



BIDDING DOCUMENT

FOR

PROCUREMENT OF

**CONTRACT NAME: SUPPORT AND
MAINTAINANCE OF SADC SECRETARIAT HPE
CONTENT MANAGER 9.2 AND PROVISION OF
LICENSE FOR ALL COMPONENTS**

CONTRACT NUMBER: SADC/3/5/2/150

GLOBAL PRICE CONTRACT

PROCURING ENTITY: SADC SECRETARIAT

8th January 2021

CONTENTS

SECTION 1. LETTER OF INVITATION.....	3
SECTION 2. INFORMATION TO BIDDERS	4
DATA SHEET	20
ORGANISATION AND METHODOLOGY - (40 Points).....	23
SECTION 3. TECHNICAL PROPOSAL SUBMISSION FORM	25
FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM	26
FORM TECH- 2 COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE , ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED BY THE PROCURING ENTITY AND ON STANDARD CONTRACT FORM	27
FORM TECH-4 TEAM COMPOSITION AND TASK ASSIGNMENTS	29
FORM TECH - 5 CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF	30
FORM TECH-6 STAFFING SCHEDULE	34
FORM TECH-7 WORK SCHEDULE	35
SECTION 4. FINANCIAL PROPOSAL SUBMISSION FORMS	36
FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM	37
FORM FIN-2 SUMMARY OF COSTS	38
FORM FIN-3 BREAKDOWN OF REMUNERATION	ERROR! BOOKMARK NOT DEFINED.
SECTION 5. TERMS OF REFERENCE	39
SECTION 6. STANDARD FORM OF CONTRACT	48

Section 1. Letter of Invitation

Gaborone, 8th January 2020

Dear Sir/Madam

1. The SADC Secretariat now invites proposals to provide the following services: **SUPPORT AND MAINTAINANCE OF SADC SECRETARIAT HPE CONTENT MANAGER 9.2 AND PROVISION OF LICENSE FOR ALL COMPONENTS**. More details on the services are provided in the attached Terms of Reference.
2. A contractor will be selected under the Open Bidding procurement method and procedures described in this Bidding Documents.
3. The Bidding Documents includes the following documents:

Section 1 - Letter of Invitation

Section 2 - Information to Bidders

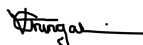
Section 3 - Technical Proposal - Standard Forms

Section 4 - Financial Proposal - Standard Forms

Section 5 - Terms of Reference

Section 6 - Standard Forms of Contract.

Yours sincerely,



Veronica Zulu Chingalawa
Ag. Senior Officer - Procurement

Section 2. Information to Bidders¹

Definitions

- (a) “BD” means the Bidding Documents to be prepared by the Procuring Entity for the selection of Contractor, based on the SADC Secretariat Standard Template.
- (b) “Procuring Entity” means the procurement entity in charge of the procurement procedure.
- (c) “Contractor” means any entity or person that may provide or provides the Services to the Client under the Contract.
- (d) “Contract” means the Contract signed by the Parties and all the attached documents that are the General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (e) “Contracting Authority” means the entity with which the selected Consultant signs the Contract for the Services.
- (f) “Data Sheet” means such part of the Instructions to Bidders used to reflect specific country and assignment conditions.
- (g) “Day” means calendar day.
- (h) “Evaluation Committee” it is a panel of experts appointed by the Procuring Entity and assigned to evaluate the bids. The Evaluation Committee consists in a Chairperson and a Secretary, with no voting rights and an odd number of voting members.
- (i) “Instructions to Bidders” (Section 2 of the BD) means the document which provides shortlisted Bidders with all information needed to prepare their Proposals.
- (j) “LOI” (Section 1 of the BD) means the Letter of Invitation being sent by the Procuring Entity to the shortlisted Bidders.
- (k) “Personnel” means professionals and support staff provided by the Bidders or by any Sub-Contractors and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Procuring Entity’s country; “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside the Procuring Entity’s country.
- (l) “Proposal” means the Technical Proposal and the Financial Proposal.
- (m) “Services” means the consulting services or the work to be performed by the Contractor pursuant to the Contract.
- (n) “Subcontractor” means any person or entity with whom

¹ This Information to Bidders section shall not be modified. Any necessary changes to address specific country and project issues, shall be introduced only through the Data Sheet (e.g., by adding new clauses). Likewise, modifications to the standard Form of Contract should be made only by including clauses outlining the special conditions and not by introducing changes in the wording of the general conditions.

the Bidder or Contractors intends to subcontract any part of the Services.

- (m) “Terms of Reference” (TOR) means the document included in the BD as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Procuring Entity and the Contractor, and expected results and deliverables of the assignment.

1. Introduction

- 1.1 The Procuring Entity named in **the Data Sheet** will select a firm/eligible institution among those listed in the Letter of Invitation, in accordance with the procurement method indicated in **the Data Sheet**, method detailed in the edition of the Guidelines indicated in **the Data Sheet**.
- 1.2 The shortlisted Bidders are invited to submit a Technical Proposal and a Financial Proposal for fee based services required for the assignment named in **the Data Sheet** and presented in details in the Terms of Reference attached as Section 5 of this Bidding Documents. The proposal and the Terms of Reference will be the basis for contract for a signed contract with the successful firm.
- 1.3 The assignment shall be implemented in accordance with the phasing indicated in **the Data Sheet**. When the assignment includes several phases, the performance of the Bidder under each phase must be to the Procuring Entity's satisfaction before work begins on the next phase.
- 1.4 The Bidders must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain firsthand information on the assignment and on the local conditions, Bidders are encouraged to request the Procuring Entity to provide further information before submitting a proposal and to attend a pre-bid conference if one is specified in **the Data Sheet**. Attending the pre-proposal conference is optional. The Bidders' representative should contact the Procuring Entity at the address stated in **the Data Sheet** or to obtain additional information on the pre-bid conference.
- 1.5 The Procuring Entity will provide the inputs specified in **the Data Sheet**, assist the firm in obtaining licenses and permits needed to carry out the services, and make available relevant project data and reports.
- 1.6 Please note that (i) the costs of preparing the proposal, including a visit to the Procuring Entity, are not reimbursable as a direct cost of the assignment; and (ii) the

Procuring Entity is not bound to accept any of the proposals submitted.

- 1.7 SADC Secretariat policy requires that Bidders provide professional, objective, and impartial advice and at all times hold the Procuring Entity's interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests. Bidders shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the Procuring Entity.
- 1.7.1 Bidders will be excluded from the bidding process if it will be in a conflict of interest situation as described below:
 - (a) Conflict between consulting activities and procurement of goods, works or services. A bidder or a contractor that has been engaged by the SADC Secretariat or the Procuring Entity to provide goods, works, or services for the organization, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a bidder or a contractor hired to provide services for the preparation or implementation of a project, and each of its affiliates shall be disqualified from subsequently providing goods, works or services resulting from or directly related to the contractor's consulting services for such preparation or implementation.
 - (b) Conflict among consulting assignments: Neither, bidders or contractors (including their personnel and sub-Bidders) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the bidder or contractor. For instance, a contractor assisting SADC Secretariat or the Procuring Entity to implement a project shall not be engaged to prepare an independent assessment for the implementation of the same project, or contractors hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.
 - (c) Relationship with SADC Secretariat's or the Procuring Entity's staff: bidders or contractors (including their personnel and sub-contractors) having business or family relationship with a

member of the SADC Secretariat's or the Procuring Entity's staff directly or indirectly involved in any part of: (i) the preparation of the TOR or Technical Specification of a contract, (ii) the selection process for such contract, or (iii) the supervision of the contract, may not be awarded the contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the SADC Secretariat throughout the selection process and the execution of the contract.

- 1.7.2 Since previous or ongoing participation in relation to the assignment by the Bidder, its professional staff, or its affiliates or associates under a contract with the SADC Secretariat and Procuring Entity may result in rejection of the proposal, the bidders should clarify their situation in that respect with the Procuring Entity before preparing the proposal.
- 1.7.3 Bidders may be hired for downstream work, when continuity is essential, in which case this possibility shall be indicated in **the Data Sheet** and the factors used for the selection of the Bidder should take the likelihood of continuation into account. It will be the exclusive decision of the Procuring Entity whether or not to have the downstream assignment carried out, and if it is carried out, which Bidder will be hired for the purpose.
- 1.8 It is the SADC Secretariat's policy to require that Procuring Entity's staff as well as Bidders under SADC Secretariat-financed contracts, observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the SADC Secretariat:
 - (a) defines for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefits or to avoid an obligation;
 - (iii) "collusive practices" is an arrangement between two or more parties designed to achieve an

- improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (v) “obstructive practice”
 - (aa) deliberately destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators in order to materially impede a SADC Secretariat, or a governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the SADC Secretariat or governmental or inspection and audit rights.
- (b) It will take the following measures against the bidder recommended for award who has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (i) will reject the bid for award;
 - (ii) will declare the bidder/the contractor, including its affiliates, ineligible, either indefinitely or for a stated period of time, to become a SADC Secretariat contractor;
 - (iii) will cancel or terminate any ongoing contract with the bidder /the contractor;
 - (iv) will request the relevant national authorities to conduct a joint investigation with SADC Secretariat to inspect or carry out audits of the bidder /the contractor’ accounting records and financial statements in connection with the contract in question for which it was found guilty of engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices;
 - (v) will forfeit the bid or performance securities of

the bidder /the contractor;

(vi) will suspend any payments due to the bidder/contractor, under the contract in question or any other contract the bidder/contractor might have with the organization, until the extent of damage caused by the its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the SADC Secretariat's contract are determined and recovered, and

(vii) will sue the bidder /contractor to recover the damages caused by its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question, if they are not fully recovered by the securities and the payments otherwise due to the bidder/contractor.

1.9 Neither the shortlisted Bidders nor their personnel or subcontractor shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the SADC Secretariat in accordance with the above sub para. 1.8 (d).

1.10 Bidders shall furnish information as described in the Financial Proposal submission form (Section 4A) on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal, and to execute the work if the firm is awarded the contract.

1.11 Without limitation on the generality of this rule, Bidders, and their subcontractors and personnel shall not be hired under the circumstances set forth below:

(a) They are bankrupt;

(b) Payments to them have been suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with their national laws in the total or partial loss of the right to administer and dispose of their property;

(c) Legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property;

(d) They have been convicted, by a final judgment, of any crime or offence concerning their professional conduct;

(e) They are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender;

(f) They have been sanctioned by SADC Secretariat according to the **SADC Secretariat Policy for Procurement and Grants**.

- 1.11 Only shortlisted Bidders are allowed to participate in this bidding process. If a Bidders is shortlisted as Joint Venture or Consortium, the composition of Joint Venture or Consortium can be changed with prior approval of the Procuring Entity and only if : (i) is supported by solid and objective arguments, (ii) does not alter the competition, (iii) is not generating a conflict of interest, and (iv) is not invalidating the criteria and conditions in place when the joint venture or consortium was prequalified.

2. Clarification and Amendment of Bidding Documents

- 2.1 Bidders may request a clarification of any of the Bidding Documents up to the number of days indicated in **the Data Sheet** before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile, or electronic mail to the Procuring Entity's address indicated in **the Data Sheet**. The Procuring Entity will respond by cable, telex, facsimile, or electronic mail to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all invited Bidders who intend to submit proposals.
- 2.2 At any time before the submission of proposals, the Procuring Entity may, for any reason, whether at its own initiative or in response to a clarification requested by an invited firm, amend the BD. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, cable, telex, facsimile, or electronic mail to all invited Bidders and will be binding on them. The Procuring Entity may at its discretion extend the deadline for the submission of proposals.

3. Preparation of Proposal

- 3.1 Bidders are requested to submit a proposal written in the language indicated in the **Bid Data Sheet**. All correspondence between the Bidder and Contracting Authority shall be in this language.

Technical Proposal

- 3.2 In preparing the Technical Proposal, Bidders are expected to examine the documents constituting this BD in detail. Material deficiencies in providing the information

requested may result in rejection of a proposal.

3.3 While preparing the Technical Proposal, Bidders must give particular attention to the following:

- (i) If a Bidder considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual Bidder(s) and/or subcontract part of the services to other consulting firms, as appropriate. In case of subcontracting this shall be in the limit stated in **the Data Sheet** but under no circumstances shall exceed forty percent (40%) of the total staff-days input. The Bidders are encouraged to seek the participation of regional Bidders when subcontracting part of the assignment. Under no circumstances, the Bidders shall associate with the other short listed Bidders, or their affiliates, invited for this assignment. Affiliates are the group of companies, firms, associations, etc. where the Bidder or any of the major shareholders owns a minimum of twenty percent (20%) of shares of the share capital. For the same purpose, major shareholder is any legal or physical person who owns no less than twenty percent (20%) of the shares of the Bidder.
- (ii) For assignments on a fee-based basis, the estimated number of professional working days is given in **the Data Sheet**. The proposal shall, however, be based on the number of professional working days estimated by the Bidders.
- (iv) Proposed professional staff must, at a minimum, have the experience indicated in the Terms of Reference, preferably working under conditions similar to those prevailing in the country (ies) of the assignment.
- (v) Alternative professional staff shall not be proposed, and **only one curriculum vitae (CV)** must be submitted for each position.
- (vi) Reports to be issued by the Bidders as part of this assignment must be in the language(s) specified in **the Data Sheet**. It is desirable that the firm's personnel have a working knowledge of the official languages of the country (ies) of the assignment.

3.4 The Technical Proposal shall provide the following information using the attached Standard Forms (Section 3):

- (i) Any comments or suggestions on the Terms of Reference on facilities to provided by the Procuring Entity and on Standard Form of Contract (Form Tech 2).
- (ii) A description of the methodology and work plan for performing the assignment (Form Tech 3).
- (iii) The list of the proposed staff team by specialty, the tasks that would be assigned to each staff team member, and their timing (Form Tech 4).
- (iv) CVs recently signed by the proposed professional staff (Form Tech 5). Key information should include number of years working and positions and responsibilities held in various assignments during the last ten (10) years. To be considered during the evaluation, **the CV shall be accompanied by proof of all stated qualifications and working experience.** The proof 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 contracts signed with them. If the language of these documents is not the official language of the tender, they shall be accompanied by a certified translation into it.
- (v) Estimates of the total staff input (professional and support staff; staff time) needed to carry out the assignment, supported by bar chart diagrams showing the time proposed for each professional staff team member (Form Tech 6 and 7).
- (vi) A detailed description of the proposed methodology, staffing, and monitoring of training, if **the Data Sheet** specifies training as a major component of the assignment.
- (vii) Any additional information requested in **the Data Sheet**.

3.5 The Technical Proposal shall not include any financial information. If financial information is included in the

technical proposal this will be automatically disqualified.

**Financial
Proposal**

- 3.6 In preparing the Financial Proposal, Bidders are expected to take into account the requirements and conditions outlined in the BD documents. The Financial Proposal should follow Standard Forms (Section 4). It lists all costs associated with the assignment, including (a) remuneration for staff (foreign and local, in the field and at headquarters), and (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. The Reimbursable expense shall cover **only** the cost indicated in **the Data Sheet**. All other cost estimated by the bidders for the execution of the assignment shall be included in the daily fees of the experts.
- 3.7 The Financial Proposal **shall not** include the local taxes (including social security), duties, fees, levies, and other charges imposed under the applicable law in the Procuring Entity's country or in the countries of assignment, on the Bidders, the subcontractors, and their personnel (other than nationals or permanent residents of the Procuring Entity's country), unless **the Data Sheet** specifies otherwise. For this purpose, the bidders', the subcontractors' and their personnel' home countries shall not be considered as countries of assignment.
- 3.8 If so specified in **the Data Sheet**, the Financial Proposal **must** include, without any modification, the amount indicated as fixed reimbursable expenses, to cover for the expenditures already priced by the Procuring Entity (i.e, cost of trainings, cost of study tours, cost of financial audits, cost of equipments, etc).
- 3.9 The total budget available for this assignment, including the taxes indicated at para. 3.7 and the reimbursable expenses indicated at paragraph 3.8, is indicated in **the Data Sheet**. **Financial Proposal exceeding the available budget will be rejected as non-responsive.**
- 3.10 Bidders **must** express the price of their services in the US Dollars. The payment will be made in **US Dollars**, and the Bidder shall bear all the cost and risks implied by the currency exchange. **Financial Proposals expressed in other currencies than the US Dollars will be**

automatically disqualified.

3.11 Commissions and gratuities, if any, paid or to be paid by Bidders and related to the assignment will be listed in the Financial Proposal submission form (Section 4A).

3.12 **The Data Sheet** indicates how long the proposals must remain valid after the submission date. During this period, the Bidder is expected to keep available the professional staff proposed for the assignment. The Procuring Entity will make its best effort to complete evaluation within this period. If the Procuring Entity wishes to extend the validity period of the proposals, the Bidders who do not agree have the right not to extend the validity of their proposals.

4. Submission, Receipt, and Opening of Proposals

4.1 The original proposal (Technical and Financial Proposal) shall be prepared in indelible ink. It shall contain no interlineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person who sign(s) the proposals.

4.2 *An authorized representative of the firm initials all pages of the proposal. The representative's authorization is confirmed by a written power of attorney accompanying the proposal.*

4.3 For each proposal, the Bidders shall prepare the number of copies indicated in the **Data Sheet**. Each Technical Proposal and Financial Proposal shall be marked "**ORIGINAL**" or "**COPY**" as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original governs.

4.4 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "Technical Proposal," and the original and all copies of the Financial Proposal in a sealed envelope clearly marked "**FINANCIAL PROPOSAL**" and warning: "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL.**" Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Data Sheet and be clearly marked, "**DO NOT OPEN, EXCEPT IN PRESENCE OF THE EVALUATION COMMITTEE.**" **Information on the outer and inner envelopes should also include the name of the Bidder and the contract name and reference number.**

- 4.5 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in **the Data Sheet**. Any proposal received after the closing time for submission of proposals shall automatically be rejected and shall be returned unopened to the Bidder.

5. Proposal Evaluation

General

- 5.1 From the time the bids are opened to the time the contract is awarded, if any Bidder wishes to contact the Procuring Entity on any matter related to its proposal, it should do so in writing at the address indicated in **the Data Sheet**. Any effort by the firm to influence the Procuring Entity in the Procuring Entity's proposal evaluation, proposal comparison or contract award decisions may result in the rejection of the Bidder's proposal.
- 5.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation, including any SADC Secretariat reviews, is concluded.

Public Opening and Evaluation of Technical Proposals: Scoring

- 5.3 The Procuring Entity shall conduct the bid opening in public at the address, date and time specified in **the Data Sheet**. Only the representatives of the bidders and the Evaluation Committee members are allowed to participate in public opening sessions. Any other interested person shall request, in writing, the SADC Secretariat's permission to participate in a specific bid opening session.
- 5.4 The bid opening shall commence with the Chairperson of the Evaluation Committee reading out the Bidders' names and the time of arrival of the proposal. A registration number will be given to each proposal. All envelopes shall be opened one at a time, by the Chairperson of the Evaluation Committee, in order of their arrival.
- 5.5 At the opening, only the Technical Proposal envelope shall be opened immediately and checked for compliance with formal submission requirements by the evaluation committee. The Financial Proposal shall remain sealed and deposited in a safe place until all submitted proposals, of technically responsive bids, are opened publicly. In case the envelopes are not submitted separately the Bidder will be excluded.
- 5.6 No Bid shall be rejected at Bid opening except for late bids, in accordance with ITB Sub-Clause 4.5 and the other listed in the template for opening checklist (see in Annex to Services to SADC Guidelines for Procurement and

Grants). Only envelopes that are opened and read out at Bid opening shall be considered further.

- 5.7 The Procuring Entity shall prepare the minutes of the Bid opening that shall include a brief description of the bid opening procedures and its finding as. The Bidders' representatives who are present shall be requested to sign the attendance sheet. A copy of the minute shall be distributed to all Bidders who submitted bids in time.
- 5.8 Once the Bid opening is concluded, the Evaluation Committee, as a whole, and each of its voting members individually, evaluates the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub criteria (typically not more than three per criteria), and point system specified in **the Data Sheet**. Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score indicated in **the Data Sheet**.

**Public
Opening and
Evaluation
of Financial
Proposals:
Ranking**

- 5.9 After the evaluation of quality is completed, the Procuring Entity shall notify those Bidders whose proposals did not meet the minimum qualifying mark or were considered nonresponsive to the BD and Terms of Reference, indicating that their Financial Proposals will be returned unopened after completing the selection process. The Procuring Entity shall simultaneously notify the Bidders that have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals. The opening date shall not be sooner than two weeks after the notification date. The notification may be sent by registered letter, cable, telex, facsimile, or electronic mail.
- 5.10 The Financial Proposals shall be opened publicly in the presence of the Bidders' representatives who choose to attend. The name of the Bidder, the technical scores, and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Procuring Entity shall prepare minutes of the public opening.
- 5.11 The evaluation committee will determine whether the Financial Proposals are complete (i.e., whether they have costed all items of the corresponding Technical Proposals; if not, the Procuring Entity will cost them and add their cost to the initial price), correct any computational errors, and determine if the total price is within the maximum

budget available. The evaluation shall exclude those taxes, duties, fees, levies, and other charges imposed under the applicable law; and to be applied to foreign and non-permanent resident Bidders (and to be paid under the contract, unless the Bidder is exempted), and estimated as per para. 3.7. **Should the Financial Proposal, after applying any correction or adjustments, exceeds the available budget for the assignment indicated at paragraph 3.9, this shall be automatically disqualified.**

- 5.12 **Once corrections or adjustments have been applied, the Financial Proposal shall be adjusted with the Regional Preference. This implies that a bid offering fifty percent (50)% or more expertise (experts) from the SADC Region will be discounted, for the purpose of evaluation only, will fifteen percent (15%).**

For the purpose of calculation of the of the percentage of regional expertise, the basis shall be the total number of key staff days allocated to regional experts in the overall allocation of key staff resources proposed by the bidder.

- 5.13 The lowest Financial Proposal (Fm) will be given a financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores using the weights (*T* = the weight given to the Technical Proposal; *P* = the weight given to the Financial Proposal;
 $T + P = 1$) indicated in **the Data Sheet**:
 $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be awarded the contract.

6. Negotiations of Contract

- 6.1 The Contracting Authority, prior to award the contract, may enter into negotiation with the successful bidder in order to confirm the availability of proposed Professional staff, incorporation in the methodology of the aspects for which clarifications were requested during the evaluation and the modification of the schedule of mobilization of the team and submission of deliverables under the contract.
- 6.2 No negotiation on the: (i) composition of the proposed professional staff team, (i) individual or overall professional staff inputs, (iii) unit or total price, and/or (iv) proposed methodology is allowed.

- 6.3 As far as possible, the negotiation shall be conducted in writing. Only on exceptional circumstances, the Contracting Authority and the successful shall meet for negotiations. In such case the meeting shall take place at the address indicated in the **Bid Data Sheet**.
- 6.4 Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the Contracting Authority will require assurances that the Professional staff will be actually available. The Contracting Authority will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Bidder may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Bidder within the period of time specified in the letter of invitation to negotiate.
- 6.5 The negotiations shall be recorded in a minute of the negotiations and be attached as annex to the contract.

7. Award of Contract

- 7.1 The Bidder who submitted a technical and financial responsive proposal and received the highest combined score, calculated as per formula given in para 5.13 and the Data Sheet, will be awarded the contract.
- 7.2 After the approval of the Evaluation Report, the Procuring Entity will promptly notify other both the success and the unsuccessful bidders about the outcome of the evaluation of the bids.
- 7.3 In case of the successful Bidder, following the notification of award the validity of its offer shall be automatically extended with sixty (60) days.
- 7.4 No later than thirty (30) days from that date of notification of the recommendation for the award of the contract, the Procuring Entity shall submit to the applicant the contract for the services. The successful Bidder shall be given fifteen (15) days to sign the contract to the Contracting Authority. If it fails to do so, the Procuring Entity may consider cancelling the award of the contract.
- 7.5 The Contractor is expected to commence the assignment

on the date and at the location specified in **the Data Sheet**.

- 8. Confidentiality** 8.1 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the Bidders who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the contract.
- 9. Appeals** 9.1 Short listed Bidders may appeal any of the Procuring Entity's decision taken during the evaluation process by following the procedures described on the SADC Secretariat Guidelines at the article specified in **the Data Sheet**.

Information to Bidders

DATA SHEET

Clause Reference	Clarifications and/or Amendment to Reference Clause
1.1	<p>The name of the Procuring Entity is: SADC Secretariat</p> <p>The name of the Contracting Authority is: SADC Secretariat</p> <p>The procurement method is: Open Bidding</p> <p>The current bidding process is governed by SADC Procurement and Grants Policy, August 2019 and SADC Procurement and Grants Guidelines, January 2017, which can be downloaded from the SADC Secretariat website https://www.sadc.int/opportunities/procurement/sadc-procurement-documentation/</p>
1.2	<p>The title of the contract is: SUPPORT AND MAINTAINANCE OF SADC SECRETARIAT HPE CONTENT MANAGER 9.2 AND PROVISION OF LICENSE FOR ALL COMPONENTS</p>
1.3	The assignment is phased: No.
1.4	A pre-bid conference will be held: No.
1.5	The Procuring Entity will provide the following inputs: assistance with visas for the Contractor, its staff and Experts.
1.7.3	The Procuring Entity envisages the need for continuity for downstream work: No.
2.1	<p>The Last date to receive requests for Clarifications; is 25th January 2021 at 16:00 hours local time.</p> <p>A list of questions and responses will be sent to all shortlisted firms via email as they become available.</p> <p>The Last date for Responses is 1st February, 2021 at 16:00 hours local time.</p> <p>The address for requesting clarifications is: Head of Procurement Southern African Development Community (SADC) Secretariat Attention: Ms. Veronica Zulu Chingalawa Email: tenders@sadc.int and pchifani@sadc.int with a copy to amuradza@sadc.int</p>

	<p>The correspondence shall bear the following reference:</p> <p>Contract Name: SUPPORT AND MAINTAINANCE OF SADC SECRETARIAT HPE CONTENT MANAGER 9.2 AND PROVISION OF LICENSE FOR ALL COMPONENTS</p> <p>Contract Reference: SADC/3/5/2/150</p>
3.1	<p>The language of the bidding process is English.</p> <p>However any supporting documents that are part of the bid shall be issued in any SADC Secretariat official languages (i.e: English, French and Portuguese). If the original documents are written in a language other than SADC Secretariat official languages, they shall be accompanied by an original certified translation into any of the SADC Secretariat official languages. The cost of the translation shall be borne by the bidders.</p> <p>In case of discrepancies between the original language and the language of translation, the language of translation shall prevail.</p>
3.3	<p>(i) The Bidder will not subcontract any portion of the assignment.</p> <p>(ii) The minimum number of working days required for the assignment is:</p> <p>KE1 – Team Leader KE2 – HPE Content Manager</p> <p>(vi) Reports that are part of the assignment must be written in the following language(s): English</p>
3.4 (vi)	<p>Training is a major component of the assignment.</p>
3.4 (vii)	<p>Additional information in the Technical Proposal includes: “Not Applicable”</p>
3.6	<p>Not applicable</p> <p>The following expenses shall be considered reimbursable expenses:</p> <ul style="list-style-type: none"> • Flights for mobilization and demobilization of short-term experts using the most direct route (economy class). • Per diems and Regional flights for short-term experts when undertaking approved assignments related to this contract outside Gaborone as well as per diems for nights spent in Gaborone. • Translation of project related documents as approved ad-hoc by the

	<p>Procuring Entity</p> <p>The per-diems paid under the reimbursable expenses shall not exceed the SADC Secretariat's standard per-diems which equate to UN per diem rates.</p> <p>Mobilization and demobilization flights for long term experts are not covered by reimbursable expenses and should be included in the price of the contract.</p> <p>For Key Experts, the only items not covered by the price of the contract would be expenses involved in work-related local and regional travel. These expenses (airfares and per-diems for nights away from Gaborone) will be provided for from the reimbursable budget.</p>
3.7	Taxes: as per Section 2, Information to Bidders.
3.8	<p>Not applicable</p> <p>The fixed incidental expenses budget is This amount shall be included without modification in the Bidder's Financial Proposal.</p> <p>The fixed incidental expenses budget shall cover the items outlined in Paragraph 3.6 above.</p>
3.9	The maximum available budget for this contract is USD 250,000
3.12	Proposals must remain valid 120 days after the submission date, i.e., until: 5 th January 2020.
4.3	Bidders will submit a single electronic copy/original as detailed under 4.4 of BDS below.
4.4	<p>Bidders must submit electronic version of the <u>technical proposal only</u>. Bidders passing the threshold under 5.8 below (i.e. technically responsive bids) will be asked to submit the financial proposals.</p> <p>The deadline for the submission of bids is 12th February 2021 at 15:00 hours local time.</p>
4.5	<p>The proposal submission address is:</p> <p>ermstender@sadc.int</p> <p>The Chairperson The Tender Evaluation Committee Southern African Development Community (SADC) Secretariat</p>

	Submission will bear the reference as per above 2.1 of this BDS.																								
5.1	<p>The address to send information to the Procuring Entity is:</p> <p>Head of Procurement Southern African Development Community (SADC) Secretariat Email: tenders@sadc.int and pchifani@sadc.int</p>																								
5.3	There will be no public bid opening.																								
5.8	<p>TECHNICAL SCORE (100 points) The number of points to be given under each of the evaluation criteria are:</p> <p>ORGANISATION AND METHODOLOGY - (40 Points)</p> <table border="1"> <tr> <td>Understanding of the ToR</td><td>5</td></tr> <tr> <td>Technical approach and methodology</td><td>25</td></tr> <tr> <td>Workplan</td><td>5</td></tr> <tr> <td>Organization and staffing</td><td>5</td></tr> </table> <p>QUALIFICATION AND COMPETENCE OF KEY EXPERTS – (60 points) (FORM TECH 5)</p> <table border="1"> <tr> <td>Team Leader</td><td>30</td></tr> <tr> <td>• <i>Qualification and Skills – 7 points</i></td><td></td></tr> <tr> <td>• <i>General Professional Experience – 7 points</i></td><td></td></tr> <tr> <td>• <i>Specific Professional Experience – 16 points</i></td><td></td></tr> <tr> <td>HPE Content Manager</td><td>30</td></tr> <tr> <td>• <i>Qualification and Skills – 7 points</i></td><td></td></tr> <tr> <td>• <i>General Professional Experience – 7 points</i></td><td></td></tr> <tr> <td>• <i>Specific Professional Experience – 16 points</i></td><td></td></tr> </table> <p>The minimum technical score required to pass: 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. Technical scores will then be multiplied/weighted by 0.8.</p>	Understanding of the ToR	5	Technical approach and methodology	25	Workplan	5	Organization and staffing	5	Team Leader	30	• <i>Qualification and Skills – 7 points</i>		• <i>General Professional Experience – 7 points</i>		• <i>Specific Professional Experience – 16 points</i>		HPE Content Manager	30	• <i>Qualification and Skills – 7 points</i>		• <i>General Professional Experience – 7 points</i>		• <i>Specific Professional Experience – 16 points</i>	
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• <i>General Professional Experience – 7 points</i>																									
• <i>Specific Professional Experience – 16 points</i>																									
5.10	There will be no public opening of financial offers.																								
5.13	<p>Financial evaluation: the Evaluation Committee shall proceed with the financial comparisons of the remuneration between the different financial offers. The offer with the lowest remuneration shall receive 100 points. The others are awarded points by means of the following formula: Financial score = (lowest remuneration/remuneration of the tender being considered) x 100. Financial scores will then be multiplied/weighted by 0.2.</p>																								
6.3	The address where the negotiations of the contract (<i>if required</i>) will be																								

	held is: The SADC Secretariat, Western Commercial Road (near Lobatse and Willie Siboni Roads) CBD Plot 54385 New CBD City: Gaborone Country: Botswana
7.5	The expected date to commence the assignment is March 2021 but under no circumstances shall be earlier than two (2) weeks after the contract signature by both parties.
9.1	The procedures to be followed to appeal a Procuring Entity decision in the procurement process are described in the Section 7 of the SADC Secretariat Procurement Guidelines, edition January 2017.

Section 3. Technical Proposal Submission Form

Contents

FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM.....	26
FORM TECH- 2 COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE , ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED BY THE PROCURING ENTITY AND ON STANDARD FORM OF CONTRACT.....	27
FORM TECH-3 DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT	28
FORM TECH-4 TEAM COMPOSITION AND TASK ASSIGNMENTS	29
FORM TECH – 5 CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF.....	30
FORM TECH-6 STAFFING SCHEDULE	Error! Bookmark not defined.
FORM TECH-7 WORK SCHEDULE	Error! Bookmark not defined.

FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: The SADC Secretariat

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for **SUPPORT AND MAINTAINANCE OF SADC SECRETARIAT HPE CONTENT MANAGER 9.2 AND PROVISION OF LICENSE FOR ALL COMPONENTS - SADC/3/5/2/150** in accordance with your Bidding Documents dated 7th December 2020 and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal without any reference to the price. We are aware that if we pass the threshold during the technical evaluation that we will be given an opportunity to submit the financial proposal.

Our Proposal is binding upon us and subject to the modifications resulting from correction and clarification made during the evaluation process, for a period of **120 days** from the deadline for submission of the bid, as indicated in the Data Sheet reference to clauses 3.12 and 4.5.

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

We remain,

Yours sincerely,

Name and Title of Signatory:

Name of Firm:

Address:

Phone:

Facsimile:

E-mail:

**FORM TECH- 2 COMMENTS AND SUGGESTIONS ON THE TERMS OF
REFERENCE , ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED
BY THE PROCURING ENTITY AND ON STANDARD CONTRACT FORM**

A – On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

B – On Counterpart Staff and Facilities

[Comment here on counterpart staff and facilities to be provided by the Contracting Authority as indicated in the TORs or include your own requirements of: administrative support, office space, local transportation, equipment, data, etc.]

C – On Standard Form of Contract

[Please recommend any change in the Standard Form of Contract's clauses you would like to see incorporated in the final Contract. Please indicate which of the proposed changes, if not accepted by the Procuring Entity could determine you to reject the Contract for this assignment. Use maximum 2 pages]

FORM TECH-3 DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal (**max. 30 pages, inclusive of charts and diagrams**) divided into the following three chapters:

- a) *Technical Approach and Methodology,*
- b) *Work Plan, and*
- c) *Organization and Staffing,*

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Purchaser), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-7.

c) Organization and Staffing. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.]

FORM TECH-4 TEAM COMPOSITION AND TASK ASSIGNMENTS

Professional Staff			
Name of Staff	Area of Expertise	Position Assigned	Task Assigned

FORM TECH - 5 CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF¹

Proposed role in the project: *[insert the name of the position and indicate the key position]*

- 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. Contract 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
----------------	----------------------------

¹ The CV must not exceed eight (8) pages

<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>
<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>	<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 contract: Beneficiary of the contract: Brief description of the contract: Responsibilities:</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 contract: Beneficiary of the contract: Brief description of the contract: Responsibilities:</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 contract: Beneficiary of the contract: Brief description of the contract: Responsibilities:</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 willful 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 above³, 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: _____

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

³ *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 contract signed with them.*

FORM TECH-6 STAFFING SCHEDULE

N°	Name of Staff ⁴	Staff input (in the form of a bar chart) ⁵														Total staff-days input ⁶		
		1	2	3	4	5	6	7	8	9	10	11	12	n	Home	Field ⁷	Total	
Key Experts																		
1		[Home]																
		[Field]																
2																		
n																		
Subtotal																		
Non key experts																		
1	TBA	[Home]																
		[Field]																
2	TBA																	
n	TBA																	
Subtotal																		
Total																		

⁴ Position held in the Contract must be indicated as well.

⁵ Months/ weeks are counted from the start of the assignment. For each staff indicate separately staff input for home and field work.

⁶ Select months or weeks as needed.

⁷ Field work means work carried out at a place other than the Contractor's home office.

FORM TECH-7 WORK SCHEDULE

N°	Activity ⁸	Months ⁹												
		1	2	3	4	5	6	7	8	9	10	11	12	n
1														
2														
3														
4														
5														
n														

⁸ Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Procuring Entity's approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.

⁹ Duration of activities shall be indicated in the form of a bar chart

Section 4. Financial Proposal Submission Forms

[Comments in brackets [] provide guidance to the Service Providers for the preparation of their Financial Proposals; they should not appear on the Financial Proposals to be submitted.]

FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM.....37

FORM FIN-2 SUMMARY OF COSTS**ERROR! BOOKMARK NOT DEFINED.**

FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: **The SADC Secretariat**

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for **SUPPORT AND MAINTAINANCE OF SADC SECRETARIAT HPE CONTENT MANAGER 9.2 AND PROVISION OF LICENSE FOR ALL COMPONENTS - SADC/3/5/2/150** in accordance with your Bidding Documents dated 7th August 2020 and our Proposal (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of US\$ *[insert the amount in words and figures]*. This amount is exclusive of the taxes (including social security), duties, fees, levies, and other charges imposed under the applicable law in the Procuring Entity's country or in the countries of assignment, on the our firm(s), subcontractors, and personnel (other than nationals or permanent residents of the Procuring Entity's country). However, the Financial Proposal includes the reimbursable expenses indicated in the Data Sheet reference to the clause 3.8, amounting US\$ *[insert the amount(s) in words and figures]*, as well as the taxes indicated in the Data Sheet reference to clause 3.7, which we have estimated at *[insert the amount(s) in words and figures]*.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from correction and clarification made during the evaluation process, up to expiration of the validity period of the Proposal.

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

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

We remain,

Yours sincerely,

Name and Title of Signatory:

Name of Firm:

Address:

Phone:

Facsimile:

E-mail:

FORM FIN-2 SUMMARY OF COSTS

Cost component	Costs
	(US\$)
Remuneration	
Reimbursable Expenses ¹	Not applicable
Total	

¹ as per the Data Sheet reference to clause 3.8

Section 5. Terms of Reference

TERMS OF REFERENCE



SOUTHERN AFRICA DEVELOPMENT COMMUNITY

TERMS OF REFERENCE

FOR

**THE TECHNICAL ASSISTANCE TO SADC SECRETARIAT
FOR SUPPORT AND MAINTAINANCE OF SADC
SECRETARIAT HPE CONTENT MANAGER 9.2 AND
PROVISION OF LICENSE FOR ALL COMPONENTS**

TERMS OF REFERENCE

1.	BACKGROUND INFORMATION.....	41
1.1.	PARTNER COUNTRY AND PROCURING ENTITY	42
1.2.	CONTRACTING AUTHORITY	42
1.3.	COUNTRY BACKGROUND.....	42
1.4.	CURRENT SITUATION IN THE SECTOR.....	43
1.5.	RELATED PROGRAMMES AND OTHER DONOR ACTIVITIES.....	43
2.	OBJECTIVE, PURPOSE & EXPECTED RESULTS	43
2.1.	OVERALL OBJECTIVE.....	43
2.2.	PURPOSE	43
2.3.	RESULTS TO BE ACHIEVED BY THE CONTRACTOR	43
3.	ASSUMPTIONS & RISKS.....	44
3.1.	ASSUMPTIONS UNDERLYING THE PROJECT	44
3.2.	RISKS	44
4.	SCOPE OF THE WORK	44
4.1.	GENERAL	44
4.2.	SPECIFIC WORK	44
4.3.	PROJECT MANAGEMENT	45
5.	LOGISTICS AND TIMING	45
5.1.	LOCATION	45
5.2.	START DATE & PERIOD OF IMPLEMENTATION	45
6.	REQUIREMENTS	45
6.1.	STAFF.....	45
6.2.	OFFICE ACCOMMODATION.....	47
6.3.	FACILITIES TO BE PROVIDED BY THE CONTRACTOR	47
6.4.	EQUIPMENT.....	47
7.	REPORTS	47
7.1.	REPORTING REQUIREMENTS	47
7.2.	SUBMISSION & APPROVAL OF REPORTS	47
8.	MONITORING AND EVALUATION	47
8.1.	DEFINITION OF INDICATORS	47
8.2.	SPECIAL REQUIREMENTS	47

1. BACKGROUND INFORMATION

1.1. Partner country and procuring entity

The primary beneficiary of the services to be provided is SADC Secretariat with the Members States of the Southern African Development Community (SADC) being the indirect beneficiaries.

1.2. Contracting authority

The Contracting Authority is SADC Secretariat, represented by its Executive Secretary.

1.3. Country background

The Southern African Development Community (SADC) is an inter-governmental organization headquartered in Gaborone, Botswana. Its goal is to further socio-economic cooperation and integration as well as political and security cooperation among 16 southern African states.

In November 2018, the SADC Secretariat implemented an Electronic Records Management System (ERMS). Its purpose was to provide a platform for management, compilation, monitoring and utilisation of records in the SADC Secretariat. The ERMS key objective was to improve the efficiencies in the registration, distribution and management of records processes.

The System implemented was HP Content Manager 9.2. The table below shows the details of the implemented systems:

Description	Version	Quantity
HP Content Manager	9.2.1	
Administrator /Records Manager		12
Records Coordinator		20
Knowledge Worker		255
Microsoft SQL Server Enterprise (64-bit)	13.0.1601.5	2

Table 1: Systems profile table

The system was deployed at three (3) SADC sites:

<u>Site</u>	<u>User Count</u>
Botswana Headquarters	> 200
Zambia - SPGRC	>10
Zimbabwe – RPTC	>5

Table 2: Locations deployed and Number of Users

SADC Secretariat has a team that is dedicated to records management under the HR and Admin Directorate.

The team comprises of the:

- Senior Officer Records – Manages the Records management Unit
- Assistant Records Officers – Administers the ERMS and provides first level support

Senior Officer, ICT- Manages the ICT unit

Information Systems Officers – Develops and maintains processes on system, provides 2nd level technical Support to users.

1.4. Current situation in the sector

The Contract for the implementation of the ERMS made provision for one (1) year of technical support after the project sign-off. This support has ended. Hence, it is against this background that there is a requirement to engage a firm for the provision of Support and Maintenance services of the Electronic Records Management System.

1.5. Related programmes and other donor activities

The support and maintenance service was previously being provided by ICL Botswana.

2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1. Overall objective

The overall objective of the project of which this contract will be a part is as follows:

- To provide support and maintain the SADC Secretariat HP Content Manager 9.2 and provide license for all components.

2.2. Purpose

The purpose of this contract are as follows:

- 2.2.1. Provide Support
- 2.2.2. Provide Training
- 2.2.3. Collection of Annual maintenance fees
- 2.2.4. Provide Advisory Services

2.3. Results to be achieved by the contractor

- 2.3.1. Resolution of incidents and issues arising during the use of the system for the 3 SADC offices and 1 Disaster Recovery Site.
- 2.3.2. Facilitate, perform upgrade and train internal technical staff on the upgraded version.
- 2.3.3. Train SADC end-users on system usage.
- 2.3.4. Collect and remit the maintenance fees for HP Content Manager and SQL Server Database through an authorized channel partner for the duration of the contract.
- 2.3.5. Provide advisory services to SADC on the implemented Electronic Records Management System based on their experience, including but not limited to system and operational improvements.

3. ASSUMPTIONS & RISKS

3.1. Assumptions underlying the project

The contractor is an authorised channel partner for HP and has experience in supporting and maintaining the HP Content Manager system.

3.2. Risks

The number of authorised partner for HP Content Manager that are familiar with the operational structure of the SADC Secretariat is limited.

4. SCOPE OF THE WORK

4.1. General

4.1.1. Project description

For the duration of the contract, the contractor is expected to provide technical support to the staff of the Records Management and ICT Units to resolve any issues that may arise during the use of the HP Content Management system. Ensure that the system operating environment are properly maintained by ensuring that the Secretariat are kept up to date with any new development such as the introduction of new system features, bug fixes and available upgrades.

The Contractor is expected to perform system upgrades, installation of new features and applying fixes that are made available by the manufacturer of the system. The expectation is that the contractor will share knowledge with the SADC technical team to facilitate the troubleshooting process so that there is no over reliance on the contractor.

The Contractor is also expected to assist the Secretariat in conducting end-user training in an effort to help promote usage of the system.

The SADC Secretariat is also expecting the contractor to collect and remit the maintenance fees for HP Content Manager and SQL Server Database through an authorized channel partner for the duration of the contract, whilst also providing advisory service that can assist the SADC Secretariat in making better use of the HP Content Manager system and make its records management processes more efficient.

4.1.2. Geographical area to be covered

The primary location of the services provided will be:

- SADC Secretariat in Gaborone, Botswana
- SPGRC Office, Lusaka, Zambia
- RPTC Office, Harare, Zimbabwe

4.1.3. Target groups

The main target group and immediate beneficiaries of the services to be provided through this contract is the staff of the SADC Secretariat, SPGRC Office and RPTC Office.

4.2. Specific work

4.2.1. Support

SADC Secretariat will require support for HP Content Manager 9.2 modules that have been implemented. The support will include

- a. Resolutions of incidents and issues arising during the use of the system for the 3 SADC offices and 1 Disaster Recovery Site.

- b. In case of upgrades the supplier will facilitate and train internal technical staff on the new versions

4.2.2. Training

From time to time users of the records management applications will require training which will be provided by the supplier.

4.2.3. Collection of Annual maintenance fees

SADC Secretariat pays maintenance fees for HP Content Manager and SQL Server Database through an authorized channel partner for the implemented systems. The consultancy will collect and remit the maintenance fees to the system authors for the year of the contract.

4.2.4. Advisory

The supplier will provide advisory services on systems from time to time based on their experience with SADC Secretariat systems and operations.

4.3. Project management

4.3.1. Responsible body

The project will be the responsibility of the Head of Records Management Unit.

4.3.2. Management structure

The project will be managed by Head of Records Management Unit supported by the Head of the ICT Unit. The IT Steering Committee will be the committee that oversees the project and advise management on any issues.

4.3.3. Facilities to be provided by the contracting authority and/or other parties

The Contractor will be provided office space while onsite.

5. LOGISTICS AND TIMING

5.1. Location

The support and maintenance services will be required at the following location:

- SADC Secretariat in Gaborone, Botswana
- SPGRC Office, Lusaka, Zambia
- RPTC Office, Harare, Zimbabwe

5.2. Start date & period of implementation

The intended start date is October 2020 and the period of implementation of the contract will be 24 months from this date. Please see Articles 2.1, 2.3 and 2.4 of the special conditions 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. Key experts

Key expert 1: Team leader

Qualifications and skills

- A degree in Information Systems Management and any other related fields from a recognizable university.
- Certification in Microfocus Content Manager

General professional experience

- A minimum of 10 years in implementation of eRMS systems
- General understanding of MoReq 2 requirements
- Expertise in database configuration and management
- Proven record in ICT framework like COBIT and ITIL in relation to systems support and maintenance
- Working experience with SADC or similar organisation in the region

Specific professional experience

- A minimum of 10 years in implementation, support and maintenance of HPE Content Manager
- A minimum of 10 years' experience in Management of Microsoft SQL Server databases

Key expert 2: HPE Content Manager Expert

Qualifications and skills

- A certification in HPE Content Manager
- A diploma and or degree related to information systems/technology
- Certification ITIL of any service management framework in ICT

General professional experience

- Minimum of 5 years in software development and systems implementation
- Proven experience in understanding records management processes
- Working experience with SADC or similar organisation in the region

Specific professional experience

- Minimum of 5 years of experience and skills in configuring and administering all modules of HPE Content Manager
- Minimum of 5 years in developing process flows using HPE Content Manager
- Minimum of 5 years SQL Server database design, configuration and management

All experts must be independent and free from conflicts of interest in the responsibilities they take on.

6.1.2. Support staff & backstopping

Backstopping and support staff costs must be included in the remuneration.

6.2. Office accommodation

Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the contracting authority.

6.3. Facilities to be provided by the contractor

The contractor must ensure that experts are adequately supported and equipped. In particular it must ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support their work under the contract and to ensure that its employees are paid regularly and in a timely fashion.

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.

7. REPORTS

7.1. Reporting requirements

The Contractor shall submit quarterly performance reports to the SADC Secretariat.

7.2. Submission & approval of reports

The reports referred to above must be submitted to the responsible body identified in the contract. The reports must be written in English. The responsible body is responsible for approving the reports.

8. MONITORING AND EVALUATION

8.1. Definition of indicators

Number of Performance Reports submitted by the Contractor.

8.2. Special requirements

The contractor shall at least conduct two (2) meetings to discuss any issues relating to the contract.

* * *

Section 6. Standard Form of Contract

STANDARD CONTRACT FOR SERVICES

**DRAFT CONTRACT FOR TECHNICAL ASSISTANCE TO SADC
SECRETARIAT ON SUPPORT AND MAINTAINANCE OF SADC
SECRETARIAT HPE CONTENT MANAGER 9.2 AND PROVISION OF LICENSE
FOR ALL COMPONENTS**

CONTRACT NUMBER: SADC/3/5/2/150

BETWEEN *SADC Secretariat* (“the Contracting Authority”)

AND

CONTRACTOR *[insert the name]* (“the Contractor”)

DATE: *[insert the month and the year]*

Contents

I. Form of Contract	52
II. General Conditions of Contract	54
1.1 Definitions	54
1.2 Relationship Between the Parties	55
1.3 Law Governing Contract	55
1.4 Language	55
1.5 Headings	55
1.6 Notices	55
1.7 Location	55
1.8 Authority of Member in Charge	56
1.9 Authorized Representatives	56
1.10 Taxes and Duties	56
1.11 Fraud and Corruption	56
2.1 Effectiveness of Contract	58
2.2 Termination of Contract for Failure to Become Effective	58
2.3 Commencement of Services	58
2.4 Expiration of Contract	58
2.5 Entire Agreement	58
2.6 Modifications , or Variations	58
2.7 Force Majeure	60
2.8 Suspension	61
2.9 Termination	62
3.1 General	64
3.2 Conflict of Interests	64
3.3 Confidentiality	65
3.4 Liability of the Contractor	65
3.5 Insurance to be Taken out by the Contractor	65
3.6 Accounting, Inspection and Auditing	65
3.7 Contractor's Actions Requiring Contracting Authority's Prior Approval	66
3.8 Reporting Obligations	66
3.9 Documents Prepared by the Contractor to be the Property of the Contracting Authority	66
3.10 Equipment, Vehicles and Materials Furnished by the Contracting Authority	67
3.11 Equipment and Materials Provided by the Contractors	67
4.1 General	67
4.2 Description of Personnel	67
4.3 Approval of Personnel	68
4.4 Working Hours, Overtime, Leave, etc.	68
4.5 Removal and/or Replacement of Personnel	68
4.6 Resident Project Director	69
5.1 Assistance and Exemptions	69
5.2 Access to Land	70
5.3 Change in the Applicable Law Related to Taxes and Duties	70
5.4 Services, Facilities and Property of the Contracting Authority	70

5.5	Payment	71
5.6	Counterpart Personnel	71
6.1	Cost Estimates; Ceiling Amount	71
6.2	Remuneration and Reimbursable Expenses	72
6.3	Currency of Payment	73
6.4	Mode of Billing and Payment	73
7.1	Good Faith	75
7.2	Operation of the Contract	75
8.1	Amicable Settlement	77
8.2	Dispute Resolution	77
III.	Special Conditions of Contract	78
IV.	Appendices	84

I. Form of Contract

(Text in brackets [] is optional; all notes should be deleted in final text)

This CONTRACT (hereinafter called the “Contract”), between, on the one hand, *[name of Contracting Authority]* (hereinafter called the “Contracting Authority”) and, on the other hand, *[name of Contractor]* (hereinafter called the “Contractor”).

[Note: If the Contractor consist of more than one entity, the above should be partially amended to read as follows: “...(hereinafter called the “Contracting Authority”) and, on the other hand, a joint venture/consortium/association consisting of the following entities, each of which will be jointly and severally liable to the Contracting Authority for all the Contractor’s obligations under this Contract, namely, [name of Contractor] and [name of Contractor] (hereinafter called the “Contractor”).]

WHEREAS

- (a) the Contracting Authority has requested the Contractor to provide certain services as defined in this Contract (hereinafter called the “Services”);
- (b) the Contractor, having represented to the Contracting Authority that he has the required professional skills, and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract in order of precedence:

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

- Appendix A: Terms of Reference
- Appendix B: Technical Proposal
- Appendix C: Financial Proposal
- Appendix D: Form of Advance Payments Guarantee

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

- (a) the Contractors shall carry out the Services in accordance with the provisions of the Contract; and

- (b) the Contracting Authority shall make payments to the Contractor accordance with the provisions of the Contract.

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

For and on behalf of *[name of Contracting Authority]*

[Authorized Representative]

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

[Authorized Representative]

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

For and on behalf of each of the Members of the Contractor

[name of member]

[Authorized Representative]

[name of member]

[Authorized Representative]

II. General Conditions of Contract

1. GENERAL PROVISIONS

1.1 Definitions

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

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

in Clause GC 4.2(a).

- (n) “Reimbursable expenses” means all assignment-related costs other than Contractor’s remuneration.
- (o) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- (p) “Services” means the work to be performed by the Contractor pursuant to this Contract, as described in Appendix A hereto.
- (q) “Sub-Contractors” means any person or entity to whom/which the Contractor subcontracts any part of the Services.
- (r) “Third Party” means any person or entity other than the Contracting Authority, the Contracting Authority, the Contractor or a Sub-Contractor.
- (s) “In writing” means communicated in written form with proof of receipt.

**1.2 Relationship
Between the
Parties**

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Contracting Authority and the Contractor. The Contractor, subject to this Contract, has complete charge of Personnel and Sub-Contractors, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

**1.3 Law Governing
Contract**

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

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

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Notices

1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address **specified in the SC**.

1.6.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address **specified in the SC**.

1.7 Location

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not

so specified, at such locations, whether in the Contracting Authority's country or elsewhere, as the Contracting Authority may approve.

1.8 Authority of Member in Charge

In case the Contractor consists of a joint venture/consortium/association of more than one entity, the Members hereby authorize the entity **specified in the SC** to act on their behalf in exercising all the Contractor's rights and obligations towards the Contracting Authority under this Contract, including without limitation the receiving of instructions and payments from the Contracting Authority.

1.9 Authorized Representatives

1.9.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Contracting Authority or the Contractor may be taken or executed by the officials **specified in the SC**.

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

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

1.9.4. The Contractor authorized representative shall be called Project Director and his/her may exercise the authority attributable to him/her in the **as specified in the SC**.

1.9.5. The either Party shall promptly inform the other of any change of their authorized representative of any change to the authority attributed to their authorized representative.

1.10 Taxes and Duties

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

1.11 Fraud and Corruption

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

Should any personnel of the Contractor be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the execution of the Contract, then that personnel

shall be removed in accordance with Sub-Clause 4.5.

1.11.1 Definitions

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

- (i) “corrupt practice”¹¹ is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice”¹² is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “collusive practice”¹³ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice”¹⁴ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a SADC Secretariat investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (bb) acts intended to materially impede the exercise of the SADC Secretariat’s inspection and audit rights provided for under Clause 3.6.

1.11.2 Commissions and Fees

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

¹¹ “Another party” refers to a public official acting in relation to the selection process or contract execution. In this context, “public official” includes SADC Secretariat staff and employees of other organizations taking or reviewing procurement decisions.

¹² A “party” refers to a public official; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

¹³ “Parties” refers to participants in the selection process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

¹⁴ A “party” refers to a participant in the selection process or contract execution.

the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 2.1 Effectiveness of Contract** This Contract shall come into force and effect on the date (the “Effective Date”) of the Contracting Authority’s notice to the Contractor instructing the Contractor to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, **listed in the SC** have been met.
- 2.2 Termination of Contract for Failure to Become Effective** If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, either Party may, by not less than twenty one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
- 2.3 Commencement of Services** The Contractor shall begin carrying out the Services not later than the number of days after the Effective Date **specified in the SC**.
- 2.4 Expiration of Contract** Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as **specified in the SC**.
- 2.5 Entire Agreement** This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
- 2.6 Modifications , or Variations**
- 2.6.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- 2.6.2. Substantial modifications to the contract, including modifications of the General or Special Conditions of the contract, changes in the scope or the duration of the contract, to the total contract amount and replacement of Key Experts, must be made by means of an addendum .If the request for an amendment comes from the Contractor, the latter must submit such a request to the Contracting Authority at least 30 days before the amendment is intended to enter into force, except in cases which are duly substantiated by the Contractor and accepted by the

Contracting Authority.

- 2.6.3. However, where the amendment does not affect the basic purpose of the contract and, for a time based contract, the financial impact is limited to a transfer within the remuneration or between the remuneration and the provision for reimbursable expenses involving a variation of less than 15% of the original amount (or as modified by addendum) for the categories of expense where the money was taken from, the Task Manager shall have the power to order any variation to any part of the services necessary for the proper implementation of the tasks, without changing the object or scope of the contract. Such variations may include additions, omissions, substitutions, changes in quality, quantity, specified sequence, method or timing of performance of the services, changes in contract details and reporting requirements.
- 2.6.4. Prior to any administrative order for variation, the Task Manager shall notify the Contractor of the nature and form of such variation. As soon as possible, after receiving such notice, the Contractor shall submit to the Task Manager a written proposal containing:
- (a) a description of the service to be performed or the measures to be taken and a programme for implementation of the tasks; and
 - (b) any necessary modifications to the programme of implementation of the tasks or to any of the Contractor's obligations under the contract; and
 - (c) For a time based contract, any adjustment to the contract value in accordance with the following principles:
 - (1) where the task is of similar character and executed under similar conditions to an item priced in the budget breakdown the equivalent numbers of working days shall be valued at the fee rates contained therein;
 - (2) where the task is not of a similar character or is not executed under similar conditions, the fee rates in the contract shall be applied to the estimated numbers of working days so far as is reasonable, failing which, a fair estimation shall be made by the Task Manager;
 - (3) where a variation is necessitated by a default or

breach of contract by the Contractor, any additional cost attributable to such variation shall be borne by the Contractor.

- 2.6.5. Following the receipt of the Contractor's proposal, the Task Manager shall decide as soon as possible whether or not the variation shall be carried out. If the Task Manager decides that the variation shall be carried out he/she shall issue the administrative order stating that the variation shall be carried out under the conditions given in the Contractor's proposal or as modified by the Task Manager in accordance with pursuant to Clause GC 2.6.4.
- 2.6.6. On receipt of the administrative order requesting the variation, the Contractor shall proceed to carry out the variation and be bound by these General Conditions in so doing as if such variation were stated in the contract.
- 2.6.7. No amendment shall be made retroactively except in cases which are duly substantiated by the Contractor and accepted by the Contracting Authority.
- 2.6.8. Any change to the contract which has not been made in the form of an administrative order or an addendum or in accordance with this Clause shall be considered null and void.

2.7 Force Majeure

2.7.1 Definition

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

expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

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

2.7.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken

- (a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- (c) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- (d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Contractor, upon instructions by the Contracting Authority, shall either:
 - (i) demobilize, in which case the Contractor shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Contracting Authority, in reactivating the Services; or
 - (ii) continue with the Services to the extent possible, in which case the Contractor shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

2.8 Suspension

The Contracting Authority may, by written notice of suspension to the Contractor, suspend all payments to the Contractor hereunder if

the Contractor fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Contractor to remedy such failure within a period not exceeding thirty (30) days after receipt by the Contractor of such notice of suspension.

2.9 Termination

2.9.1 By the Contracting Authority

The Contracting Authority may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (g) of this Clause GC 2.9.1. In such an occurrence the Contracting Authority shall give a not less than thirty (30) days' written notice of termination to the Contractors, and sixty (60) days' in case of the event referred to in (g).

- (a) If the Contractor fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Contracting Authority may have subsequently approved in writing.
- (b) If the Contractor becomes (or, if the Contractor consists of more than one entity, if any of its Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.
- (c) If the Contractor fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.
- (d) If the Contractor, in the judgment of the Contracting Authority, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.
- (e) If the Contractor submits to the Contracting Authority a false statement which has a material effect on the rights, obligations or interests of the Contracting Authority.
- (f) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (g) If the Contracting Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 By the Contractor

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

(d) of this Clause GC 2.9.2.

- (a) If the Contracting Authority fails to pay any money due to the Contractor pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Contractor that such payment is overdue.
- (b) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (c) If the Contracting Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.
- (d) If the Contracting Authority is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Contractor may have subsequently approved in writing) following the receipt by the Contracting Authority of the Contractor's notice specifying such breach.

2.9.3 Cessation of Rights and Obligations

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

2.9.4 Cessation of Services

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

2.9.5 Payment upon Termination

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

- (a) remuneration pursuant to Clause GC 6 hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6 hereof for expenditures actually incurred prior to the

effective date of termination; and

- (b) except in the case of termination pursuant to paragraphs (a) through (e) of Clause GC 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract including the cost of the return travel of the Personnel and their eligible dependents.

**2.9.6 Disputes
about
Events of
Termination**

If either Party disputes whether an event specified in paragraphs (a) through (f) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONTRACTOR

3.1 General

**3.1.1 Standard of
Performance**

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

**3.1.2 Law
Governing
Services**

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

3.2 Conflict of Interests

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

**3.2.1 Contractor
Not to
Benefit from
Commis-
sions,
Discounts, etc.**

- (a) The payment of the Contractor pursuant to Clause GC 6 hereof shall constitute the Contractor's only payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Contractor shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Contractor shall use its best

efforts to ensure that any Sub-Contractors, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.

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

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

- Inspection and Auditing** appointed by the SADC Secretariat to inspect its accounts and records as well as those of its Sub-Contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the SADC Secretariat if required by the SADC Secretariat. The Contractor's attention is drawn to Clause 1.11.1 which provides, inter alia, that acts intended to materially impede the exercise of the SADC Secretariat's inspection and audit rights provided for under Clause 3.6 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the Contractor Guidelines).
- 3.7 Contractor's Actions Requiring Contracting Authority's Prior Approval** The Contractor shall obtain the Contracting Authority's prior approval in writing before taking any of the following actions:
- (a) Any change or addition to the Personnel listed in Appendix B.
 - (b) Subcontracts: the Contractor may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the Contracting Authority. Notwithstanding such approval, the Contractor shall retain full responsibility for the Services. In the event that any Sub-Contractors are found by the Contracting Authority to be incompetent or incapable in discharging assigned duties, the Contracting Authority may request the Contractor to provide a replacement, with qualifications and experience acceptable to the Contracting Authority, or to resume the performance of the Services itself.
 - (c) Any other action that may be specified **in the SC**.
- 3.8 Reporting Obligations** The Contractor shall submit to the Contracting Authority the reports and documents specified in Appendix A hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.
- 3.9 Documents Prepared by the Contractor to be the Property of the Contracting Authority** All plans, drawings, specifications, designs, reports, other documents and software prepared by the Contractor for the Contracting Authority under this Contract shall become and remain the property of the Contracting Authority, and the Contractor shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Contracting Authority, together with a detailed inventory thereof. The Contractor may retain a copy of such documents and software, and use such software for their own use with prior written approval of the Contracting Authority. If license agreements are necessary or appropriate between the Contractor and third parties for purposes of development of any such computer programs, the Contractor shall obtain the Contracting Authority's prior written approval to such agreements, and the Contracting

Authority shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, **shall be specified in the SC.**

3.10 Equipment, Vehicles and Materials Furnished by the Contracting Authority

Equipment, vehicles and materials made available to the Contractor by the Contracting Authority, or purchased by the Contractor wholly or partly with funds provided by the Contracting Authority, shall be the property of the Contracting Authority and shall be marked accordingly. Upon termination or expiration of this Contract, the Contractor shall make available to the Contracting Authority an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Contracting Authority's instructions. While in possession of such equipment, vehicles and materials, the Contractor, unless otherwise instructed by the Contracting Authority in writing, shall insure them at the expense of the Contracting Authority in an amount equal to their full replacement value.

3.11 Equipment and Materials Provided by the Contractors

Equipment or materials brought into the Contracting Authority's country by the Contractor and the Personnel and used either for the Project or personal use shall remain the property of the Contractor or the Personnel concerned, as applicable.

4. CONTRACTORS' PERSONNEL AND SUB-CONTRACTORS

4.1 General

The Contractor shall employ and provide such qualified and experienced Personnel and Sub-Contractors as are required to carry out the Services.

4.2 Description of Personnel

- (a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Contractor's Key Personnel are described in Appendix B. If any of the Key Personnel has already been approved by the Contracting Authority, his/her name is listed as well.
- (b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix B may be made by the Contractor by written notice to the Contracting Authority, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Contracting Authority's written approval.

- (c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix B may be increased by agreement in writing between the Contracting Authority and the Contractor. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

4.3 Approval of Personnel

The Key Personnel and Sub-Contractors listed by title as well as by name in Appendix B are hereby approved by the Contracting Authority. In respect of other Personnel which the Contractor proposes to use in the carrying out of the Services, the Contractor shall submit to the Contracting Authority for review and approval a copy of their Curricula Vitae (CVs). If the Contracting Authority does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the Contracting Authority.

4.4 Working Hours, Overtime, Leave, etc.

- (a) Working hours and holidays for Key Personnel are set forth in Appendix B hereto. To account for travel time, Foreign Personnel carrying out Services inside the Contracting Authority's country shall be deemed to have commenced, or finished work in respect of the Services such number of days before their arrival in, or after their departure from the Contracting Authority's country as is specified in Appendix B hereto.
- (b) The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix B hereto, and except as specified in such Appendix, the Contractor's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Appendix B. Any taking of leave by Personnel shall be subject to the prior approval by the Contractor who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.5 Removal and/or Replacement of Personnel

- (a) Except as the Contracting Authority may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Contractor, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Contractor shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Contracting Authority (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable

cause to be dissatisfied with the performance of any of the Personnel, then the Contractor shall, at the Contracting Authority's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Contracting Authority.

- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Contractors may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Contracting Authority. The rate of remuneration applicable to a replacement person will be obtained by multiplying the rate of remuneration applicable to the replaced person by the ratio between the monthly salary to be effectively paid to the replacement person and the average salary effectively paid to the replaced person in the period of six months prior to the date of replacement. Except as the Contracting Authority may otherwise agree, (i) the Contractor shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

4.6 Resident Project Director

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

5. OBLIGATIONS OF THE CONTRACTING AUTHORITY

5.1 Assistance and Exemptions

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

- (a) Provide the Contractor, Sub-Contractors and Personnel with work permits and such other documents as shall be necessary to enable the Contractor, Sub-Contractors or Personnel to perform the Services.
- (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Contracting Authority's country.
- (c) Facilitate prompt clearance through customs of any property

required for the Services and of the personal effects of the Personnel and their eligible dependents.

- (d) Issue to officials, agents and representatives of the Contracting Authority all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (e) Exempt the Contractor and the Personnel and any Sub-Contractors employed by the Contractor for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law.
- (f) Grant to the Contractor, any Sub-Contractors and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Contracting Authority's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.
- (g) Provide to the Contractor, Sub-Contractors and Personnel any such other assistance as may be **specified in the SC**.

5.2 Access to Land

The Contracting Authority warrants that the Contractor shall have, free of charge, unimpeded access to all land in the Contracting Authority's country in respect of which access is required for the performance of the Services. The Contracting Authority will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Contractor and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Contractor or any Sub-Contractors or the Personnel of either of them.

5.3 Change in the Applicable Law Related to Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Contractor in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Contractor under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

5.4 Services, Facilities and Property of the Contracting Authority

- (a) The Contracting Authority shall make available to the Contractor and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix A at the times and in the manner

specified in said Appendix A.

- (b) In case that such services, facilities and property shall not be made available to the Contractor as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Contractor for the performance of the Services, (ii) the manner in which the Contractor shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Contractor as a result thereof pursuant to Clause GC 6.1(c) hereinafter.

5.5 Payment

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

5.6 Counterpart Personnel

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

6. PAYMENTS TO THE CONTRACTOR

6.1 Cost Estimates; Ceiling Amount

- (a) An estimate of the cost of the Services payable in US Dollars is set forth in Appendix C.
- (b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the ceiling **specified in the SC**.

- (c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 5.3, 5.4 or 5.6 hereof, the Parties shall agree that additional payments shall be made to the Contractor in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenses

Option 1: Global Price Contracts

Subject to the ceilings specified in Clause GC 6.1(b) hereof, the Contracting Authority shall pay to the Contractor, in fix instalments, (i) the remuneration as set forth in SC hereunder, and (ii) the reimbursable expenses as set forth in Clause SC hereunder, based on the following Schedule stated in SC.

Unless otherwise specified in the SC, the remuneration shall be fixed for the duration of the Contract.

Option 2: Fee Based Contracts

- (a) Subject to the ceilings specified in Clause GC 6.1(b) hereof, the Contracting Authority shall pay to the Contractor (i) remuneration as set forth in Clause GC 6.2(b) hereunder, and (ii) reimbursable expenses as set forth in Clause GC 6.2(c) hereunder. Unless otherwise **specified in the SC**, said remuneration shall be fixed for the duration of the Contract.
- (b) Payment for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GC 2.3 and **Clause SC 2.3** (or such other date as the Parties shall agree in writing), at the rates referred to in Appendix C to this Contract, and subject to price adjustment, if any, **specified in SC**.
- (c) Reimbursable expenses actually and reasonably incurred by the Contractor in the performance of the Services and identified in Appendix C of this Contract, shall not exceed the ceiling **specified in SC**.
- (d) The remuneration rates referred to under paragraph (b) here above shall cover: (i) such salaries and allowances as the Contractor shall have agreed to pay to the Personnel as well as factors for social charges and overhead (bonuses or other means of profit-sharing shall not be allowed as an element of overhead), (ii) the cost of backstopping by home office

staff not included in the Personnel listed in Appendix B, and (iii) the Contractor's fee.

- (e) Any rates specified for Personnel not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Contracting Authority, once the applicable salaries and allowances are known.
- (f) Payments for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Contractor's home office and directly attributable to the Services (one hour being equivalent to 1/176th of a month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).

6.3 Currency of Payment

All payments shall be made in US Dollars.

6.4 Mode of Billing and Payment

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

Option 1: Global Price Contracts

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

Option 2: Fee Based Contracts

- (a) All payments under this Contract shall be made to the accounts of the Contractor **specified in the SC**.

- (b) Within the number of days after the Effective Date specified in the SC, the Contracting Authority shall cause to be paid to the Contractor advance payments as **specified in the SC**. When the SC indicate advance payment, this will be due after provision by the Contractor to the Contracting Authority of an advance payment guarantee acceptable to the Contracting Authority in an amount (or amounts) and in a currency **specified in the SC**. Such guarantee (i) to remain effective until the advance payment has been fully set off, and (ii) to be in the form set forth in Appendix D hereto, or in such other form as the Contracting Authority shall have approved in writing. The advance payments will be set off by the Contracting Authority in equal installments against the statements for the number of months of the Services **specified in the SC** until said advance payments have been fully set off.
- (c) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time intervals **otherwise indicated in the SC**, the Contractor shall submit to the Contracting Authority, in duplicate, itemized statements, accompanied by copies of invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GC 6.3 and GC 6.4 for such month, or any other period indicated in the SC. Separate statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenses.
- (d) The Contracting Authority shall pay the Contractor's statements within sixty (60) days after the receipt by the Contracting Authority of such statements with supporting documents. Only such portion of a statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Contractor, the Contracting Authority may add or subtract the difference from any subsequent payments. Interest at the annual rate **specified in the SC** shall become payable as from the above due date on any amount due by, but not paid on, such due date.
- (e) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Contractor and approved as satisfactory by the Contracting Authority. The Services shall be deemed completed and finally accepted by the Contracting

Authority and the final report and final statement shall be deemed approved by the Contracting Authority as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Contracting Authority unless the Contracting Authority, within such ninety (90) day period, gives written notice to the Contractor specifying in detail deficiencies in the Services, the final report or final statement. The Contractor shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the Contracting Authority has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Contractor to the Contracting Authority within thirty (30) days after receipt by the Contractor of notice thereof. Any such claim by the Contracting Authority for reimbursement must be made within twelve (12) calendar months after receipt by the Contracting Authority of a final report and a final statement approved by the Contracting Authority in accordance with the above.

- (f) Payments in respect of remuneration or reimbursable expenses, which exceed the cost estimates for these items as set forth in Appendices D , may be charged to the respective contingencies only if such expenditures were approved by the Contracting Authority prior to being incurred.
- (g) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Contractor of any obligations hereunder.

7. FAIRNESS, GOOD FAITH AND NON-WAIVER

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

7.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in

accordance with Clause GC 8 hereof.

7.3 Non waiver

Non waiver means that:

- (a) No relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

8. FINANCIAL GUARANTEE (Advance Payment Guarantee)

8.1.

Unless otherwise provided for in the Special Conditions, the Contractor shall provide a financial guarantee for the full amount of the pre-financing payment. The financial guarantee shall be in the format provided for in the contract and may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company, an irrevocable letter of credit or a cash deposit made with the Contracting Authority. If the financial guarantee is to be provided in the form of a bank guarantee, a banker's draft, a certified cheque or a bond it shall be issued by a bank or bonding and/or insurance company approved by the Contracting Authority. This financial guarantee shall remain valid until it is released by the Contracting Authority as appropriate. Where the Contractor is a public body the obligation for a financial guarantee may be waived depending on a risk assessment made.

The financial guarantee shall be provided on the letterhead of the financial institution using the template provided in Appendix D.

Should the financial guarantee cease to be valid and the Contractor fail to re-validate it, either a deduction equal to the amount of the pre-financing may be made by the Contracting Authority from future payments due to the Contractor under the contract, or the Contracting Authority shall give formal notice to the Contractor to provide a new guarantee on the same terms as the previous one. Should the Contractor fail to provide a new guarantee, the Contracting Authority may terminate the contract giving 30 days notice.

If the contract is terminated for any reason whatsoever, the financial

guarantee may be invoked forthwith in order to repay any balance still owed to the Contracting Authority by the Contractor, and the guarantor shall not delay payment or raise objection for any reason whatsoever.

For fee-based contracts, the financial guarantee shall be released when the advance is reimbursed according to article 6.4 (option two).

For global price contracts, (i) if the contract is not divided between different outputs that the Contracting Authority can approve independently, or has a duration of less than two years, the advance guarantee shall remain in force until the final payment has been made and (ii) if the contract has a duration of at least two years and if the budget is divided between different outputs that the Contracting Authority can approve independently, the guarantee shall be released when the pre financing is reimbursed in accordance with article 6.4.

9. SETTLEMENT OF DISPUTES

9.1 Amicable Settlement

If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt. If that Party fails to respond within 14 days, or the dispute cannot be amicably settled within 14 days following the response of that Party, Clause GC 8.2 shall apply.

9.2 Dispute Resolution

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably according to Clause GC 8.1 may be submitted by either Party for settlement in accordance with the provisions **specified in the SC**.

III. Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The words “in the Contracting Authority’s country” are amended to read “in Botswana.”.
1.1 (b)	The Contracting Authority is: <i>The SADC Secretariat</i>
1.1 ©	The Contractor is: <i>[insert the name]</i>
1.4	The language is English
1.6	The addresses are: Contracting Authority SADC Secretariat CBD Plot 54385 Room DGP11 on Ground Floor City: Gaborone Country: Botswana Phone: +2673951863 Fax: +2673972848/3181070 Facsimile: Contractor Attention: Facsimile :
1.8	The Member-in-charge authorized to act on behalf of the Joint Venture / Consortium / Association is: <i>[Insert name of the Lead Partner]</i> <i>Note: If the Contractor consists of a joint venture/ consortium/ association of more than one entity, the name of the entity whose address is specified in Clause SC 1.6 should be inserted here. If the Contractor consists only of one entity, this Clause SC 1.8 should be deleted from the SC.</i>
1.9.1	The Authorized Representatives are: For the Contracting Authority:

III Special Conditions of Contract

	<p>The Task Manager is <i>[insert the name, title, department organization]</i></p> <p>For the Contractor:</p> <p>The Project Director is <i>[insert the name, title, department organization]</i></p>
1.9.2	<p>The Contracting Authority delegates to the Task Manager the following authority under this Contract:</p> <p><i>The Task manager shall be the first point of contact for operational implementation and shall oversee operational implementation on a day to day basis. The Task Manager will approve reports submitted by the Contractor, sign off on time sheets, approve leave applications, chair progress meetings, sign off on TORs for STEs, approve invoices, provide technical guidance on programme implementation and brief management on progress with this project.</i></p> <p><i>The Alternate Task Managers shall be the point of contact for operational implementation in the absence of the Task Manager. The Director FANR (or Officer in Charge) shall be the point of contact for operational implementation in the absence of the Task Manager and the Alternate Task Managers.</i></p>
1.9.4	<p>The Contractor delegates the Project Director the following authority under this Contract: <i>[list the authority of the Project]</i></p>
1.10	<p>Taxes and Duties: It is the responsibility of the Contractor to ensure that they familiarise themselves with the relevant tax regulations in their home country and in Botswana. The Contractor, its sub-contractors and its personnel shall be liable for all applicable taxes.</p>
2.1	<p>The effectiveness conditions are the following:</p> <p>Receipt by Contracting Authority of advance payment guarantee from the contractor and receipt by Contractor of advance payment (see Clause SC 6.4(a))</p>
2.2	<p>The time period shall be <i>90 days</i></p>
2.3	<p>The time period shall be <i>30 days but should not extend beyond the date agreed for the mobilization of the Key Experts</i></p>

2.4	The time period shall be <i>24 months</i>
3.4	<p>Limitation of the Contractors' Liability towards the Contracting Authority</p> <p>(a) Except in case of gross negligence or willful misconduct on the part of the Contractors or on the part of any person or firm acting on behalf of the Contractors in carrying out the Services, the Contractors, with respect to damage caused by the Contractors to the Contracting Authority's property, shall not be liable to the Contracting Authority:</p> <p>(i) for any indirect or consequential loss or damage; and</p> <p>(ii) for any direct loss or damage that exceeds by <i>[insert a multiplier, e.g.: three]</i> times the total value of the Contract.</p> <p>(b) This limitation of liability shall not affect the Contractors' liability, if any, for damage to Third Parties caused by the Contractors or any person or firm acting on behalf of the Contractors in carrying out the Services.</p>
3.5	<p>The risks and the coverage shall be as follows:</p> <p>(a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Contracting Authority's country by the Contractor or its Personnel or any Sub-Contractors or their Personnel, with a minimum coverage of <i>[insert amount and currency]</i>;</p> <p>(b) Third Party liability insurance, with a minimum coverage of <i>[insert amount and currency]</i>;</p> <p>(c) professional liability insurance, with a minimum coverage of <i>[insert amount and currency]</i>;</p> <p>(d) employer's liability and workers' compensation insurance in respect of the Personnel of the Contractor and of any Sub-Contractors, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Contractor's property used in the performance of the Services, and (iii) any documents prepared by the Contractor in the performance of the Services.</p>

III Special Conditions of Contract

	Note: <i>Delete what is not applicable.</i>
3.7.b	Subcontracting is not allowed. Free lance experts (Key Experts as well as Short Term Experts) will not be considered as subcontractors as long as the Contractor retains full responsibility for the services rendered.
3.9	The Contractor shall not use these documents and software for purposes unrelated to this Contract without the prior written approval of the SADC Secretariat.
3.10	Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the contracting authority.
3.11	The contractor needs to foresee sufficient computers, printers etc. as well as vehicles if required, according to the Terms of Reference. All above costs are included in the contract.
4.4 (a)	As per the General Conditions.
4.4 (b)	As per the General Conditions.
4.6	Preferably the KE1 specified in Form Tech4 should be designated as resident Project Director
5.1(e)	5.1(e) is replaced by “assist the Contractor’s Personnel and any Sub-Contractors employed by the Contractor for the Services to register or obtain any permit to practice their profession”.
5.1(g)	The SADC Secretariat will provide the consultant with relevant project data and reports available in the SADC Secretariat.
6.1(b)	The contract ceiling: US\$ (<i>insert from financial proposal</i>).
6.2	This is a global price contract (see 6.4 below)
6.2 (b)	There are no price adjustments; the rates are fixed for the duration of the contract.
6.2 (c)	<p>Not applicable</p> <p>The ceiling for reimbursable expenses is The only expenses that can be considered for reimbursement are:</p> <ul style="list-style-type: none"> • Flights for mobilization and demobilization of short-term experts using the most direct route (economy class).

III Special Conditions of Contract

	<ul style="list-style-type: none"> • Translation of project related documents as approved by the Procuring Entity. <p>Or other expenses incurred after written approval of the Contracting Authority.</p>
6.2(d)	All backstopping costs must be included in the contract
6.2 (e)	Not applicable
6.2.(f)	As per the General Conditions
6.4(a)	The contract is global price contract
6.4(c)	The interest rate is: <i>[insert rate]</i> .
6.4(e)	The account is: <i>[insert the bank account details]</i>
8	The Contractor will provide a Finance Guarantee of <i>[.....]</i> USD together with the contract signed.
9.2	<p>Disputes shall be settled by negotiation and arbitration in accordance with the following provisions:</p> <p>(a) The Parties shall use all their best efforts to settle all disputes arising out of, or in connection with, this Contract or its interpretation amicably.</p> <p>(b) In the event that, through negotiation, the parties fail to solve a dispute arising from the conclusion, interpretation, implementation or termination of the contract, the parties shall settle the dispute by arbitration.</p> <p>(c) The arbitral tribunal shall consist of three arbitrators. Each party to the dispute shall appoint one arbitrator. The two arbitrators so appointed shall appoint the third arbitrator, who shall be the Chairperson. If within 15 days of receipt of the request for arbitration either party has not appointed an arbitrator, or if within 7 days of the appointment of the two arbitrators the third arbitrator has not been appointed, either party may request an appointing authority agreed by the parties to appoint an arbitrator.</p>

III Special Conditions of Contract

	<p>(d) If no appointing authority has been agreed upon by the parties, or if the appointing authority agreed upon refuses to act or fails to appoint the arbitrator within 30 days of the receipt of a party's request , either party may request the Chairman of the Botswana Institute of Arbitrators to appoint a sole arbitrator.</p> <p>(e) The appointing authority shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible.</p> <p>(f) The procedure of arbitration shall be fixed by the arbitral tribunal/sole arbitrator which shall have full power to settle all questions of procedure in any case of disagreement with respect thereto.</p> <p>(g) The decisions of the arbitral tribunal/sole arbitrator shall be final and binding upon the parties.</p> <p>(h) The arbitration shall take place in Botswana and the substantive laws of Botswana shall apply.</p> <p>Nothing in this Clause shall affect the privileges and immunities of SADC as an organization.</p>
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IV. Appendices

APPENDIX A – TERMS OF REFERENCE

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

APPENDIX B – TECHNICAL PROPOSAL

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

APPENDIX C – FINANCIAL PROPOSAL

APPENDIX D - FORM OF ADVANCE PAYMENTS GUARANTEE

Note: See Clause GC 6.4(a) and Clause SC 6.4(a).

Bank Guarantee for Advance Payment

_____ *[Bank's Name, and Address of Issuing Branch or Office]*

Beneficiary: _____ *[Name and Address of Contracting Authority]*

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that _____ *[name of Contractor]* (hereinafter called "the Contractors") has entered into Contract No. _____ *[reference number of the contract]* dated _____ with you, for the provision of _____ *[brief description of Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of _____ *[amount in figures]* (_____) *[amount in words]* is to be made against an advance payment guarantee.

At the request of the Contractors, we _____ *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of _____ *[amount in figures]* (_____) *[amount in words]*¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractors are in breach of their obligation under the Contract because the Contractors have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractors on their account number _____ at _____ *[name and address of Bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractors as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Contractors have made

¹ The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Contracting Authority.

III Special Conditions of Contract

full repayment of the amount of the advance payment, or on the ___ day of _____, 2____,² whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

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

[signature(s)]

Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.

² Insert the expected expiration date. In the event of an extension of the time for completion of the Contract, the Contracting Authority would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Contracting Authority might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Contracting Authority's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."