



## **REQUEST FOR EXPRESSION OF INTEREST**

### **SELECTION OF INDIVIDUAL CONSULTANT**

#### **CONSULTANCY TO REVIEW THE MINING PROTOCOL**

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**REFERENCE NUMBER: SADC/3/5/2/159**

**28<sup>th</sup> September 2021**

1. The SADC Secretariat is inviting **Individual Consultants** to submit their CV and Financial Proposal for the following services:

**“CONSULTANCY TO REVIEW THE MINING PROTOCOL”**

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. **Only 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 organisation 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. The maximum budget for this contract is **US\$28,000.00 inclusive of professional fees and reimbursable expenses**. Proposals exceeding this budget will not be accepted.

4. 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.

5. Proposal should be submitted by email clearly marked “**REFERENCE NUMBER: SADC/3/5/2/159 - CONSULTANCY TO REVIEW THE MINING PROTOCOL**” to the email address below:  
[protocolreview@sadc.int](mailto:protocolreview@sadc.int)
6. The deadline for submission of your proposal, to the address indicated in Paragraph 5 above, is **Wednesday 20<sup>th</sup> October 2021 at 15:00hours local (Botswana) time**
7. Your CV will be evaluated against the following criteria.

Category	Points
Qualification and Skills	10
General professional experience	20
Specific professional experience	70
<b>Total</b>	<b>100</b>

#### Technical Evaluation

The minimum technical score required to pass is **70 points**. Bids not reaching 70 points shall be considered not compliant. 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

#### Financial evaluation

The Evaluation Committee shall proceed with the financial comparisons of the fees between the different financial offers (fee based are established in the main Contract while for Global Price specific offers will be considered). Both the provisions for reimbursables and expenditure verification shall be excluded from the comparison of the financial bids. 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.

The best value for money is established by weighing technical quality against price on an **80/20** basis. This is done by multiplying:

- the scores awarded to the technical offers by **0.80**
- the scores awarded to the financial offers by **0.20**

8. 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 and must not include any of the following taxes in Purchaser country: value added tax and social charges or/and income taxes on fees and benefits.

**(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, 7 and 8 above),
- The financial proposal (professional fees) does not exceed the maximum available budget for the contract as indicated under Para 3.
- The Bidder who submitted a technical and financial responsive proposal and received the highest combined score, will be awarded the contract

**(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.

9. The assignment is expected to commence within **two (2) weeks** from the signature of the contract.
10. Additional requests for information and clarifications can be made until 10 calendar days prior to deadline indicated in the paragraph 6 above, from:

The Procuring entity: **SADC Secretariat**

Contact person: Mr. Purpose Chifani

Telephone: **+267 364 1989 / 3951863**

Fax: **3972848**

E-mail: [tenders@sadc.int](mailto:tenders@sadc.int) and [tchabwera@sadc.int](mailto:tchabwera@sadc.int)

Copy to [pchifani@sadc.int](mailto:pchifani@sadc.int) and [ctutalife@sadc.int](mailto:ctutalife@sadc.int)

The answer on the questions received will be sent to the Consultant and all questions received as well as the answer(s) to those will be posted on the SADC Secretariat's website at the latest 7 calendar days before the deadline for submission of the proposals.

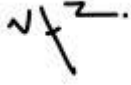
**ANNEXES:**

**ANNEX 1: Terms of Reference**

**ANNEX 2: Expression of Interest Forms**

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

Sincerely,

A handwritten signature in black ink, appearing to be 'P. Chifani', written in a cursive style.

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Purpose Chifani  
Acting Head of Procurement Unit

ANNEX 1: TERMS OF REFERENCE



(Global Price)

CONSULTANCY TO REVIEW THE MINING PROTOCOL

SADC/3/5/2/159

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## 1. BACKGROUND INFORMATION

### 1.1 Partner country and procuring entity

Southern African Development Community (SADC)

### 1.2 Contracting authority

Southern African Development Community Secretariat (SADC Secretariat)

### 1.3 Background

The SADC Treaty provides the overall structure and mandate for working towards regional integration of the region, whereas the revised Regional Indicative Strategic Development Plan (RISDP) 2020-2030 provide the framework for the trade and industrialization aspects. The RISDP 2020-2030 is premised on the foundation of Peace, Security and Good Governance and has four (4) main areas of focus as:

Pillar 1 – Industrial Development and Market Integration;

Pillar 2 – Infrastructure Development in Support of Regional integration;

Pillar 3 – Social and Human Capital Development; and

Pillar 4 – Crosscutting Issues: Gender, Youth, Climate Change and Disaster Risk Management

Furthermore, in order to address the challenges facing the region on regional integration, the SADC Summit of Heads of States and Government in April 2015 approved the SADC Industrialisation Strategy and Roadmap (SISR) 2015-2063 and directed the SADC Secretariat to develop a detailed and costed Action Plan for the Strategy which was approved in March 2017. The Action Plan provides a breakdown of the key outputs and activities to be undertaken at both regional and national levels in line with the three overarching pillars of **Industrialisation**, **Regional Integration** and **Competitiveness**.

The SADC Industrialisation Strategy and Roadmap 2015-63 and the Action Plan for the Strategy seek to engender a major economic and technological transformation at the national and regional levels. It seeks to do so through the beneficiation and value addition of the region's diverse resources, within the context of deeper regional integration. It further seeks to address the development challenges of the region by progressively moving from a factor-driven to an investment and efficiency-driven approach and ultimately to a high growth trajectory driven by knowledge, innovation and business sophistication. SISR realises that most of the pragmatic policy measures will be implemented at national not regional, level. Within SADC development context, and based on recent experiences regionally and globally, the Industrial Strategy identifies three clear-cut priorities for accelerated industrialization:

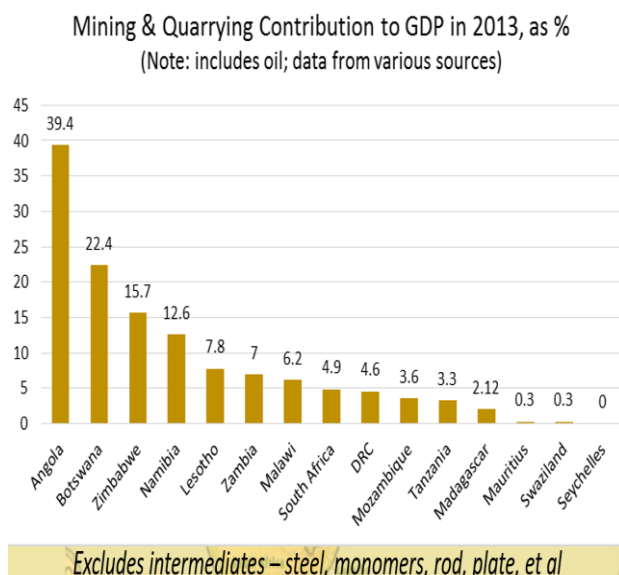
- Agriculture-led growth including agricultural value chains;
- Natural resource-led growth including minerals beneficiation and processing, also linking into value chains, both regional and global, and
- Enhanced participation in domestic, regional and global value chains.

In order to adequately participate in regional and global value chains, the SADC Industrialisation Strategy Action Plan has identified potential priority value chains in the following areas;

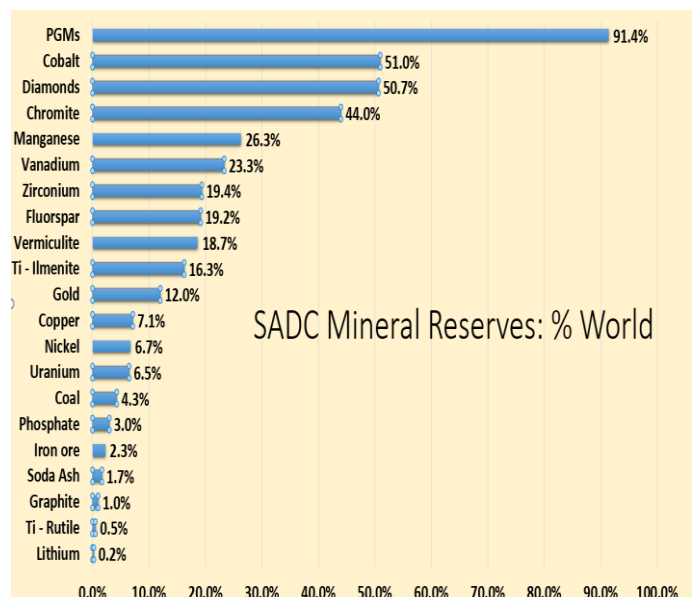
- Agro-processing
- Minerals beneficiation
- Pharmaceuticals
- Consumer goods
- Capital goods; and
- Services

SADC region is endowed with mineral resources and is home to some of the scarcest mineral deposits. The contribution of mining to national and indeed regional output (as measured by gross domestic product, GDP) cannot be overemphasised. The below tables show the performance of the minerals sector in GDP, regional mineral reserves in terms of global reserves and international trade perspectives. The SADC region has abundant mineral resources, both higher value minerals (precious metals and minerals) and the more important ferrous, base and industrial minerals necessary for domestic as well as regional development (feedstocks into manufacturing, infrastructure, agriculture and other sectors). The mineral reserves, in terms of global reserves, are led by the PGMs (platinum group metals) over 90% (South Africa and Zimbabwe), cobalt over 50% (Democratic Republic of Congo and Zambia), diamonds over 50% (Botswana, DRC, South Africa, Angola, Namibia, and others) and chromite at over 40% (South Africa and Zimbabwe). However, the region also has significant reserves of manganese, vanadium, zirconium, fluorspar, titanium, gold, copper, nickel, uranium and natural gas, as well as huge resources of iron ore, coal, manganese, and titanium.

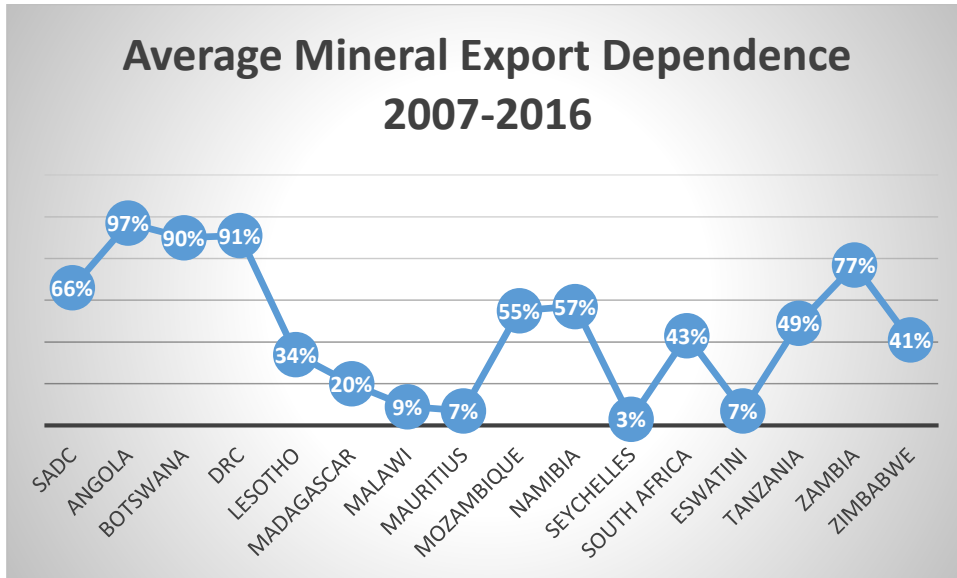
### SADC Minerals: %of GDP



### SADC Mineral Reserves: % of Global Reserves



Angola, Botswana and Zimbabwe have the highest percentage of minerals in GDP compilation in the SADC region. In terms of trade performance 66% of SADC trade for a 10 year period of 2007 to 2016 came from mining sector. Angola, Democratic Republic of Congo and Botswana rely on mining as a source of tradeable goods (over 90% of trade is from mining).



The SADC Regional Mining Vision (RMV) is an outcome of the Region's desire to develop the minerals beneficiation. The RMV is to attain a transparent, equitable and optimal exploitation of regional mineral resources to underpin broad-based sustainable regional growth, socio-economic development and inter-generational equity, through the realization of all of the mineral linkages, in line with the SADC Regional Development Agenda and other continental and international aspirations. Both the SADC Regional Mining Vision (RMV) and Action Plan (AP) were presented to the Industrial Development Forum at two separate meetings held in February 2018 and also in November of 2018, Republic of South Africa. The Committee of Senior Officials then discussed them on 28 February to 1 March 2019 in Windhoek, Namibia and also the 1st of April 2019, Johannesburg, Republic of South Africa. The MTF reviewed the documents in June 2019 and recommended for approval by Council

The vision provides for institutional/governance and linkages of the mineral beneficiation value chains. The goal is to ensure increased production and processing of minerals and use of SADC raw materials as feedstock for downstream processing. The SADC Regional Mining Vision and Action Plan (RMVAP) provide for key strategic outputs, activities and milestones to be delivered through the Secretariat, Member States and the private sector.

These developments are part of the implementation of the 1997 Mining Protocol that was signed on 8 September 1997 in Blantyre, Malawi. The mining Protocol has been overtaken by a number of developments particularly in the mining sector and hence requires complete overhaul in order to make it relevant to the current regional needs and aspirations..

#### 1.4 Rationale

The SADC Mining Protocol, as referenced in the preceding paragraphs was signed in 1997 and entered into force on 10<sup>th</sup> February 2000. Since then a number of developments have taken place that make the Protocol ineffective tool to develop and promote the minerals sector in the region. Some of these include amendments to the SADC Treaty and formulation of other legislative instruments which

altogether have a bearing on the aspirations and objectives of the Protocol. The region has also seen a shift in the priorities and strategic focus areas of the region which has since necessitated the formulation of several policy instruments such as the RISDP 2003 -2015 and subsequent revisions, The SADC Industrialisation Strategy and Roadmap 2015 -2063 as well as the development and adoption of the Regional Mining Vision that cascades from the African Mining Vision (AMV)

Notwithstanding the full engagement of the structures of SADC in the development, approval and monitoring implementation of the SISR as well as the RISDP, and the consideration of minerals development issues in current Mining Protocol, there is need for a Mining Protocol that addresses all the contemporary issues on regional minerals contribution to development. It is expected that the Revised Protocol on Mining will, among others allow;

- The development of a knowledge-driven SADC mining sector that catalyses and contributes to the broad-based growth and development of a single SADC, tripartite and ultimately African market;
- The development and implementation of regional policies, mechanisms and instruments to realise regional markets and economies of scale
- The realisation of the forward, backward or upstream and side stream mineral linkages to take advantage of potential and existing opportunities for developing mineral beneficiation in the region
- The development of regional instruments and policies to achieve a comprehensive knowledge of the SADC's mineral endowment

As previously stated the structure of SADC has over the years changed in order to serve the interests of the Member States better and this is not captured by the Protocol. Furthermore, the creation of institutional structures by the Council such as the Ministerial Taskforces (MTF) to monitor among others, the implementation of mineral developments in the region indicates that the Mining Protocol is not effective to deliver on the regional mandate. Such developments have exposed the inadequacy of the Protocol on Mining as an instrument to deliver on the revised Treaty. In the worst-case scenario, some of the provisions of the Mining Protocol are in conflict with the subsequent policies developed. For instance, the Mining Protocol's institutional arrangement is to create a Mining Coordinating Unit outside the Secretariat while the RMV calls for a business unit on minerals to be created within the Secretariat.

A quick scan at the Mining Protocol reveals the gaps in both the oversight structure and the Provisions that currently does not adequately respond to the Member States' needs. Some of the observed gaps include;

- Linkages with regional and continental strategies, policies, visions etc on mining and minerals are missing
- The role of private sector participation is weak
- The role of SMES is not fully captured
- Contemporary issues such as linkages and mineral beneficiation are absent
- Objectives, aspiration and guiding principles have been overridden by the current affairs and developments in the minerals sector

- Financing mechanisms do not promote regional cooperation
- Proposed institutional arrangements of creating Mining coordination unit outside the Secretariat have proven to be a challenge. This has been replaced by the proposed creation of a business unit within the Secretariat on mining and minerals.

It is therefore necessary to ensure that these and other issues should be addressed in the Mining Protocol in order to make it a relevant instrument for regional integration. The magnitude of review of the areas will determine whether the current Protocol should just be amended or completely overhauled. Once this is agreed the Secretariat will have the duty of informing the Member States and obtain their buy-in on the justification for review and the adopted approach on the 1997 Protocol on Mining.

## **1.5 Related programmes and other donor activities**

Council approved the Regional Mining Vision (RMV) and Action Plan in August 2019 in Dar es Salaam, United Republic of Tanzania for implementation. The Secretariat was directed to provide regular progress to the Ministerial Task Force on Regional Economic Integration. The Regional Mining Vision (RMV) and Action Plan are anchored on the tenets of the African Mining Vision (AMV) with the aim to optimise the sustainable developmental impact of mineral resources extraction across the region.

To create the necessary capacity to facilitate the implementation of the Regional Mining Vision the SADC Secretariat is in the process of developing a Business Plan to assess the feasibility and present the justification for the establishment of the proposed lean RMV Unit within the Secretariat. The Regional Mining Vision Unit will have the primary functions of accelerating the realisation of the Regional Mining Vision, tracking progress through monitoring and evaluation of the RMV initiatives and advising SADC structures on progress and challenges.

## **2. OBJECTIVE, PURPOSE & EXPECTED RESULTS**

### **2.1 Overall objective**

The overall objective of this assignment is to draft a revised Protocol on Mining.

### **2.2 Specific Objectives**

The specific purpose of this contract are as follows:

1. To align the Mining Protocol with the SADC Treaty, revised RISDP and other existing SADC Protocols and policies
2. To revise the Mining Protocol that is sufficiently adequate to support the SISR and Action Plan, Regional Mining Vision, Continental and International policies on minerals development and current and future developments in the minerals sector.

## 2.3 Results to be achieved by the contractor

The expected outcome is a revised Protocol on Mining that is

1. aligned to the revised RISDP and cognizant of other existing SADC Protocols and relevant regional policy frameworks/ strategies
2. sufficiently adequate to support the SISR and Action Plan, Regional Mining Vision, as well as current and future developments in the minerals sector

## 3. ASSUMPTIONS & RISKS

### 3.1 Assumptions underlying the project

The following are some of the underlying assumptions that have been taken into consideration;

- i. There is commitment from SADC Member States to deepen regional integration and promote regional industrialisation through mineral sector development
- ii. SADC Secretariat Directorates and Units are willing to cooperate among themselves

### 3.2 Risks

Risks	Risk level (H/M/L)	Mitigating measures
Some Member States may not fully commit and participate in deepening the regional integration process through development of regional value chains	M	The SADC Member States have shown commitment by adopting the Industrialisation Strategy and Action Plan as well as the recently adopted RISDP 2020 – 2030 which all places industrialisation at the forefront of regional integration.
SADC Member States maintain policies inadequate to support regional mining sector	M	Provide evidence-based policy measures that are spelt out in the RMV and Action Plan that would encourage regional collaboration in the development of cross border value chains in the mining sector
SADC Secretariat may not have sufficient capacity to effectively manage the consultancy	M	The new organogram approved by SADC includes several positions devoted to the industrialisation agenda. Furthermore, work is underway to establish a Mining business unit within the Secretariat. The Secretariat intends to outsource the services of a consulting firm to carry out this exercise.
Challenge to access information from Member States, the private sector and other stakeholders where necessary due to Covid-19 Pandemic	H	There is provision to recruit national consultants to mobilise information and reports at national level and submit to the main consultants. SADC Member States have now embarked on administering the Covid-19 Vaccine in order to reduce and eliminate the disease in the region.

## 4. SCOPE OF THE WORK

### 4.1 General

#### 4.1.1 Project description and Specific work

The purpose of the proposed exercise is to define an updated legal framework for co-operation on minerals development within and amongst the Member States of SADC. Such a framework should be aligned to the revised RISDP and cognizant of other existing SADC Protocols that are relevant. Further, it should be sufficiently robust to support the SISR and Action Plan, Regional Mining Vision, as well as current and future developments in minerals sector. The content is expected to cover, in context, the existing minerals developments in the region and be guided by the continental and international levels of mining development to which the region aspires.

The assignment will among others review the relevant SADC policy and legal instruments as well as the current state of minerals sector development in order to inform the review to be carried out in current Protocol on Mining by either amendment or overhaul of the existing Protocol. The mode of carrying out this task is primarily through a desk study. Where necessary, visits to or virtual engagements with SADC Member States to obtain critical elements to be considered for incorporation in the Protocol as well to obtain clarification on pertinent issues, will be arranged.

The specific scope of the work are as follows:

1. Review the SADC Protocol on Mining, relevant SADC policy frameworks and strategies (including Revised RISDP, SISR, RMV, Protocols on Trade, Finance and Investment, Science, Technology and Innovation, and Industry SADC Harmonisation of Mining Policies, Standards, Legislative and Regulatory Framework in Southern Africa, Industrial Upgrading and Modernisation Programme (IUMP)) to determine high level goals and areas of mineral sector development where Member States have agreed to co-operate.
2. Assess the international and regional environment for minerals development to ensure that the Protocol is sufficiently robust to address relevant issues
3. Consultations with Member States and interact with key stakeholders in Member States, including officials responsible for minerals development, relevant business support organisations, representatives of business and academia to determine specific areas of interest.
4. Develop a revised draft Protocol aligned to key SADC policy and legal frameworks. The Protocol should be sufficiently robust to encompass the SISR and Action Plan, RMV, current and future developments at national, regional, continental and international level.
5. Prepare a Findings Report of underlying considerations and Explanatory Notes to the revised draft Protocol.
6. Present the Draft Report, Revised Protocol and Explanatory Notes to the SADC Secretariat.
7. Present the revised draft Protocol to Member States and supporting the Secretariat in building consensus.

## Activities and Estimated Budget

Output	Output Targets	Activity	Sub-Activity	Cost (\$)
Protocol on Mining reviewed to strengthen and support implementation of the SADC Mining Vision	Protocol on Mining reviewed and submitted to Industrial Development Forum for inputs	Revise Protocol on Mining	Consultancy to Revise Protocol on Mining	28,000

### 4.1.2 Geographical area to be covered

The assignment will be carried out in the SADC Member States.

### 4.1.3 Target groups

The Consultancy is expected to target the following groups;

1. National Governments and regulators responsible for industry, and mining development
2. The private sector
3. National/Regional Mining Authorities
4. Financial Institutions
5. Small and Medium Enterprises (SMEs) involved in regional value chains
6. Non-State Actors Intermediary Organisations (IOs) that are actively involved in the areas of mining, industrialisation, and regional integration. These include among others: Relevant national and regional associations such as Chambers of Commerce, Sectoral Business Associations, Chambers of Mines, Quality and Standards institutions, Professional associations, Universities, Research Centres and training institutions.

## 4.2 Project management

### 4.2.1 Responsible body

The Consultant shall be responsible to the Executive Secretary of SADC Secretariat through the Director, Industrial Development and Trade who shall be responsible for the overall supervision of the project.

### 4.2.1 Management structure

The consultancy falls in the Directorate of Industrial Development and Trade in the Value Chains Development Unit. The Senior Programme Officer (SPO) responsible for Value Chains Development will oversee the work of the consultants on a daily basis for the duration of the project. The SPO Value Chains will follow up on quality checks in terms of the realisation of project objective, results and outputs and facilitate approval of reports via the Director.

#### **4.2.3 Facilities to be provided by the contracting authority and/or other parties**

For all experts working on the project SADC Secretariat, as the Contracting Authority, will facilitate the necessary short term work permits.

### **5. LOGISTICS AND TIMING**

#### **5.1 Location**

The assignment will be home based with likelihood of travel within the SADC region and the SADC headquarters.

#### **5.2 Start date & period of implementation**

The intended start date is October 2021 and the period of implementation of the contract will be four (4) months from this date. Please see Article 3 of the specific contract for the actual start date and period of implementation.

### **6. REQUIREMENTS**

#### **6.1 Staff**

Note that civil servants and other staff of the public administration, of the partner country or of international/regional organisations based in the country, shall only be approved to work as experts if well justified. The justification should be submitted with the tender and shall include information on the added value the expert will bring as well as proof that the expert is seconded or on personal leave.

##### **6.1.1 Experts**

This assignment is expected to be carried out by an individual Consultant who shall work as a Key Legal Expert to undertake various tasks of the assignment. The Key Legal Expert should have experience in legal drafting. The specific profile of the Key Expert is provided below:

#### **Key Legal Expert**

##### *Qualifications and Skills*

- a) A minimum of Master's Degree in Mining Law or equivalent
- b) Admission as an Attorney or Legal Practitioner of the High Court or similar in any of the SADC Member States.

##### *General Professional Experience*

The Expert should have a minimum of 10 years professional experience in drafting and revision of multi-state legal instruments and agreements in developing countries, with a minimum of 5 years in the SADC region.

##### *Specific professional experience*

- a) At least 5 years of demonstrated expertise and experience in drafting mining legal instruments, preferably at regional level.

- b) Demonstratable knowledge of the Southern African mining and minerals sector, challenges and opportunities;
- c) Evidence of in-depth knowledge of laws and regulations on regional integration for developing countries
- d) At least 5 years of experience conducting legal reviews on regional protocols and other instruments in either mining, industry and trade, and regional integration; and,

Fluency in written and spoken English; knowledge of French and Portuguese would be advantageous.

### **6.1.2 Support staff & backstopping**

No Support staff and backstopping is foreseen in this assignment as the Contract is expected to work alone.

### **6.2 Office accommodation**

With the current wave of Covid-19 pandemic, the assignment will be home-based. However, the Consultant is expected to be fully self-sufficient in terms of accommodation, office space, office supplies, office equipment and transport.

### **6.3 Facilities to be provided by the contractor**

The Consultant will provide his/her own support facilities during the implementation of the contract.

### **6.4 Equipment**

No equipment is to be purchased on behalf of the contracting authority / procuring entity as part of this service contract or transferred to the contracting authority / procuring entity at the end of this contract. Any equipment related to this contract that is to be acquired by the procuring entity must be purchased by means of a separate supply tender procedure.

### **6.5 Incidental expenditure**

None

### **6.6 Expenditure verification**

No expenditure verification report is required.

## **7. REPORTS**

### **7.1 Reporting requirements**

Progress reports must be prepared every month as per schedule below during the period of implementation of the tasks. There must be a final report, a final invoice and the financial report at the end of the period of implementation of the tasks. The draft final report must be submitted at least 15 days before the end of the period of implementation of the tasks.

Each report must consist of a narrative section and a financial section. The financial section must contain details of the time inputs of the experts.

To summarise, in addition to any documents, reports and output specified under the duties and responsibilities of each key expert above, the contractor shall provide the following reports:

<b>Output Monitoring Indicator</b>	<b>Description</b>	<b>Timelines</b>
Inception report	<ul style="list-style-type: none"> <li>• Brief analysis of the existing Mining Protocol including detailed literature review;</li> <li>• Understanding of the assignment;               <ul style="list-style-type: none"> <li>i. A clear execution approach and methodology;</li> <li>ii. Work plan for the project</li> </ul> </li> </ul>	Within 15 calendar days after contract signing by both parties
Draft final report	<ul style="list-style-type: none"> <li>• In-depth analysis of the Mining Protocol and regional performance of minerals sector in SADC.</li> <li>• Identified gaps of the Mining Protocol and recommendations</li> <li>• Proposed Draft of the Reviewed Mining Protocol.</li> </ul>	No later than 40 calendar days, spread over 3 months after approval of the inception report.
Final report	<ul style="list-style-type: none"> <li>• Revised Draft final Protocol on Mining for consideration by the Industrial Development Forum.</li> </ul>	15 calendar days after receipt of comments on the draft final report from the project manager

Payment schedule is related to reports and their approvals, as follows:

- 20% of the contract price shall be paid upon submission and approval of the Inception report;
- 40% of the contract price shall be paid upon submission of draft report completed.
- 40% of the contract price shall be paid upon submission of final report.

## **7.2 Submission & approval of reports**

Copies of the reports referred to above must be submitted to the project manager identified in the contract i.e. the Senior Programme Officer: Value Chains (SPO-VCs). The reports must be written in English and shall be in electronic format in MS Word or PowerPoint as the case may be. The project manager is responsible for approving the reports.

Monitoring, Evaluation, Reporting shall be conducted in line with the latest version of the SADC Policy on Strategy Development, Planning, Monitoring, Evaluation and Reporting (SPMER Policy).

## **8. MONITORING AND EVALUATION**

### **8.1 Definition of indicators**

The indicators to be used are Inception Report, Draft Report and Final Reports. The table under 7.1 shows how the indicators will be used as monitoring tools.

Monitoring, Evaluation, Reporting shall be conducted in line with the latest version of the SADC Policy on Strategy Development, Planning, Monitoring, Evaluation and Reporting (SPMER Policy).

### **8.2 Special requirements**

None.

## **9. BUDGET**

The assignment is budgeted for within the SADC Secretariat's Directorate of Industrial Development and Trade budget. The cost shall include consultancy fees. This Service contract budget is for a maximum value of US\$ 28,000.

**ANNEX 2: Expression of Interest Forms**

- A. COVER LETTER FOR THE EXPRESSION OF INTEREST FOR THE PROJECT .....21
- B. CURRICULUM VITAE.....23
- C. FINANCIAL PROPOSAL .....27

## A. COVER LETTER FOR THE EXPRESSION OF INTEREST FOR THE PROJECT

REFERENCE NUMBER: SADC/3/5/2/159  
CONSULTANCY TO REVIEW THE MINING PROTOCOL

Date: (insert date)

To: SADC Secretariat

Dear Sirs:

I, the undersigned, offer to provide the consulting services for the “SADC/3/5/2/159 - CONSULTANCY TO REVIEW THE MINING PROTOCOL” in accordance with your Request for Expression of Interests number SADC/3/5/2/159, dated 20<sup>th</sup> September 2021 for the sum of *(Insert Amount)*. This amount is inclusive of all expenses deemed necessary for the performance of the contract in accordance with the Terms of Reference requirements, and *does* 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 my 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’s request, I will provide certified copies of documents to prove so.

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 Paragraph 9(iii) of this Request for Expression of Interest.

I undertake, if my 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 of 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 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]*
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5. Physical address: *[insert the physical address]*
6. Postal address
7. Phone: *[Insert Postal Address]*
8. E-mail: *[insert the phone and mobile no.]*  
*[Insert E-mail address(es)]*
9. 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>

10. 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>

11. Membership of professional bodies: *[indicate the name of the professional body]*
12. Other skills: *[insert the skills]*
13. Present position: *[insert the name]*
14. Years of experience: *[insert the no.]*
15. Key qualifications: (Relevant to the assignment)  
*[insert the key qualifications]*
16. 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>

17. 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: Address of the company: Phone: Fax: Email: 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 Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:</b>
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<b>Name of the Company: Address of the company: Phone: Fax: Email: 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 Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:</b>
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<b>Name of the Company: Address of the company: Phone: Fax:</b>	<i>[indicate the exact name and title and if it was a short term or a long</i>	<b>Name of the Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:</b>

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

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

*[insert the details]*

**19. 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's request, I will provide certified copies of all documents to prove that I have the qualifications and the professional experience as indicated in points 9 and 17 above<sup>1</sup>, documents which are attached to this CV as photocopies.

By signing this statement, I also authorize the SADC Secretariat to contact my previous or current employers indicated at point 17 above, to obtain directly reference about my professional conduct and achievements.

\_\_\_\_\_ Date: \_\_\_\_\_

**ATTACHMENTS:**    *1) Proof of qualifications indicated at point 9*  
*2) Proof of working experience indicated at point 17*

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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/ Contract signed with them.*

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C. FINANCIAL PROPOSAL

CONSULTANCY TO REVIEW THE MINING PROTOCOL

REFERENCE NUMBER: SADC/3/5/2/159

N°	Description <sup>1</sup>	Unit <sup>2</sup>	No. of Units	Unit Cost (in US\$)	Total (in US\$)
TOTAL FINANCIAL OFFER (Fees + Reimbursable expenses)					

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

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

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

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

## ANNEX 3: STANDARD CONTRACT FOR INDIVIDUAL CONSULTANTS

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## STANDARD TERMS OF CONTRACT

(Individual Consultant)

REFERENCE NUMBER: SADC/3/5/2/159 - CONSULTANCY TO REVIEW THE MINING PROTOCOL

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

*The SADC Secretariat* (hereinafter called the "Procuring Entity") with the registered business in: *Plot 54385 CBD, Private Bag 0095, Gaborone, Botswana*

and, on the other hand,

*[Insert the full name of the individual]* (Hereinafter called the "Individual Consultant"), with 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 *the SADC Secretariat* 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.

**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 SADC/3/5/2/159 - CONSULTANCY TO REVIEW THE MINING PROTOCOL

and reflected as such in the Annex 2 of this contract.

**Individual Consultant** means the individual to whom the Procuring Entity has awarded this contract following the Request for Expression of Interest **REFERENCE NUMBER: SADC/3/5/2/159: CONSULTANCY TO REVIEW THE MINING PROTOCOL**

1.3 **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 the Project Director, subject to the Individual Consultant having complied with his/her obligations hereunder in full as stated in the Annex II to this Contract. The 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 contractor 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 to 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 his/her 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 4.3 above.

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

The Individual Consultant undertakes to deliver the Services in compliance with a system of quality assurance acceptable to the Procuring Entity which shall include any steps to comply with the standards operated by the Procuring Entity. The Individual Consultant shall be informed of the specific requirements in relation to this, and at the request of the Procuring Entity (s)he shall allow access to information, records and other materials during normal office working hours as the 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**

The 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. It may also request the provision of reasonable documentary evidence to support this. As stated in article 2.3 of this Contract, the 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, (s)he shall inform the Procuring Entity's Project Director in writing, and only once written approval is provided can the Consultant proceed to use a third party.

7.2 When the Project Director agrees that the activities under the contract can be performed by a third party, the third party involved in the delivery of services in this contract, will be under the direct control of the Individual Consultant. The Procuring Entity will not be responsible for the third party's performance of duties or Services assigned to it, and neither for ensuring that 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 The 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 in connection with the provision of the Services.
- 9.2 In view of the reliance by the Procuring Entity set out in 9.1 above, the Individual Consultant agrees to indemnify at its own expense, protect and defend the 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 the Procuring Entity becomes aware of them;
  - b) the ceiling on the Individual Consultant's liability to the Procuring Entity shall be limited to an amount equal to the contract value but such ceiling shall not apply to any losses or damages caused to third parties 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 the 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 the Procuring Entity omitting to act on any recommendation, or overriding any act or decision of the Individual Consultant, or requiring the Individual Consultant to implement a decision or recommendation with which the Individual Consultant disagrees or on which (s)he expresses a serious reservation.

## **10. Insurance**

- 10.1 The Individual Consultant must ensure that full and appropriate professional indemnity insurance and third party liability insurance, is in place for all Services provided.
- 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 the 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 the Procuring Entity which shall have the unfettered right to assign and grant sub-licenses 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 license to the Procuring Entity and its assigns for the use of the same in that connection.

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 the Procuring Entity against any and all actions, costs damages, direct, indirect or consequential, and other expenses of any nature whatsoever which the 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 all information and results obtained in discharging the Services under this Contract as confidential 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 written agreement of the Project Director.

12.2 If the Individual Consultant violates clause 12.1, then (s)he 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 the Procuring Entity to demonstrate that a higher amount of loss has or may be incurred as a result of liabilities held by the Consultant in relation to the Procuring Entity.

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

13.1 In response to any factors out of the control of Procuring Entity and/or to breaches of contract by the Consultant, the Procuring Entity may at any time, by giving 30 days' notice in writing, terminate in whole or in part or suspend the Individual Consultant's performance of the Services. In such event, the Individual Consultant shall be entitled to payment pursuant to sub-clause 13.4 below. If such suspension continues for a period in excess of twelve months, then either party may terminate this contract forthwith by written notice to the other.

13.2 The Individual Consultant may also terminate the contract unilaterally, without providing any reasons for such decision, if (s) he gives a 30 days prior written notice to the Project Director.

13.3 In the event of early termination of the Contract under sub-clauses 13.1, 13.2 and 13.3 of this clause, 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 authorized officer of the Procuring Entity, shall in any way affect or prejudice the rights of the 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 a written Addendum and be signed by duly authorized signatories on behalf of the Individual Consultant and the 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 in regard to any claim or matter arising under this contract.

**The following Annexes are integral part of this Contract:**

***Annex 1: Payment Schedule and Requirements***

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

For the Procuring Entity		For the Individual Consultant	
Name :		Name :	
Position :			
Place :		Place :	
Date:		Date :	
Signature:		Signature:	

**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 the 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 his/her country of residence.
  
2. The breakdown of prices is:

N o	Description <sup>1</sup>	Unit	No. of Units	Unit Cost (in US\$)	Total (in US\$)
<b>TOTAL FINANCIAL OFFER (Fees + Reimbursable expenses)</b>					

3. The payment shall be made in accordance with the agreed schedule in line with the deliverables as follows:

**Global price:** payments will be made according to the payments schedule below:

- 20% of the contract price shall be paid upon submission and approval of the Inception report;
  
- 40% of the contract price shall be paid upon submission of draft report completed.
  
- 40% of the contract price shall be paid upon submission of final report.

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

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