



**REQUEST FOR EXPRESSION OF INTEREST**

**SELECTION OF INDIVIDUAL CONSULTANTS**

**REFERENCE NUMBER: *SADC/FANR/FORESTRYPROTOCOL/2017***

**REQUEST FOR SERVICES TITLE: INDIVIDUAL CONSULTANCY TO  
UNDERTAKE REGIONAL ASSESSMENT OF IMPLEMENTATION OF THE  
SADC PROTOCOL ON FORESTRY**

**MARCH 2017**

1. **The Southern African Development Community (SADC) Secretariat** is inviting interested and eligible Individual Consultants to submit their CVs and Financial Proposal for the following services:  
**“CONSULTANCY TO UNDERTAKE REGIONAL ASSESSMENT OF IMPLEMENTATION OF THE SADC PROTOCOL ON FORESTRY”**. The Terms of Reference defining the minimum technical requirements for these services are attached as Annex 1 to this Request for Expression of Interest.
2. **Individual Consultants are eligible for this assignment provided that they fulfil the following eligibility criteria:**
  - a) *they are not bankrupt or being wound up, are having their 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 similar procedures provided for in the national legislation or regulations of the SADC member states;*
  - b) *they have not been convicted of offences concerning their professional conduct by a judgment which has the force of res judicata; (i.e. against which no appeal is possible);*
  - c) *they have not been declared guilty of grave professional misconduct proven by any means which SADC Secretariat can justify;*
  - d) *they have fulfilled obligations related to the payments of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those countries where the contract is to be performed;*
  - e) *they have not been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the SADC Secretariat' financial interests; or*
  - f) *they are not being currently subject to an administrative penalty.*
3. Your Expression of Interest must be presented as per Standard Expression of Interest Forms attached as Annex 2 to this REOI, in the English language and be accompanied by copies of all the indicated supporting documents. If the supporting documents are not in English, these shall be accompanied by a certified translation into English.
4. Your proposal clearly marked **“CONSULTANCY TO UNDERTAKE REGIONAL ASSESSMENT OF IMPLEMENTATION OF THE SADC PROTOCOL ON FORESTRY REFERENCE NUMBER SADC/FANR/FORESTRYPROTOCOL/2017”** in a sealed envelope, should be submitted in our tender box located at the following address:

SADC Secretariat  
Plot 54385 CBD  
Private Bag 0095  
Gaborone  
Botswana

**Attention: Mr. Gift Mike Gwaza MCIPS**

6. Expressions of Interest submitted by E-mail **are** acceptable and **MUST** be sent to [ggwaza@sadc.int](mailto:ggwaza@sadc.int) copy to [boraeng@sadc.int](mailto:boraeng@sadc.int) and [dkahatano@sadc.int](mailto:dkahatano@sadc.int)
7. The deadline for submission of your Expression of Interest to the address and email indicated in Paragraph 5 and 6 above is **FRIDAY, 24<sup>th</sup> March 2017 at 10:00 hours local time**
8. Your CV will be evaluated **technically** against the following criteria.

Criteria	Maximum points allocated
Education and Training	35
Experience and Specific Skills	40
General Skills	25
<b>Total</b>	<b>100</b>

9. Your proposal should be submitted as per the following instructions and in accordance with the Terms and Conditions of the Standard Contract attached as Annex 3 to this REOI:

**(i) PRICES:**

The financial proposal shall be inclusive of all expenses deemed necessary by the Individual Consultant for the performance of the contract.

**(ii) EVALUATION AND AWARD OF THE CONTRACT:**

Expressions of Interest determined to be formally compliant to the requirements will be further evaluated technically.

An Expression of Interest is considered compliant to the requirements if:

- It fulfils the formal requirements (see Paragraphs 2,3,4,5,6 and 7 above),
- The financial proposal does not exceed the maximum available budget for the contract.
- The award will be made based on Quality and Cost selection and will be made to the applicant who obtained the highest combined technical and financial score.
- The technical score shall have an 80% weight and the financial score shall have a 20% weight. Expressions of Interest not obtaining a minimum score of 70% will be rejected.

**(iii) VALIDITY OF THE EXPRESSION OF INTEREST:**

Your Expression of Interest should be valid for a period of 90 days from the date of deadline for submission indicated in Paragraph 6 above.

10. The assignment is expected to commence within One (1) week from the signature of the contract.
11. Additional requests for information and clarifications can be made until 15 working days prior to deadline indicated in the paragraph 7 above, from:  
The Procuring entity: **SADC Secretariat**  
Contact person: **Gift Mike Gwaza/**  
Telephone: **3951842**  
Fax: **3972848**  
E-mail: [gqwaza@sadc.int](mailto:gqwaza@sadc.int)  
Copy: [dkahatano@sadc.int](mailto:dkahatano@sadc.int)

The answers on the questions received will be sent to the Consultant and all questions received as well as the answer(s) to them will be posted on the SADC Secretariat's website at the latest 10 working days before the deadline for submission of the proposals.

**ANNEXES:**

ANNEX 1: **Terms of Reference**

ANNEX 2: **Expression of Interest Forms**

ANNEX 3: **Standard Contract for Individual Consultants**

**Sincerely,**

**Name:** Gift Mike Gwaza MCIPS

**Title:** Acting Head – Procurement

**Date:** 28<sup>th</sup> February 2017



## **Southern African Development Community (SADC)**

### **Terms of Reference for Regional Assessment of Implementation of the SADC Protocol on Forestry**

#### **Background**

The Southern African Development Community (SADC) Protocol on Forestry of 2002 aims to promote development, conservation, sustainable management and utilization of all types of forests, and trade in forest products. The Protocol on Forestry provides regional guidance for Member States in Southern Africa on forest management, trade, assessments, policies, programmes and laws. The protocol spells out the need for harmonisation of regional sustainable management practices and increasing efficiencies of utilization and facilitation of trade among others. 10 SADC Member States have ratified the Protocol on Forestry. Angola, the Democratic Republic of Congo, Madagascar, Malawi and Seychelles are yet to accede to the Protocol.

Since the conclusion and entry into force of the Protocol on Forestry in 2002, the SADC Member States have developed, adopted and implemented a number of policy and legislative interventions in forestry management and trade across the region. Concurrently, forest sector has witnessed significant developments across the Southern Africa region and at continental scale over the last ten years and amongst the key developments are:

- the new era of regional economic integration that seeks to accelerate movement of goods and services including those associated with natural resources. In this particular development, the process for formulation, domestication and implementation of regional environmental and natural resources Protocols will play a key role in addressing pressure points on improving regional forestry governance;
- there has been a growth in domestic economies in some countries hence increasing demand for forest products posing challenges on mechanisms to control intra-regional trade and forest governance;

- illegal trade in timber is growing within and across a number of SADC Member States and beyond the region, which necessitate the need for collaboration among member states and with other regional bodies e.g. the East African Community (EAC);
- in an effort to tackle illegal trade in timber, a number of bilateral agreements to reduce illegal timber trade and improving forest governance have either been signed or are in the process of development within the region. This presents an opportunity to form strong collaboration across member states to improve forest management;
- a number of mechanisms to improve forest management have been piloted and implemented in Southern Africa e.g. Reducing Emissions from Deforestation and Forest Degradation (REDD+) Programme, Forest Law Enforcement, Governance and Trade (FLEGT) Programme etc. offering an opportunity for scaling-up and sharing of lessons across the region;
- the 2015 signed Zanzibar declaration on Illegal Trade in Timber and other Forest Products offers an opportunity to further the efforts to build relations within the SADC region and with the EAC Member States to improve forest management and trade.
- the increased capacity and partnerships among forest agencies across SADC region (e.g. Mozambique, Madagascar, Tanzania, South Africa and Zambia) signals an opportune time to consider how bilateral efforts and parties' commitments to monitor and improve the forest sector can be complemented.

These developments, and others, in the forestry sector in the region signal the need and opportunity for SADC Member States to revisit and harmonize the strategies, policies, and existing transboundary mechanisms.

It is against this background that the SADC Secretariat seeks to engage a consultant (s) to carry out the assessment of the implementation of the SADC Protocol on Forestry. The assessment is aimed at establishing the status of implementation of the Protocol on Forestry in light of emerging challenges and opportunities. This assessment will also highlight the contribution and linkages of the SADC Forest Protocol to forest sector reforms in Member States.

### **Objectives of the assignment**

The overall objective of this assignment is to assess the extent to which SADC has achieved on the objectives set under the Protocol on Forestry e.g. development and harmonization of forest-related laws and policies by the Member States, monitoring, development of mechanisms to promote trade in forest trade and cooperation among member states etc.

Specific objectives of this assignment are to:

- assess the extent to which the SADC Member States have implemented the Protocol on Forestry since it came into force;
- assess the level of compliance and/or implementation of obligations assumed under the Protocol on Forestry by SADC Member States. Specifically, the assessment should pay attention to areas of cooperation defined under Articles 5 to 22;

- assess the adequacy and relevance of the Protocol, in light of current and emerging trends in forest management and trade;
- recommend areas (or aspects of the Protocol) that may require improvement, strengthening or revision or modification to enhance effectiveness and efficiency in implementation;
- assess on the status and effectiveness of institutional arrangements to implement the Protocol and make necessary recommendations (as per Parties views) to the Secretariat for necessary improvement;
- identify key constraints regarding the implementation of the Protocol on Forestry;
- identify challenges regarding accession to the Protocol by Member States that have not yet acceded to the Protocol; and
- recommend specific actions to address constraints and/or challenges identified.

In addition, the proposed assignment will:

- assess operational mechanisms from existing bilateral and regional agreements on forestry within and outside SADC that the Protocol on Forestry may draw lessons and experiences from; and
- assess and compare the existing regional database as per article 10 of the Protocol in line with emerging trends in forest management and trade;
- pilot the results-based online monitoring system that is being developed by the SADC Secretariat to monitor, among others, the implementation of Protocols;
- make necessary recommendations to the SADC Secretariat.

### **Scope of the assignment**

The scope of this assignment remains the same as spelled out in the objectives of this Terms of Reference. In addition, the following aspects will have to be considered and taken on board during the assignment

- this assignment should cover all SADC Member States.
- the assessment should also draw lessons and experiences from other Regional Economic Communities (RECs) in Africa such as the East African Community; existing regional bilateral agreements on forestry within SADC; and other forestry agreements between SADC Member States and non-SADC Member States.
- assess operational mechanisms from existing bilateral and regional agreements on forestry governance from within and outside SADC from which the implementation of the Protocol on Forestry may draw lessons and experience.
- Work with the SADC Monitoring and Evaluation Unit to input findings into the SADC Monitoring and Evaluation System

## **Specific Tasks**

The tasks for this assignment are defined by both the objectives and the scope as spelled out in these terms of reference. Additionally, the consultant will perform the following tasks:

- undertake literature review to gather information necessary for the assessment;
- engage SADC Secretariat to further understand the requirements of the ToR, as well as the regional context;
- carry out field visits to all SADC Members States (or a targeted sample of Member States to be agreed with SADC) and collect data as per relevant tools of the SADC results-based monitoring system that will be provided by the SADC Secretariat;
- visit other relevant stakeholders within the region and collect data using the same tools;
- carry out tasks to address the objectives of the assessment as stated above;
- Work with the Monitoring and Evaluation Unit at SADC Secretariat to input the findings into the Results Based Monitoring and Evaluation System;
- present the findings from the assessment to the SADC Secretariat; and
- present the findings and recommendations at the SADC Technical Committee on Forestry.

## **Methodology**

A set of working tools/mechanisms should be used including, but not limited to the following:

- 1) Documentation Review:
  - a. The Protocol on Forestry,
  - b. Country review reports
  - c. SADC Forestry Strategy (2010-2020)
- 2) Interviews with the Secretariat specifically FANR. This will enable the Consultants to get information on the various projects and programmes facilitated by the Secretariat and implemented by the Member States in relation to the Protocol
- 3) Interviews and discussions with implementing partners including ICPs.
- 4) Consultation with National Contact Points, SADC National Committees, senior officials who are responsible for implementing the Protocol in different sectors as well as non-state stakeholders including targeted beneficiaries of the Protocol in all Member States. The Consultant will be guided by the Questionnaire on the protocol that has been developed in the SADC Monitoring and Evaluation System.

## **Timing and duration of the assignment**

This assignment is expected to span between April to June 2017 including preparatory work, fieldwork, delivery of final outputs and presentation to the SADC Secretariat.

## **Outputs/deliverables and timelines**

- Inception report: a report defining approaches and tools, timeline and work plan to be used in conducting the assessment shall be due two weeks after signature of the contract;
- Draft assessment report: The report should respond to the needs spelled out in this ToR. The draft report shall be due in May 2017.
- Final assessment report shall be due in June 2017 and it should take on board suggestions, recommendations and comments raised during stakeholder engagement process and other involved parties.

## **Qualifications and expertise required**

The assignment requires skills and knowledge in regional policies assessment. The individual consultant(s) should have the following:

- advanced University Degree (MSc or higher) in natural resources management, forestry, political science or a closely related field.
- experience in conducting both local and international policy assessment analyses.
- good experience and understanding of forest policy assessments in Southern and East Africa.
- understanding of the institutional set-up in forest management in Southern and East Africa.

## **Technical Proposal Content**

The technical proposal should include, but not limited to, the following:

- team composition, roles distribution and CVs;
- similar and /or relevant assignments;
- understanding of the Terms of Reference and required knowledge;
- proposed approach and methodology; and
- a proposed time frame and work plan.

## **Financial Proposal Content**

- The proposed budget must explicitly indicate the consultancy fees per each team member, international travel (if any), per diems, accommodation costs and other costs relevant for the assignment.

## **Status of Consultant(s)**

- Consultant(s) shall be independent actor and not act as an agent or representative of neither SADC nor World Wide Fund for Nature (WWF) and shall have no authority to bid or commit both SADC and WWF to any agreements or other obligations.

## **Project Management**

- SADC Secretariat will be responsible for technical oversight of this project including placing of the advertisement, consolidation of applications, evaluation, execution of the assessment and collation of the stakeholders' views. WWF will provide technical backstopping throughout the assignment process.
- WWF will provide the funds for this assessment and will be responsible for financial oversight. The consultant will enter into a contract for this assignment with WWF-Tanzania who will manage the contract in line with WWF rules and procedures.
- The technical proposals and reports (draft and final) for this assignment will be thoroughly reviewed and evaluated by a committee comprising of representatives from SADC Secretariat and WWF.
- SADC Secretariat will facilitate visits to Member States.
- SADC Secretariat will facilitate availability of documents relevant for this assignment, contacts of Member States focal points and stakeholders across the region.

## **Justification**

The proposed assignment will support the implementation of the revised Regional Indicative Strategic Development Plan (RISDP) Priority Area D- Special Programmes of Regional Dimension under Trans-boundary Natural Resources as well as the Five-Year Operational Plans (FYCP). It will directly contribute to the following:

**KRA:** Sustainable management and conservation of wildlife and transboundary natural resources.

**Outcome:** Enhanced sustainable management natural resources (forestry, fisheries and wildlife) in the region.

**Output:** Domestication of Protocol on Forestry monitored.

## **ANNEX 2:**

### **Expression of Interest Forms**

A. COVER LETTER FOR THE EXPRESSION OF INTEREST FOR THE PROJECT .....	12
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**A. COVER LETTER FOR THE EXPRESSION OF INTEREST FOR THE PROJECT**

***[insert name and reference number]***

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[Location, Date]

To: [Name and address of Procuring Entity]

Dear Sirs:

I, the undersigned, offer to provide the consulting services for [insert title of assignment] in accordance with your Request for Expression of Interests number [insert the number], dated [insert date] and my Financial Proposal for the sum of [Insert amount(s) in words and figures<sup>1</sup>]. This amount inclusive of all expenses deemed necessary for the performance of the contract in accordance with the Terms of Reference requirements, and [*“does” or “does not” delete as applicable*] include any of the following taxes in Procuring Entity's country: value added tax and social charges or/and income taxes on fees and benefits.

I hereby declare that all the information and statements made in CV are true and accept that any misinterpretation contained in it may lead to my disqualification.

I take note that under the provisions of the SADC Procurement Policy applicable to this Request For Expression of Interest, a contract cannot be awarded to applicants who are in any of the following situations:

- a) *they are being bankrupt or wound up, are having their 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 procedures provided for in the national legislation or regulations of the SADC member states;*
- b) *they have been convicted of offences concerning their professional conduct by a judgment which has the force of res judicata; (i.e. against which no appeal is possible);*
- c) *they have been declared guilty of grave professional misconduct proven by any means which SADC Secretariat can justify;*
- d) *they have not fulfilled obligations related to the payments of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those countries where the contract is to be performed;*
- e) *they 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 SADC Secretariat' financial interests;* or
- f) *they are being currently subject to an administrative penalty.*

I confirm that I am not in any of the situations described above, and I hereby declare that at any point in time, at the SADC Secretariat request, I will provide certified copies of documents to prove that I do not follow in any of the situation described above.

I am aware that the penalties set out in the Procurement Policy may be applied in the case of a false declaration, should the contract be awarded to me.

My proposal is binding upon me for the period indicated in the Paragraph 9(iii) of the Request for Expression of Interest.

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<sup>1</sup> Amounts must coincide with the ones indicated under Total Cost of Financial proposal in Form FIN-2.

I undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph 10 of the Request for Expression of Interest, and to be available for the entire duration the contract as specified in the Terms of Reference.

I understand you are not bound to accept any Proposal you receive.

Yours sincerely,

Signature [*In full and initials*]: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

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## B. CURRICULUM VITAE

*[insert the full name]*

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1. **Family name:** *[insert the name]*
2. **First names:** *[insert the names in full]*
3. **Date of birth:** *[insert the date]*
4. **Nationality:** *[insert the country or countries of citizenship]*
5. **Civil status:** *[insert: married/ divorced/single/ widower]*
6. **Purchase Order details:** **Address:** *[insert the physical address]*  
**Phone:** *[insert the phone and mobile no.]*  
**E-mail:** *[insert the email]*
8. **Education:**

Institution: [Date from – Date to]	Degree(s) or Diploma(s) obtained:
<i>[indicate the month and the year]</i>	<i>[insert the name of the diploma and the specialty/major]</i>
<i>[indicate the month and the year]</i>	<i>[insert the name of the diploma and the specialty/major]</i>

7. **Language skills:** (Indicate competence on a scale of 1 to 5) (1 – excellent; 5 – basic)

Language	Reading	Speaking	Writing
<i>[insert the language]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>
<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>
<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>

8. **Membership of professional bodies:** *[indicate the name of the professional body]*
9. **Other skills:** *[insert the skills]*
10. **Present position:** *[insert the name]*
11. **Years of experience:** *[insert the no]*
12. **Key qualifications:** (Relevant to the assignment)  
*[insert the key qualifications]*
13. **Specific experience in the region:**

Country	Date from - Date to
<i>[insert the country]</i>	<i>[indicate the month and the year]</i>
.....	.....
<i>[insert the country]</i>	<i>[indicate the month and the year]</i>

14. Professional experience:

Date from – Date to	Location of the assignment	Company & reference person (name & contact details)	Position	Description
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<b>Name of the Company:</b> <b>Address of the company:</b> <b>Phone:</b> <b>Fax:</b> <b>Email:</b> <b>Name and title of the reference person from the company:</b>	<i>[indicate the exact name and title and if it was a short term or a long term position]</i>	<b>Name of the Purchase Order:</b> <b>Beneficiary of the Purchase Order:</b> <b>Brief description of the Purchase Order:</b> <b>Responsibilities:</b>
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<b>Name of the Company:</b> <b>Address of the company:</b> <b>Phone:</b> <b>Fax:</b> <b>Email:</b> <b>Name and title of the reference person from the company:</b>	<i>[indicate the exact name and title and if it was a short term or a long term position]</i>	<b>Name of the Purchase Order:</b> <b>Beneficiary of the Purchase Order:</b> <b>Brief description of the Purchase Order:</b> <b>Responsibilities:</b>
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<b>Name of the Company:</b> <b>Address of the company:</b> <b>Phone:</b> <b>Fax:</b> <b>Email:</b> <b>Name and title of the reference person from the company:</b>	<i>[indicate the exact name and title and if it was a short term or a long term position]</i>	<b>Name of the Purchase Order:</b> <b>Beneficiary of the Purchase Order:</b> <b>Brief description of the Purchase Order:</b> <b>Responsibilities:</b>
.....	.....	.....	.....	.....
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<b>Name of the Company:</b> <b>Address of the company:</b> <b>Phone:</b>	<i>[indicate the exact name and title and if it was a short</i>	<b>Name of the Purchase Order:</b> <b>Beneficiary of the Purchase Order:</b> <b>Brief description of the Purchase Order:</b> <b>Responsibilities:</b>

Date from – Date to	Location of the assignment	Company & reference person (name & contact details)	Position	Description
		<b>Phone:</b> <b>Fax:</b> <b>Email:</b> <b>Name and title of the reference person from the company:</b>	<i>term or a long term position]</i>	

15. **Other relevant information:** (e.g. Publications)

***[insert the details]***

**16. Statement:**

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

I hereby declare that at any point in time, at the SADC Secretariat request, I will provide certified copies of all documents to prove that I have the qualifications and the professional experience and indicated at points 8 and 14 above<sup>1</sup>, documents which are attached to this CV as photocopies.

By signing this statement, I also authorized the SADC Secretariat to contact my previous or current employers indicated at point 14 above, to obtain directly reference about my professional conduct and achievements.

Date: 2 March 2017

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**ATTACHMENTS:**     **1) Proof of qualifications indicated at point 8**  
                              **2) Proof of working experience indicated at point 14**

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<sup>1</sup> *The proof of stated qualifications shall be in the form of the copies of the degrees and diploma obtained, while for the professional experience the proof shall be either acknowledgement letters from the previous employers or copies of the Purchase Order signed with them.*

**C. FINANCIAL PROPOSAL**  
*[insert name and reference number]*

N°	Description <sup>1</sup>	Unit <sup>2</sup>	No. of Units	Unit Cost (in US\$)	Total (in US\$)
<b>Fees</b>		Day			
<b>Reimbursable expenses, out of which</b>		<b>Total</b>			
1	Per diem allowances	Day			
2	Flights <sup>3</sup>	Trip			
3	Miscellaneous travel expenses <sup>4</sup>	Trip			
4	Insurances cost, out of which:	Lump sum			
	i) Life insurance (including repatriation)	Lump sum			
	ii) Health insurance	Lump sum			
	iii) Third party liability insurance	Lump sum			
	iv) Professional liability insurance	Lump sum			
5	Drafting, reproduction of reports	Lump sum			
6	Office rent	Per month			
7	Others <sup>4</sup>	TBD			
<b>TOTAL FINANCIAL OFFER (Fees + Reimbursable expenses)</b>					

Signature [*In full and initials*]: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

<sup>1</sup> Delete items that are not applicable or add other items as the case may be.

<sup>2</sup> Indicate unit cost..

<sup>3</sup> Indicate route of each flight, and if the trip is one- or two-ways

<sup>4</sup> Provide clear description of what is their exact nature

## ANNEX 3: STANDARD CONTRACT FOR INDIVIDUAL CONSULTANT

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### STANDARD TERMS OF CONTRACT (Individual Consultant) Contract Name *[insert the name]* Contract Number *[insert the number]*

THIS Contract ("Contract") is made on *[day]* day of the month of *[month]*, *[year]*, between, **on the one hand,**

***[name of Procuring Entity]*** (hereinafter called the "Procuring Entity") with the registered business in ***[insert the name address, phone, fax and email of the procurement entity]***

**and, on the other hand,**

***[insert the full name of the individual]*** (hereinafter called the "Individual Consultant"), with the residence in ***[insert the Individual Consultant' address, phone, fax, email]***, citizen of ***[insert the Individual Consultant's citizenship]*** owner of the ID/Passport Number ***[insert the number]*** issued on ***[insert the date]*** by ***[insert the name of the issuance authority]***,

WHEREAS, the Procuring Entity wishes to have the Individual Consultant perform the services hereinafter referred to, and WHEREAS, the Individual Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

#### 1. Definitions

For the purpose of this contract the following definitions shall be used:

- 1.1 **Procuring Entity** means the legally entity, namely ***[insert the name]*** who purchase the Services described in Annex 1 to this contract.
- 1.2 **Contract** means the agreement covered by these Terms including the Annexes and documents incorporated and/or referred to therein, and attachments thereto.
- 1.3 **Contract value** means the total price of the Financial Proposal included in the Individual Consultant's Expression of Interests dated ***[insert the date]*** for

the project *[insert the name]* and reflected as such in the Annex 2 of this contract.

- 1.4 **Individual Consultant** means the individual to whom the Procuring Entity has awarded this contract following the Request for Expression of Interest *[insert the number]* for the project *[insert the name]*.
- 1.5 **Services** means the Services to be performed by the Individual Consultant as more particularly described in Annex 1; for the avoidance of doubt the Services to be performed include all obligations referred to in this Contract (as defined above).

## **2. The Services**

The Individual Consultant will undertake the performance of the Services in accordance with the provisions of the Annex 1 of this Contract and shall in the performance of the Services exercise all the reasonable skill, care and diligence to be expected of an Individual Consultant carrying out such services.

## **3. Payment**

- 3.1 The Individual Consultant shall be paid for the Services at the rates and upon the terms set out in Annex 2.
- 3.2 Payment shall be made to the Individual Consultant in US \$ unless otherwise provided by this contract and where applicable VAT shall be payable on such sums at the applicable rate. The Individual Consultant must, in all cases, provide their VAT registration number on all invoices.
- 3.3 Unless otherwise provided in this Contract, invoices shall be delivered to and made out to Procuring Entity and shall be paid within 30 days of receipt by Project Director, subject to the Individual Consultant having complied with its obligations hereunder in full as stated in the Annex II to this Contract. Procuring Entity reserves the right to delay and/or withhold, fully or partially, payments that have not been supported by full and appropriate supporting evidence that the services provided were delivered and accepted by the Procuring Entity.

## **4. Status of the Individual Consultant**

- 4.1 For the duration of the Contract the Individual Consultant will have a status similar to the Procuring Entity's employees with regards to their legal obligations, privileges and indemnities in the Procuring Entity's country.
- 4.2 The Procuring Entity will be responsible for ensuring all visas, work permits and other legal requirements to enable The Individual Consultant and live and work in the countries of the assignment as per the duties under the contract.
- 4.3 The Individual Consultant shall be responsible for paying any tax and social security contributions in its country of residence, for any activity deriving from this contract. Such costs shall be assumed included in the Individual Consultant's fees.
- 4.4 The Procuring Entity shall be responsible for paying any taxes resulting from the activities performed under this contract imposed to the Individual in the

country(ies) of the assignment with the exception of the ones set out in paragraph 5.3 above.

## **5. Supervision of the Services**

The Individual Consultant undertakes to deliver the Services in compliance with a system of quality assurance acceptable to Procuring Entity which shall include any steps to comply with the standards operated by Procuring Entity. The Individual Consultant shall be informed of the specific requirements in relation to this, and at the request of Procuring Entity shall afford such access to its information, records and other materials during normal office working hours as Procuring Entity may require in order to confirm that the work in progress is in accordance with these quality procedures.

## **6. Compliance with this contract**

Procuring Entity will be entitled to seek confirmation from the Individual Consultant, at any time during the delivery of this contract, and for a period of 1 year after its completion, that the Individual Consultant has complied with the terms of this contract. Procuring Entity may also request the provision of reasonable documentary evidence to support this. As stated in article 2.3 of this Contract, Procuring Entity may delay or withhold payments in the event of non-compliance.

## **7. Assignment and Subcontracting**

- 7.1 The Individual Consultant shall under no circumstances sub-contract, sublet, assign or transfer the Contract or any part share or interest in it. Where the Individual Consultant considers it necessary to use the services of a third party the Individual Consultant shall inform the Procuring Entity the Project Director in writing, and only once written approval is provided can the Individual Consultant proceed to use a third party.
- 7.2 When the Project Director agrees that the activities under the contract can be performed by third party, the third party involved in the delivery of services in this contract, will be under the direct control of Individual Consultant. Procuring Entity will not be responsible for the third party performance of duties or Services assigned to third party, and neither for ensuring conditions of employment are met nor for any other employment obligations relating to that person including, but not restricted to, taxation and insurance including professional indemnity insurance, employer's liability insurance and public liability insurance.

## **8. Breach of the Terms**

In the event of a breach of any Terms of the Contract the party not in breach may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice, not normally being longer than 30 days. If the breach has not been remedied before the expiry of the specified period, the party not in breach may then terminate the Contract in writing and may take appropriate steps to remedy the breach.

## **9. Liability of the Individual Consultant**

- 9.1 Procuring Entity will be relying on the Individual Consultant's skills, expertise and experience in relation to the performance of the Services in accordance

with this contract and also upon the accuracy of all representations and statements made and the advice given by the Individual Consultant in connection with the provision of the Services.

- 9.2 In view of the reliance by Procuring Entity set out in 10.1 above the Individual Consultant agrees at its own expense to indemnify, protect and defend Procuring Entity, its agents and employees, from and against all actions, claims, losses or damages arising out of the Individual Consultant's performance of this contract provided that:
- a) the Individual Consultant is notified of such actions, claims, losses or damages not later than 30 days after Procuring Entity becomes aware of them;
  - b) the ceiling on the Individual Consultant's liability to Procuring Entity shall be limited to an amount equal to the contract value, and such ceiling shall not apply to any losses or damages caused to third parties by the Individual Consultant or by the Individual Consultant's willful misconduct; and
  - c) the Individual Consultant's liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.
- 9.3 At its own expense, the Individual Consultant shall, upon request of Procuring Entity, remedy any defect in the performance of the services in the event of the Individual Consultant's failure to perform its obligations under the contract.
- 9.4 The Individual Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by Procuring Entity omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Individual Consultant, or requiring the Individual Consultant to implement a decision or recommendation with which the Individual Consultant disagrees or on which it expresses a serious reservation.

## **10. Insurance**

- 10.1 The Individual Consultant must ensure that full and appropriate professional indemnity insurance, third party liability insurance, life/travel and health insurance is in place for all Services provided. The Individual Consultant is obliged to provide full copies of such insurance within 45 days from the signature of this Contract.
- 10.2 The cost of such insurances will be covered from reimbursable expenses of the contract.
- 10.3 Where national requirements or practices provide for different regulations/practices concerning insurance, the Individual Consultant may provide written confirmation of all insurances held and a signed declaration that these are in line with regulations/practices in their country of operation. Only if such confirmation has been provided, and written confirmation of its acceptance provided to the Individual Consultant by Procuring Entity, will this

remove the obligation to meet the requirements of clause 11.1 of this Contract in full.

- 10.4 All insurances effected by the Individual Consultant shall be effected with an insurer of good repute and the Individual Consultant agrees to maintain such insurances for a period of 1 year from the completion of the Services under this Contract so long as such insurance continues to be available upon reasonable terms at reasonable commercial rates failing which Procuring Entity shall be entitled to take out insurance itself to cover any potential liability to its own Procuring Entity in relation to the performance of the Services under this contract. The cost of such insurance shall be a debt immediately due from the Individual Consultant.
- 10.5 The provisions of this clause shall remain in full force and effect notwithstanding the completion of the performance of the Services hereunder and the satisfaction of all other provisions of this contract.

## **11. Copyright**

- 11.1 Unless otherwise specified in the Contract, the title of the copyright and any other intellectual property rights arising out of the performance of this Contract shall be vested in Procuring Entity which shall have the unfettered right to assign and grant sub-licences in respect of the same. Except as permitted by the Terms of this Contract, the said materials shall not be reproduced or disseminated without proper consultation with, and written permission from, the Procuring Entity. This provision shall apply to the title to rights arising from the performance under this contract but shall not apply to the internal systems or rights in relation to the Individual Consultant's own systems not created specifically for this purpose and where the same are an important part of the Services the Individual Consultant shall grant a free and irrevocable licence to Procuring Entity and its assigns for the use of the same in that connection.
- 11.2 The Individual Consultant warrants that it is free of any duties or obligations to third parties which may conflict with this contract and, without prejudice to the generality of Term 9 above, agrees to indemnify Procuring Entity against any and all actions, costs damages, direct, indirect or consequential, and other expenses of any nature whatsoever which Procuring Entity may incur or suffer as a result of the breach by the Individual Consultant of this warranty.

## **12. Non Disclosure & Confidentiality**

- 12.1 The Individual Consultant will treat as confidential all information and results obtained in discharging the Services under this Contract and will not disclose by any means whatsoever such results or material to any third party without the prior written consent of the Procuring Entity and will only use such information for the purposes of this Contract. In addition the Individual Consultant shall not make any communication to the press or any broadcast (including, but not limited to, inclusion of information on a website) about the Services without the prior agreement in writing of the Project Director.
- 12.2 If the Individual Consultant violates clause 13.1, then it will automatically and legally be held to pay the amount estimated as the minimum reasonable damages resulting from a breach of confidentiality. This is without prejudice to the right of Procuring Entity to demonstrate that a higher amount of loss

has or may be incurred as a result of liabilities held by Procuring Entity in relation to the Procuring Entity.

### **13. Suspension or Termination**

- 13.1 In response to any factors outwith the control of Procuring Entity and/or to breaches of contract, Procuring Entity may at any time, by giving 30 days notice in writing, terminate in whole or in part the Individual Consultant's appointment hereunder but in the event of Procuring Entity doing so then the Individual Consultant shall be entitled to payment as set out in sub-clause 14.4 below.
- 13.2 In response to any factors outwith the control of Procuring Entity and/or to breaches of contract, Procuring Entity may at any time, by giving 30 days notice in writing, forthwith require the Individual Consultant to suspend the performance of the Services and in such event the Individual Consultant shall be entitled to payment pursuant to sub-clause 13.4 below and provided that if such suspension continues for a period in excess of twelve months then either party may terminate this appointment forthwith by written notice to the other.
- 13.3 The Individual Consultant may also terminate the contract unilaterally, without providing any reasons for such decision, if she/he gives a 30 days prior written notice to the Project Director.
- 13.4 In the event of early termination of the Contract under sub-clauses 14.1, 14.2 and 14.3 of this clause then the Individual Consultant shall be entitled to a fair and reasonable proportion of the fees payable for that part of the Services carried out up to the date of such termination or suspension but this shall not include any loss of profit or contracts or any other expenses, losses or claims arising out of such termination or suspension or consequential thereupon.

### **14. No Waiver**

No forbearance shown or granted to the Individual Consultant unless in writing by an authorised officer of Procuring Entity shall in any way affect or prejudice the rights of Procuring Entity or be taken as a waiver of any of these Terms.

### **15. Variations**

Any variation to these terms or the provisions of the Annexes shall be subject to written Addendum and be signed by duly authorised signatories on behalf of the Individual Consultant and Procuring Entity respectively.

### **16. Jurisdiction**

This contract shall be governed by and shall be construed in accordance with Botswana law and each party agrees to submit to the exclusive jurisdiction of the Botswana courts as regards any claim or matter arising under this contract.

The following Annexes are integral part of this Contract:

**Annex 1: Terms of Reference**

**Annex 2: Payment Schedule and Requirements**

Signed today ***[insert the date]*** in four (4) originals in English language by:

<b>For the Procuring Entity</b>	<b>Signature</b>		<b>For the Individual Consultant</b>	<b>Signature</b>
<b>Name:</b> <i>[insert full name]</i>			<b>Name:</b> <i>[insert full name]</i>	
<b>Title:</b> <i>[insert the title]</i>			<b>Title:</b> <i>[insert the title]</i>	
<b>Palace:</b> <i>[insert the city and country]</i>			<b>Palace:</b> <i>[insert the city and country]</i>	
<b>Date:</b> <i>[insert the date]</i>			<b>Date:</b> <i>[insert the date]</i>	

## Annex 2:

### **Payment Schedule and Requirements**

1. For Services rendered pursuant to Annex 1, the Procuring Entity shall pay the Individual Consultant an amount not to exceed a ceiling of US Dollars ***[insert ceiling amount]***, which shall be considered the contract value. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Individual Consultant in its country of residence.
2. The breakdown of prices is: ***[fill in the table as per the Individual Consultant' Financial Proposal presented in the Expression of Interest]***

N°	Description <sup>1</sup>	Unit	No. of Units	Unit Cost <sup>2</sup> (in US\$)	Total (in US\$)
<b>Fees</b>		Day			
<b>Reimbursable expenses, out of which</b>		<b>Total</b>			
1	Per diem allowances	Day			
2	Flights <sup>3</sup>	Trip			
3	Miscellaneous travel expenses <sup>4</sup>	Trip			
4	Insurances cost, out of which:	Lump sum			
	i) Life insurance (including repatriation)	Lump sum			
	ii) Health insurance	Lump sum			
	iii) Third party liability insurance	Lump sum			
	iv) Professional liability insurance	Lump sum			
5	Drafting, reproduction of reports	Lump sum			
6	Office rent	Per month			
7	Others <sup>4</sup>	TBD			
<b>TOTAL FINANCIAL OFFER (Fees + Reimbursable expenses)</b>					

<sup>1</sup> Delete items that are not applicable or add other items as the case may be.

<sup>2</sup> Indicate route of each flight, and if the trip is one- or two-ways.

<sup>3</sup> Indicate unit cost.

<sup>4</sup> Provide clear description of what is their exact nature

3. The payment shall be made in accordance with the following schedule:

**35% of the contract value** upon the Procuring Entity's receipt of the *inception report* acceptable to the Procuring Entity;

**35% of the contract value** upon the Procuring Entity's receipt of the *draft assessment report* acceptable to the Procuring Entity; and

**30% of the contract value** upon the Purchaser's receipt of the final assessment report, acceptable to the Procuring Entity.

4. **Payment Conditions:** Payment shall be made in US Dollars not later than 30 days following submission by the Individual Consultant of original invoice, in duplicate, accompanied by the requested supporting documents, to the Procuring Entity. All payments under the contract shall be made by bank transfer into the bank account indicated by the Individual Consultant in her/his invoices.