Authority's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

3.2.1 Contractor Not to Benefit from Commissions, Discounts, etc.

(a) The payment of the Contractor pursuant to Clause GC 6 hereof shall constitute the Contractor's only payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Contractor shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Contractor shall use its best efforts to ensure that any Sub-Contractors, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.

(b) Furthermore, if the Contractor, as part of the Services, has the responsibility of advising the Contracting Authority on the procurement of goods, works or services, the Contractor shall comply with the SADC Secretariat's applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the Contracting Authority. Any discounts or commissions obtained by the Contractor in the exercise of such procurement responsibility shall be for the account of the Contracting Authority.

- 3.2.2 Contractor and Affiliates Not to Engage in Certain Activities** The Contractor agrees that, during the term of this Contract and after its termination, the Contractor and any entity affiliated with the Contractor, as well as any Sub-Contractor and any entity affiliated with such Sub-Contractors, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Contractor's Services for the preparation or implementation of the project.
- 3.2.3 Prohibition of Conflicting Activities** **The Contractor shall not engage, and shall cause their Personnel as well as their Sub-Contractors and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.**
- 3.3 Confidentiality** **Except with the prior written consent of the Contracting Authority, the Contractor and their Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of providing the Services, nor shall the Contractor and their Personnel make public the recommendations formulated in the course of, or as a result of, the provision of the Services.**
- 3.4 Liability of the Contractor** Subject to additional provisions, if any, set forth in the SC, the Contractors' liability under this Contract shall be provided by the Applicable Law.
- 3.5 Insurance to be Taken out by the Contractor** The Contractor (i) shall take out and maintain, and shall cause any Sub-Contractor to take out and maintain, at their (or the Sub-Contractors', as the case may be) own cost but on terms and conditions approved by the Contracting Authority, insurance against the risks, and for the coverages specified in the SC, and (ii) at the Contracting Authority's request, shall provide evidence to the Contracting Authority showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.
- 3.6 Accounting, Inspection and Auditing** The Contractor shall permit the SADC Secretariat and/or persons appointed by the SADC Secretariat to inspect its accounts and records as well as those of its Sub-Contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the SADC Secretariat if required by the SADC Secretariat. The Contractor's attention is drawn to Clause 1.11.1 which provides, inter alia, that acts intended to materially impede the exercise of the SADC Secretariat's inspection and audit rights provided for under Clause 3.6 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the Contractor Guidelines).

- 3.7 Contractor's Actions Requiring Contracting Authority's Prior Approval**
- The Contractor shall obtain the Contracting Authority's prior approval in writing before taking any of the following actions:
- (a) Any change or addition to the Personnel listed in Appendix B.
 - (b) Subcontracts: the Contractor may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the Contracting Authority. Notwithstanding such approval, the Contractor shall retain full responsibility for the Services. In the event that any Sub-Contractors are found by the Contracting Authority to be incompetent or incapable in discharging assigned duties, the Contracting Authority may request the Contractor to provide a replacement, with qualifications and experience acceptable to the Contracting Authority, or to resume the performance of the Services itself.
 - (c) Any other action that may be specified **in the SC**.
- 3.8 Reporting Obligations**
- The Contractor shall submit to the Contracting Authority the reports and documents specified in Appendix A hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.
- 3.9 Documents Prepared by the Contractor to be the Property of the Contracting Authority**
- All plans, drawings, specifications, designs, reports, other documents and software prepared by the Contractor for the Contracting Authority under this Contract shall become and remain the property of the Contracting Authority, and the Contractor shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Contracting Authority, together with a detailed inventory thereof. The Contractor may retain a copy of such documents and software, and use such software for their own use with prior written approval of the Contracting Authority. If license agreements are necessary or appropriate between the Contractor and third parties for purposes of development of any such computer programs, the Contractor shall obtain the Contracting Authority's prior written approval to such agreements, and the Contracting Authority shall be entitled, at its discretion, to require recovery of its expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, **shall be specified in the SC**.
- 3.10 Equipment, Vehicles and Materials Furnished by the Contracting Authority**
- Equipment, vehicles and materials made available to the Contractor by the Contracting Authority, or purchased by the Contractor wholly or partly with funds provided by the Contracting Authority, shall be the property of the Contracting Authority and shall be marked accordingly. Upon termination or expiration of this Contract, the Contractor shall make available to the Contracting Authority an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Contracting Authority's instructions. While in possession of such equipment, vehicles and materials, the Contractor, unless otherwise instructed by the Contracting Authority in writing, shall insure them at the expense of the Contracting Authority in an amount equal to their full replacement value.

- 3.11 Equipment and Materials Provided by the Contractors** Equipment or materials brought into the Contracting Authority's country by the Contractor and the Personnel and used either for the Project or personal use shall remain the property of the Contractor or the Personnel concerned, as applicable, on the condition that it is not bought with funds provided by the Contracting Authority (see 3.10 above).

4. Contractors' Personnel and Sub-Contractors

- 4.1 General** The Contractor shall employ and provide such qualified and experienced Personnel and Sub-Contractors as are required to carry out the Services.
- 4.2 Description of Personnel**
- (a) The title, agreed job description, minimum qualification and estimated period of engagement for carrying out the Services by each of the Contractor's Key Personnel are described in Appendix B. If any of the Key Personnel has already been approved by the Contracting Authority, his/her name is listed as well.
 - (b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix B may be made by the Contractor by written notice to the Contracting Authority, provided: (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Contracting Authority's written approval.
 - (c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix B may be increased by agreement in writing between the Contracting Authority and the Contractor. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.
- 4.3 Approval of Personnel** **The Key Personnel and Sub-Contractors listed by title as well as by name in Appendix B are hereby approved by the Contracting Authority. In respect of other Personnel which the Contractor proposes to use in the carrying out of the Services, the Contractor shall submit to the Contracting Authority for review and approval copies of their Curricula Vitae (CVs). If the Contracting Authority does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the Contracting Authority.**
- 4.4 Working Hours, Overtime, Leave, etc.**
- (a) Working hours and holidays for Key Personnel are set forth in Appendix A hereto. To account for travel time, Foreign Personnel carrying out Services inside the Contracting Authority's country shall be deemed to have commenced,

or finished work in respect of the Services such number of days before their arrival in, or after their departure from the country (ies) as is specified in Appendix A hereto.

- (b) The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix A hereto, and except as specified in such Appendix, the Contractor's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Appendix A. Any taking of leave by Personnel shall be subject to the prior approval by the Contractor who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 Removal and/or Replacement of Personnel

- (a) Except as the Contracting Authority may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Contractor, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Contractor shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Contracting Authority: (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Contractor shall, at the Contracting Authority's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Contracting Authority.
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditure the Contractors may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Contracting Authority. The rate of remuneration applicable to a replacement person will be obtained by multiplying the rate of remuneration applicable to the replaced person by the ratio between the monthly salary to be effectively paid to the replacement person and the average salary effectively paid to the replaced person in the period of six months prior to the date of replacement. Except as the Contracting Authority may otherwise agree:, (i) the Contractor shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

4.6 Resident Project Director

If required by the SC, the Contractor shall ensure that at all times during the Contractor's performance of the Services in the Contracting Authority's country a resident Project Director, acceptable to the Contracting Authority, shall take charge of the performance of such Services.

5. OBLIGATIONS OF THE CONTRACTING AUTHORITY

5.1 Assistance and Exemptions

Unless otherwise specified in the SC, the Contracting Authority shall use its best efforts to ensure that the Contracting Authority shall:

- (a) Provide the Contractor, Sub-Contractors and Personnel with work permits and such other documents as shall be necessary to enable the Contractor, Sub-Contractors or Personnel to perform the Services.
- (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Contracting Authority's country.
- (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.
- (d) Issue to officials, agents and representatives of the Contracting Authority all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (e) Exempt the Contractor and the Personnel and any Sub-Contractors employed by the Contractor for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law.
- (f) Grant to the Contractor, any Sub-Contractors and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Contracting Authority's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.
- (g) Provide to the Contractor, Sub-Contractors and Personnel any such other assistance as may be **specified in the SC**.

5.3 Change in the Applicable Law Related to Taxes and Duties

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 incurred by the Contractor in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Contractor under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

5.4 Services, Facilities and Property of the Contracting Authority

- (a) The Contracting Authority shall make available to the Contractor and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix A at the times and in the manner specified in said Appendix A.
- (b) In case that such services, facilities and property shall not be made available to the Contractor as and when specified

in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Contractor for the performance of the Services, (ii) the manner in which the Contractor shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Contractor as a result thereof pursuant to Clause GC 6.1(c) hereinafter.

5.5 Payment

In consideration of the Services performed by the Contractor under this Contract, the Contracting Authority shall make to the Contractor such payments and in such manner as is provided by Clause GC 6 of this Contract.

5.5 Counterpart Personnel

- (a) The Contracting Authority shall make available to the Contractor free of charge such professional and support counterpart personnel, to be nominated by the Contracting Authority with the Contractor's advice, if specified in Appendix A.
- (b) If counterpart personnel are not provided by the Contracting Authority to the Contractor as and when specified in Appendix A, the Contracting Authority and the Contractor shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Contracting Authority to the Contractor as a result thereof pursuant to Clause GC 6.1(c) hereof.
- (c) Professional and support counterpart personnel, excluding Contracting Authority's liaison personnel, shall work under the exclusive direction of the Contractor. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Contractor that is consistent with the position occupied by such member, the Contractor may request the replacement of such member, and the Contracting Authority shall not unreasonably refuse to act upon such request.

6. PAYMENTS TO THE CONTRACTOR

6.1 Cost Estimates; Ceiling Amount

- (a) An estimate of the cost of the Services payable in US Dollars is set forth in Appendix C.
- (b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the ceiling **specified in the SC.**
- (c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 5.3 or 5.5 hereof, the Parties shall agree that additional payments shall be made to the Contractor in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or

amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenses

Option 1: Lump Sum Contracts (delete as appropriate)

- (a) Subject to the ceilings specified in Clause GC 6.1(b) hereof, the Contracting Authority shall pay to the Contractor, in fixed instalments, (i) the remuneration as set forth in SC hereunder, and (ii) the reimbursable expenses as set forth in Clause SC hereunder, based on the following Schedule stated in SC.
- (b) Unless otherwise specified in the SC, the remuneration shall be fixed for the duration of the Contract.

Option 2: Time Based Contracts

- (a) Subject to the ceilings specified in Clause GC 6.1(b) hereof, the Contracting Authority shall pay to the Contractor (i) remuneration as set forth in Clause GC 6.2(b) hereunder, and (ii) reimbursable expenses as set forth in Clause GC 6.2(c) hereunder. Unless otherwise **specified in the SC**, said remuneration shall be fixed for the duration of the Contract.
- (b) Payment for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GC 2.3 and **Clause SC 2.3** (or such other date as the Parties shall agree in writing), at the rates referred to in Appendix C to this Contract, and subject to price adjustment, if any, **specified in SC**.
- (c) Reimbursable expenses actually and reasonably incurred by the Contractor in the performance of the Services and identified in Appendix C of this Contract, shall not exceed the ceiling **specified in SC**.
- (d) The remuneration rates referred to under paragraph (b) here above shall cover: (i) such salaries and allowances as the Contractor shall have agreed to pay to the Personnel as well as factors for social charges and overhead (bonuses or other means of profit-sharing shall not be allowed as an element of overhead), (ii) the cost of backstopping by home office staff not included in the Personnel listed in Appendix B, and (iii) the Contractor's fee.
- (e) Any rates specified for Personnel not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Contracting Authority, once the applicable salaries and allowances are known.
- (f) Payments for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Contractor's home office and directly attributable to the Services (one hour being equivalent to 1/176th of a month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).

6.3 Currency of Payment

All payments shall be made in US Dollars.

6.4 Mode of Billing and Payment

Billings and payments in respect of the Services shall be made as follows:

Option 1: Lump Sum Contracts

- (a) All payments under this Contract shall be made to the accounts of the Contractor **specified in the SC**.
- (b) Within the number of days after the Effective Date specified in the SC, the Contracting Authority shall cause to be paid to the Contractor advance payments as **specified in the SC**. When the SC indicate advance payment, this will be due after provision by the Contractor to the Contracting Authority of an advance payment guarantee acceptable to the Contracting Authority in an amount (or amounts) and in a currency specified in the SC. Such guarantee (i) to remain effective until the advance payment has been fully set off, and (ii) to be in the form set forth in Appendix D hereto, or in such other form as the Contracting Authority shall have approved in writing. The advance payments will be set off by the Contracting Authority in equal instalments against the statements for the number of months of the Services specified in the SC until said advance payments have been fully set off.
- (c) The payments shall be done within thirty (30) days upon receipt of the original invoice accompanied by the supporting documents to demonstrate the acceptance by the Contracting Authority of the Contractor's deliverable which the payment is tied to.

Option 2: Time Based Contracts

- (a) All payments under this Contract shall be made to the accounts of the Contractor **specified in the SC**.
- (b) Within the number of days after the Effective Date specified in the SC, the Contracting Authority shall cause to be paid to the Contractor advance payments as **specified in the SC**. When the SC indicate advance payment, this will be due after provision by the Contractor to the Contracting Authority of an advance payment guarantee acceptable to the Contracting Authority in an amount (or amounts) and in a currency **specified in the SC**. Such guarantee (i) to remain effective until the advance payment has been fully set off, and (ii) to be in the form set forth in Appendix D hereto, or in such other form as the Contracting Authority shall have approved in writing. The advance payments will be set off by the Contracting Authority in equal instalments against the statements for the number of months of the Services **specified in the SC** until said advance payments have been fully set off.
- (c) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time intervals **otherwise indicated in the SC**, the Contractor shall submit to the Contracting Authority, in duplicate,

itemized statements, accompanied by copies of invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GC 6.3 and GC 6.4 for such month, or any other period indicated in the SC. Separate statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenses.

- (d) The Contracting Authority shall pay the Contractor's statements within sixty (60) days after the receipt by the Contracting Authority of such statements with supporting documents. Only such portion of a statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Contractor, the Contracting Authority may add or subtract the difference from any subsequent payments. Interest at the annual rate **specified in the SC** shall become payable as from the above due date on any amount due by, but not paid on, such due date.
- (e) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Contractor and approved as satisfactory by the Contracting Authority. The Services shall be deemed completed and finally accepted by the Contracting Authority and the final report and final statement shall be deemed approved by the Contracting Authority as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Contracting Authority unless the Contracting Authority, within such ninety (90) day period, gives written notice to the Contractor specifying in detail deficiencies in the Services, the final report or final statement. The Contractor shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the Contracting Authority has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Contractor to the Contracting Authority within thirty (30) days after receipt by the Contractor of notice thereof. Any such claim by the Contracting Authority for reimbursement must be made within twelve (12) calendar months after receipt by the Contracting Authority of a final report and a final statement approved by the Contracting Authority in accordance with the above.
- (f) Payments in respect of remuneration or reimbursable expenses, which exceed the cost estimates for these items as set forth in Appendices D , may be charged to the respective contingencies only if such expenditures were approved by the Contracting Authority prior to being incurred.

- (g) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Contractor of any obligations hereunder.

7. FAIRNESS AND GOOD FAITH

- 7.1 Good Faith** The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
- 7.2 Operation of the Contract** The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. SETTLEMENT OF DISPUTES

- 8.1 Amicable Settlement** If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt. If that Party fails to respond within 14 days, or the dispute cannot be amicably settled within 14 days following the response of that Party, Clause GC 8.2 shall apply.
- 8.2 Dispute Resolution** Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably according to Clause GC 8.1 may be submitted by either Party for settlement in accordance with the provisions **specified in the SC.**

III. Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Contracting Authority's country is Botswana.
1.1 (b)	The Contracting Authority is: The SADC Secretariat
1.1 (c)	The Contractor is the following companies, represented by_____
1.6	The addresses are:

	<p>Contracting Authority The SADC Secretariat Western Commercial Road (near Lobatse and Siboni Roads) CBD Plot 54385 City: Gaborone Country: Botswana</p> <p>Attention: Tel: Fax: Email:</p> <p>Contractor</p> <p>Attention: Tel: Fax: Email:</p>
<p>1.9.1</p>	<p>The Authorised Representatives are:</p> <p>For the Contracting Authority:</p> <p>The Task Manager is: Tel/Fax : +267 3972 848/ 318 1070</p> <p>For the Contractor:</p> <p>The Project Director is _____</p>
<p>1.9.2</p>	<p>The Contracting Authority delegates to the Task Manager the following authority under this Contract:</p> <p><i>The Task manager shall be the first point of contact for operational implementation and shall oversee operational implementation on a day to day basis. The Task Manager will approve reports submitted by the Contractor, chair progress meetings, approve invoices, provide technical guidance where necessary.</i></p>
<p>1.9.4</p>	<p>The Project Director is: _____</p>
<p>1.10</p>	<p>All taxes payable by the Contractor under the under the Applicable Law shall be paid by the Contractor and where necessary taxes shall be withheld by the Contracting Authority.</p>
<p>2.1</p>	<p>The Contract becomes effective on the date both Parties have signed the Contract.</p>
<p>2.2</p>	<p>The time period shall be 14 working days</p>
<p>2.3</p>	<p>The time period shall be 30 working days and will be effective from the date of last signature</p>
<p>2.4</p>	<p>The time period shall bemonths</p>
<p>3.1.2</p>	<p>The applicable laws shall be the Laws of the Republic of Botswana</p>
<p>3.4</p>	<p>Additional sub- clause is added to Clause 3.4 and reads</p>

	<p>“3.4.1 The Contractor agrees to indemnify and hold harmless the Contracting Authority, its officers, employees and agents against all claims, suits and losses including reasonable attorney fees that may arise from the infringement of any other related intellectual right by the Contractor, personal injury (including death) or damaged property to the extent caused or alleged by a claimant to have been caused in connection with the performance of the Services under this Contract.</p> <p>3.4.2 The obligations set out in this clause shall survive the completion, expiration or termination of this Contract.”</p> <p>3.4.3 Should the Contractor fail to perform its obligations or delay in the performance of its obligations, whether the failure to perform or delay is caused by the Contractor itself or a their party, which delay has not been due to any fault of the Contracting Authority, The Contractor shall pay to the Contracting Authority liquidated damages in the amount of point five percent (0.5%) of the Contract Price per month for each month that the Contract has delayed to perform.</p>
3.5	The Contractor shall take cover for Professional Indemnity Insurance as specified in Appendix A.
3.9	The Contractor shall not use these documents and software for purposes unrelated to this Contract without the prior written approval of the SADC Secretariat.
5.1	5.1 Clause 5.1 is deleted and replaced to read as follows “ Unless otherwise specified in the SC, it shall be the responsibility of the Contractor to acquire work and residence permits for all of its members who are not Batswana. This shall be at the Contractor’s cost”
5.3	Clause 5.3 is deleted.
5.5	Clause 5.5 is deleted.
6.1 (a) and (b)	The contract ceiling: US\$..... inclusive of 14% VAT Fee rates are fixed for the duration of the Contract.
6.1(c)	Clause 6.1(c) is deleted.
6.2 Option 1	<p>6.2 (a) (i): Payment shall be made as follows:</p> <ul style="list-style-type: none"> • <i>Payment shall be done on monthly basis and in accordance with the Bills of Quantities submitted by the Contractor. Minimum amount of interim certificates is 10% of the contract sum.</i> • <i>An amount of 5% of the contract sum will be retained for a period of 12 months defects liability period.</i> • <i>100% of the retention held will be released upon completion of the 12 months defects liability period. Defects liability period will commence after the issuance of practical completion certificate by the Client, SADC.</i>

	<ul style="list-style-type: none"> Amount of ascertained and liquidated damages will be 0.5% of the contract amount for each month delayed. Limit of ascertained and liquidated damages is 5% of the contract amount.
6.2 Option 1	6.2 (a) (ii) This is a Lump Sum Contract
6.2 Option 1	6.2 (b) This is a Lump Sum Contract There are no price adjustments; the rates are fixed for the duration of the Contract.
6.2. Option 2	The clause in the General Conditions is deleted and replaced by: Not applicable. This is a Lump Sum Contract.
6.4 Option 1 (a)	Payment shall be made in accordance with SC 6.2 (a) (i) (Option 1 above) to the accounts of the members of the subcontractors of the Contractor as will be pointed out by the Contractor.
6.4 Option 1 (b)	There is no advance payment.
6.4 Option 1	6.4.1 (d) Interest Due to Late Payment of Fee Invoices Interest accrued due to late payment of fee invoices shall be paid on the following principle. <ul style="list-style-type: none"> Delay in payment of up to (60) sixty days after the submission of an undisputed invoice, shall attract no interest. Delay in payment of over and above sixty days, after the submission of undisputed invoice, shall attract a monthly simple interest of point five percent (0.5%) of the amount of that particular fee invoice which has been delayed. The maximum (limit) amount of simple interest, due to delay in payment a particular invoice can attract, is 5% of the total amount of that particular delayed fee invoice. The interest due to late payment will be paid only if the Contractor claims for it. Interest to be paid only during the duration of the Contract and before the issuance of final completion certificate.
6.4 Option 2)	The article in the General Conditions is deleted and replaced by: Not applicable. This is a Lump Sum Contract.
8.2	Disputes shall be settled by negotiation and arbitration in accordance with the following provisions: <ol style="list-style-type: none"> The Parties shall use all their best efforts to settle all disputes arising out of, or in connection with, this Contract or its interpretation amicably. In the event that, through negotiation, the parties fail to solve a dispute arising from the conclusion, interpretation, implementation or termination of the contract, the parties shall settle the dispute by arbitration.

	<p>c) The arbitral tribunal shall consist of three arbitrators. Each party to the dispute shall appoint one arbitrator. The two arbitrators so appointed shall appoint the third arbitrator, who shall be the Chairperson. If within 15 days of receipt of the request for arbitration either party has not appointed an arbitrator, or if within 7 days of the appointment of the two arbitrators the third arbitrator has not been appointed, either party may request an appointing authority agreed by the parties to appoint an arbitrator.</p> <p>d) If no appointing authority has been agreed upon by the parties, or if the appointing authority agreed upon refuses to act or fails to appoint the arbitrator within sixty days of the receipt of a party's request therefor, either party may request the Chairman of the Botswana Institute of Arbitrators to designate an appointing authority.</p> <p>e) The appointing authority shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible.</p> <p>f) The procedure of arbitration shall be fixed by the arbitral tribunal which shall have full power to settle all questions of procedure in any case of disagreement with respect thereto.</p> <p>g) The decisions of the arbitral tribunal shall be final and binding upon the parties.</p> <p>h) The arbitration shall take place in Botswana and the substantive law of Botswana shall apply.</p>
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IV. Appendices

APPENDIX A – BILLS OF QUANTITIES

Note: This Appendix will include the final Terms of Reference worked out by the Contracting Authority and the Contractors during technical negotiations, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Contracting Authority, etc.

APPENDIX B – DRAWINGS

Note: List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here "Not applicable."

APPENDIX C – SPECIFICATIONS

