

GLOBAL WATER PARTNERSHIP SOUTHERN AFRICA (GWPSA NPC)

INVITATION TO BID

REQUEST FOR QUOTATION

FOR

SUPPLY OF HOTEL ACCOMMODATION AND CONFERENCING FACILITIES

Invitation to Bid (ITB No. T00002/06/2022)

Date: 8th June 2022

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1. BACKGROUND INFORMATION

The Global Water Partnership (GWP) is a multi-stakeholder action network dedicated to working with countries towards the equitable, sustainable, and efficient management of water resources. We comprise 3,000+ partner organisations in over 180 countries. Our network of 65+ Country Water Partnerships and 13 Regional Water Partnerships convenes, and brokers coordinated action by government and non-government actors. GWP Southern Africa and Africa Coordination Unit (GWPSA-ACU) is one of 13 regional networks that make up GWP and offers practical support for sustainably managing water resources to 16 countries in the Southern African Development Community (SADC) region. The regional network manages activities and convenes stakeholders in this region and at a pan-African level to address issues that have an impact on water.

For the organisation to operate optimally, given the range of projects we are involved in, we are looking to make use of suitable **Hotel Accommodation and conferencing facilities** from establishments with both experience and enthusiasm, across various countries in the SADC region. The GWPSA promotes competitiveness and transparency in all its procurement policies implemented both locally and internationally.

2. TERMS OF REFERENCE

The GWPSA requires Hotel/Accommodation and conferencing facilities to conduct its business matters and therefore issues the following Terms of Reference (ToR) to suppliers, inviting them to submit quotations in this regard. The objective is to appoint a service provider, to supply to the organisation, suitable accommodation and conferencing facilities to conduct its **workshops/seminars and stakeholder meetings**, as and when the need arises. This is envisaged to be for a period of Two (2) years. **Table 2** in **Annex A** includes a full list of items that will be required.

3. GEOGRAPHIC SCOPE OF DELIVERY FOR GOODS

Each bidder will supply a quotation based on their area of operation which will service the specific Water Partnership. For example, if a supplier is based in Gauteng, South Africa, they should submit a quote for that region:

- 1) Botswana
- 2) Eswatini
- 3) Lesotho
- 4) Malawi
- 5) Mozambique
- 6) South Africa
- 7) Zambia
- 8) Zimbabwe

4. GUIDE TO RESPOND

All bids will be evaluated in terms of the evaluation criteria in **Article 5**. The 80/20 procurement principle specifically will apply. The evaluation has three (3) phases:

- 1) Phase 1 – Administrative Requirement;
- 2) Phase 2 – Functionality / Technical Requirement;
- 3) Phase 3 – Price and References.

Bidders will only be considered for the evaluation of phase 2 after meeting the requirements for phase 1 and will then only be considered for phase 3 after meeting the minimum qualifying threshold of 60% in phase 2. Pages should be numbered for ease of reference.

4.1 Functionality / Technical Evaluation

Bidders should take note of the different elements within the evaluation of the technical phase, which are:

- Capability;
- Footprint Service Offering

4.1.1 Capability

A minimum of Ten (10) years' experience in the relevant industry is a requirement. Additional years will result in a higher score. At least Three (3) previous or current client reference letters, which include the value of the projects, are required. The number of reference letters and the value of the projects will be a determining factor when allocating scores. Reference to similar projects to the value of US \$5,000 and above and the number of years exceeding 3 years may be to your advantage. Bidders are required to hold a valid banking account that can receive foreign currencies (US Dollars (US\$), EUROS (€), Great British Pounds (£)).

4.1.2 Footprint

Each supplier should submit proof of doing business with clients from any of the SADC countries below, for example, if a supplier wants to submit a quotation for South Africa, they should have proven under the capability section above, that they have or currently provide these services to clients within that country.

- 1) Botswana
- 2) Eswatini
- 3) Lesotho
- 4) Malawi
- 5) Mozambique
- 6) South Africa
- 7) Zambia
- 8) Zimbabwe

4.1.3 Service offering:

Bidders should address all three areas indicated in the evaluation criteria. The proposal should distinguish these three areas (delivery methodology; supplier arrangement / outsourcing arrangement; and order placement methodology or approach).

4.1.4 Delivery methodology:

Turnaround time and availability must be proposed by the bidder. Bidders must also indicate the in season/peak and off season/off-peak times for the venues being quoted on. Bidders must be able to advise whether they are able to reserve space for Accommodation and conferencing facilities for up to 50 guests at a time, as and when required.

4.1.5 Supplier Arrangement/Outsourcing Arrangement:

Bidder should provide clarity regarding the supplier arrangement in terms of its ability to provide direct services to GWPSA. The outsourcing arrangements should be made explicit by the bidder in the RFQ. Any third party that is involved in either, the supply and/or delivery of goods/services should be noted in the RFQ by the bidder.

4.1.6 Order placement methodology/approach:

Bidder to provide narrative description of quotations and process flow, from placing of order to completion of service. This is an important component of the RFQ and will illustrate how efficient the ordering and processing system is within the bidder's internal environment. This will also affect the scoring in the set evaluation criteria in **Article 5** below.

5. Evaluation Criteria

Table 1 Criteria used by GWPSA when evaluating the bid submission

Item No.	Evaluation Criteria Items/20 Principle	Weight	
A	Phase 1: Administrative compliance:	The following <u>compulsory</u> statutory documents:- <ul style="list-style-type: none"> • A1: Completed ITB1 form; • A2: Valid Certified Copy of Tax Clearance Certificate or Letter of Exemption (ITB2a) • A3: Valid Health and Safety Certificate (ITB2b) • A4: Covid-19 Pandemic Protocol Document (ITB2c) • A5: Declaration of Interest (ITB3) • A6: Declaration of bidder's past supply chain management practices (ITB4) • A7: Certificate of independent bid termination (ITB5) • A8: Technical Response (if applicable) Failure to comply with the administrative required documents will render your bid non-responsive, and will lead to disqualification.	
B	Phase 2: Functionality:		
	1. Capability:	<ul style="list-style-type: none"> • Minimum 10 Years' Experience in the Hotel and Hospitality Industry 	15
		<ul style="list-style-type: none"> • with previous or current clients reference letters 	15
		<ul style="list-style-type: none"> • including the value of projects rendered 	5
	2. Footprint	<ul style="list-style-type: none"> • Ability to supply within each of the 8 regions 	10
	3. Service offering:	<ul style="list-style-type: none"> • Availability and suitability of hotel rooms and conferencing (according to specifications in table 2) 	20
		<ul style="list-style-type: none"> • Pre-booking and reserving of rooms and conferencing facilities for 1- 50 guests 	20
<ul style="list-style-type: none"> • Health and Safety Certification, Security protocol and Covid-19 Pandemic protocol document 		15	
C	Total: Administrative & Functionality	100	
	Phase 3: Preference and Price		
	Price score	80	
	Preference/Functionality	20	
	Total score on Preference and price	100	

ANNEXURE A: (GWPSA NPC) INVITATION TO BID DOCUMENT ITB1 FORM

6. INVITATION TO BID

ITB1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF GLOBAL WATER PARTNERSHIP SOUTHERN AFRICA (GWPSA NPC)

BID NUMBER: ITB No. T00002/06/2022

DATE OF ISSUE/ADVERTISED: 10th June 2022

CLOSING DATE: 11th July 2022

CLOSING TIME: 11h00am, CAT

BID OPENING: 11th July 2022 @ 16h00pm, online (Microsoft Teams Platform) - *Due to the restrictions imposed by the COVID-19 virus, in person Bid opening will not happen. The Microsoft Teams online platform will be used.*

Link: [Click here to join the meeting](#)

DESCRIPTION: Supply of Hotel Accommodation and Conferencing Facilities for GWPSA for a period of Two (2) years.

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT

BID DOCUMENTS MUST BE EMAILED TO THE ADDRESS BELOW:

Attention: GWP SA Procurement

Global Water Partnership Southern Africa (GWPSA NPC)

Hatfield Gardens, Block A Pretoria

333 Grosvenor Street

South Africa

Email: gwpsaprocurement@gwp.org (any queries can be addressed to this email by no later than 15th June 2022)

Include the following reference on the email message header: **BID NUMBER: ITB No. T00002/06/2022**

Bidders should ensure that bids are emailed timorously to the correct address. If the bid is late, it will not be accepted for consideration.

ALL BIDS MUST BE SUBMITTED WITH THE STANDARD FORMS IN PDF – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE GWPSA GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED (FAILURE TO DO SO MAY RESULT IN THE BID BEING DISQUALIFIED) ALL STANDARD BIDDING DOCUMENT AS ATTACHED

NAME OF BIDDER.....
 POSTAL ADDRESS.....
 STREET ADDRESS.....
 TELEPHONE NUMBER CODE.....NUMBER.....
 CELLPHONE NUMBER

FACSIMILE NUMBER CODE NUMBER.....

VAT REGISTRATION NUMBER

HAS A CERTIFIED COPY OF TAX CLEARANCE CERTIFICATE BEEN SUBMITTED (ITB2)? YES/NO

SIGNATURE OF BIDDER

DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED

7. PRICING SCHEDULE – FIRM PRICES

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED. RATHER, A NEGOTIATION WILL BE CONCLUDED BETWEEN GPWSA AND THE WINNING BIDDER, ON THE STANDARD ESCALATION AS PRICED IN THE COSTING TABLE BELOW.

Name of bidder..... Closing Time: 11h00am, CAT	Bid number: ITB No. T00002/06/2022
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 OFFER TO BE VALID FOR **60** DAYS FROM THE CLOSING DATE OF BID.

Table 2 Terms of Reference (ToR) for the Hotel Accommodation and Conferencing Facilities.

No.	Description of services	Quantity (quantities may vary at any given time)	Period Required	PAX Rate (Year1) (Currency)	PAX Rate (Year2) (Currency)
1	Accommodation/Bed and Breakfast, smoking and non-smoking (single rooms with air-conditioner and standard facilities)	1-50 Guests	As and when required (as per project requirements)		
2	Conferencing Facilities for up to 1-50 delegates for workshops/stakeholder engagement sessions (must include the following: steady, fast and reliable internet services (Wi-fi and Lan), Conferencing table and chairs, Large LCD screens, projectors, IT support, Capability to join teams/zoom platforms, Back up Power/UPS/Generator, PA System with at least 2x Microphones, Pens and writing pads	1-50 Guests	As and when required (as per project requirements)		
3	Morning Tea/Coffee/Snacks/mints (standard offering)	1-50 Guests	As and when required (as per project requirements)		
3	Lunches (standard offering Buffet)	1-50 Guests	As and when required (as per project requirements)		
4	Lunches (standard offering finger)	1-50 Guests	As and when required (as per project requirements)		
5	Coldrinks/Juices (standard offering)	1-50 Guests	As and when required (as per project requirements)		

6	Bottled Water (standard offering)	1-50 Guests	As and when required (as per project requirements)		
7	Shuttle/Transport Service (to and from airport)	1-50 Guests	As and when required (as per project requirements)		

The prices/rates for Two (2) years need to be completed in the relevant columns in the stipulated currency (e.g. South African Rands – ZAR). The quantity of guests will vary according to each meeting/workshop requirement. **1-50** guests are an indicative or provisional number for the purposes of this RFQ and does not mean that GWPSA commits to any such figure. All figures must be checked by the bidder for correct calculations. A valid bank account is required by the bidder for all financial transactions as per **Article 4.1.1**.

All hotel rooms and facilities will need to be up to standard with the necessary Health, Safety and Security protocols for each country. Suitable medical facilities for general ailments and First Aid must be available to all guests. **A valid Health and Safety Certificate, Security Protocol document and a Covid- 19 Pandemic protocol document (ITB2b, ITB2c)** is a strict requirement as per the Evaluation Criteria. The bidder needs to also advise details of the following in the Security protocol document:

- *Type of security available for the guest in terms of type of locks for rooms (safety latch, card/key), burglar proofed windows*
- *Number of Security personnel on duty on the hotel premises*
- *Safety Alarm system on the premises and armed response*
- *Fire and emergency evacuation plan*
- *Local public police and emergency services contact details*

Note: Please note that the above indicated list is not exhaustive for the contract scope and will only be applicable for evaluation and comparison purposes. All related costs must be included in the bid price which will be open for negotiation upon award

8. DECLARATION OF INTEREST

ITB3

8.1 Any legal person, or persons having a kinship with persons employed by the GWPSA, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons in question, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where:

- The Bidder or legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

8.2 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

- 8.2.1 Full Name of bidder or his or her representative:
- 8.2.2 Identity Number:
- 8.2.3 Position occupied in the Company (director, trustee, shareholder):
- 8.2.4 Company Registration Number:
- 8.2.5 Tax Reference Number:
- 8.2.6 VAT Registration Number:

8.2.7 Are you or any person connected with the bidder presently employed by the GWPSA? **YES / NO**

If so, furnish the following particulars

Name of the person connected to the bidder:

Position occupied in GWPSA:

8.2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the GWPSA in the previous twelve months? **YES / NO**

If so, furnish particulars:

8.2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the GWPSA and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

If so, furnish particulars:.....

8.2.10 Do you or any of the directors / trustees / shareholders / members **YES/NO**

8.2.11 of the company have any interest in any other related companies, whether or not they are bidding for this contract?

If so, furnish particulars:.....

9. ADJUDICATION AND POINT SYSTEM

9.1 The bidder obtaining the highest number of total points will be awarded the contract.

9.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts

9.3 Points scored must be rounded off to the nearest 2 decimal places.

9.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for functionality.

9.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points thereof, the award shall be decided by the drawing of lots.

10. SUBCONTRACTING

10.1 Will any portion of the contract be sub-contracted? **YES / NO** (delete which is not applicable) If yes, indicate:

10.2 What percentage of the contract will be subcontracted?.....%

10.3 The name of the sub-contractor?

11. DECLARATION WITH REGARD TO COMPANY/FIRM

a. Name of company/firm

b. VAT registration number:

c. Company registration number.....

d. TYPE OF COMPANY/ FIRM [TICK APPLICABLE BOX]

i.	Partnership/Joint Venture/Consortium	
ii.	One person business/sole propriety	
iii.	Close corporation	
iv.	Company	
v.	(Pty) Limited	

e. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

- i.
- ii.
- iii.

f. COMPANY CLASSIFICATION [TICK APPLICABLE BOX]

vi.	Manufacturer	
vii.	Supplier	
viii.	Professional Service Provider	
ix.	Professional Consultant	
x.	Other service providers, e.g. transporter, etc.	

g. Total number of years the company/firm has been in business?

DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN SECTION 3-6 ABOVE IS CORRECT. I ACCEPT THAT THE GWPSA MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF THE GENERAL CONDITIONS OF CONTRACT, SHOULD THIS DECLARATION PROVE TO BE FALSE.

WITNESSES:

1.

2.

<p>NAME (S) OF BIDDER (S)</p> <p>.....</p> <p>.....</p> <p>SIGNATURE(S) OF BIDDER(S)</p> <p>.....</p> <p>.....</p>
--

DATE:.....

ADDRESS:.....

12. DECLARATION of BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

ITB4

- 12.1. This Standard Bidding Document must form part of all bids invited.
- 12.2. It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 12.3. The bid of any bidder may be disregarded if that bidder, or any of its directors have:
- 12.3.1 abused the institution’s supply chain management system;
 - 12.3.2 committed fraud or any other improper conduct in relation to such system; or
 - 12.3.3 Failed to perform on any previous contract.
- 12.4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Table 3 Declaration Questionnaire

Item	Question	Yes	No
3.1	Is the bidder or any of its directors listed on their National Treasury’s database as companies or persons prohibited from doing business with the public/NGO sector?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.1.1	If so, furnish particulars:		
3.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.2.1	If so, furnish particulars:		
3.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.3.1	If so, furnish particulars:		
3.4	Was any contract between the bidder and any organ of state/NGO terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

13. CERTIFICATE OF INDEPENDENT BID TERMINATION

ITB5

- 13.1 This Invitation to Bid (ITB) must form part of all bids¹ invited.
- 13.2 GWPSA procurement policy prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging)². Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 13.3 GWPSA Policy prescribes accounting officers must take all reasonable steps to prevent abuse of the supply chain management system and authorizes and accounting officers to:
- a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution’s supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 13.4 This ITB5 serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 13.5 In order to give effect to the above, the attached Certificate of Bid Determination (ITB5) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and/or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description) in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect: I certify, on behalf

of:that: (Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - a. has been requested to submit a bid in response to this bid invitation;
 - b. could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - c. provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a. prices;
 - b. geographical area where product or service will be rendered (market allocation)
 - c. methods, factors or formulas used to calculate prices;
 - d. the intention or decision to submit or not to submit, a bid;
 - e. the submission of a bid which does not meet the specifications and conditions of the bid; or
 - f. bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to GWPSA Management.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

Signature:

Date:

.....

.....

Position:

Name of Bidder:

.....

.....

ANNEX B: TERMS AND CONDITIONS FOR PURCHASE ORDER/AGREEMENTS

Global Water Partnership Southern Africa, Not for Profit Organisation (GWPSA NPC)

Purchase Order Terms and Conditions

[Each Purchase Order placed by buyer for goods and/or services, excluding consulting agreements, is subject to these standard purchase terms and the terms of the applicable Purchase Order, and is conditional upon Supplier's agreement to such terms. Supplier shall be deemed to have agreed to be bound by such terms by accepting the Purchase Order, delivering the goods, and/or performing the services]

1. **Definitions.** In these Standard Purchase Terms, the following definitions apply:

- a. "Agreement" means the agreement between Supplier and Buyer for the purchase and sale of Goods and/or Services.
- b. "Buyer" means the GWPSA NPC.
- c. "Deliverable" means any deliverable or other product or result from Services that is referred to in a Purchase Order, and any related materials, data, documentation, and includes any Intellectual Property Rights developed by Supplier pursuant to such Purchase Order.
- d. "Delivery Date" means the date of delivery for Goods or performance of Services as specified in a Purchase Order.
- e. "Delivery Point" means the location identified by Buyer in the Purchase Order to which the Supplier is to deliver Goods and/or perform the services, or such other delivery area or point which is specified in writing by Buyer.
- f. "Goods" means the goods that are required to be delivered by Supplier pursuant to a Purchase Order, and include all materials, component parts, packaging and labelling of such goods.
- g. "Intellectual Property Rights" means all intellectual and industrial property rights and rights of a similar nature including all rights in and to, patents including all issued patents and pending applications therefore and patents which may be issued therefrom (including divisions, reissues, re-examinations, continuations and continuations-in-part); trade-marks; copyrights; industrial design rights; rights pertaining to trade secrets and confidential information; publicity rights; personality rights; moral rights; and other intellectual property rights whether registered or not and all applications, registrations, renewals and extensions pertaining to the foregoing.
- h. "Purchase Order" means the purchase order between Buyer and Supplier for the purchase and sale of Goods and/or Services, to which these Standard Purchase Terms are attached or are incorporated by reference.
- i. "Services" means any services to be provided by Supplier to Buyer pursuant to a Purchase Order.
- j. "Specifications" means the requirements, attributes and specifications for the Goods or Services that are set out in the applicable Purchase Order. Specifications also include: (a) documentation published by Supplier relating to the Goods or Services; (b) operational and technical features and functionality of the Goods or Services; (c) standards or levels of service performance for Services; and (d) Buyer business requirements that are expressly set out in a Purchase Order.
- k. "Supplier" means the party indicated on the face page of the Purchase Order that is contracting with Buyer for the purchase and sale of Goods and/or Services.
- l. "Supplier Proposal" means any acknowledgement, estimate, quotation, offer to sell, invoice, or proposal of Supplier relating to the supply of Goods and/or Services to Buyer, including any delivered in connection with a request for quotations, request for proposal or similar process initiated by Buyer.
- m. "Warranty Period" means in respect of any Goods or Services, the longer of: (i) the express written warranty period provided by Supplier for the Goods or Services; and (ii) the period commencing on the date of Acceptance of such Goods or Services and ending on the date that is one (1) year from that date.

2. **Agreement.** The Agreement consists only of: (a) these Standard Purchase Terms; (b) the applicable Purchase Order; and (c) any Specifications or other documents expressly referenced in the Purchase Order. Any reference in the Purchase Order to

any Supplier Proposal is solely for the purpose of incorporating the descriptions and specifications of the Goods and/or Services contained in the Proposal, and only to the extent that the terms of the Supplier Proposal do not conflict with the descriptions and Specifications set out in the Purchase Order. Buyer's acceptance of, or payment for, Goods and/or Services will not constitute Buyer's acceptance of any additional or different terms in any Supplier Proposal, unless otherwise accepted in writing by Buyer. If there is any conflict or inconsistency between the documents constituting the Agreement, then unless otherwise expressly provided, the documents will rank in the order of precedence in accordance with the order in which they are listed in this Section 2.

3. Delivery of Goods and Services.

- a. Supplier agrees to supply and deliver the Goods to Buyer and to perform the Services, as applicable, on the terms set out in this Agreement.
- b. Supplier shall, at its own expense, pack, load, and deliver Goods to the Delivery Point and in accordance with the invoicing, delivery terms, shipping, packing, and other instructions printed on the face of the Purchase Order or otherwise provided to Supplier by Buyer in writing. No charges will be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging or similar charges unless provided for in the applicable Purchase Order or otherwise agreed to in writing by Buyer.
- c. Time is of the essence with respect to delivery of the Goods and performance of Services. Goods shall be delivered and Services performed by the applicable Delivery Date. Supplier must immediately notify Buyer if Supplier is likely to be unable to meet a Delivery Date or unable to deliver on agreed goods and services. At any time prior to the Delivery Date, Buyer may, upon notice to Supplier, cancel or change a Purchase Order, or any portion thereof, for any reason, including, without limitation, for the convenience of Buyer or due to failure of Supplier to comply with this Agreement, unless otherwise noted.
- d. Title and risk of loss or damage shall pass to Buyer upon receipt of Goods at the Delivery Point, unless otherwise agreed to by the Buyer in writing. Buyer has no obligation to obtain insurance while Goods are in transit from Supplier to the Delivery Point.
- e. Supplier shall follow all instructions of Buyer and cooperate with Buyer's customs broker as directed by Buyer (including by providing requested shipping documentation) with respect to all Goods that originate from sources or suppliers based outside South Africa. Supplier shall comply with all the requirements of the South African Customs Administration, (a department of the South African Revenue Services (SARS) with respect to the importation of Goods from outside South Africa. Where Buyer indicates a Delivery Point for goods outside South Africa, Supplier shall comply with the relevant Customs Administration requirements of that country.

4. Inspection; Acceptance and Rejection.

- a. All shipments of Goods and performance of Services shall be subject to Buyer's right of inspection. Buyer shall have seven (7) days (the "Inspection Period") following the delivery of the Goods at the Delivery Point or performance of the Services to undertake such inspection, and upon such inspection Buyer shall either accept the Goods or Services ("Acceptance") or reject them. Buyer shall have the right to reject any Goods that are delivered in excess of the quantity ordered or are damaged or defective. In addition, Buyer shall have the right to reject any Goods or Services that are not in conformance with the Specifications or any term of this Agreement. Transfer of title to Buyer of Goods shall not constitute Buyer's Acceptance of those Goods. Buyer shall provide Supplier within the Inspection Period notice of any Goods or Services that are rejected, together with the reasons for such rejection. If Buyer does not provide Supplier with any notice of rejection within the Inspection Period, then Buyer will be deemed to have provided Acceptance of such Goods or

Services. Buyer's inspection, testing, or Acceptance or use of the Goods or Services hereunder shall not limit or otherwise affect Supplier's warranty obligations hereunder with respect to the Goods or Services, and such warranties shall survive inspection, test, Acceptance and use of the Goods or Services.

b. Buyer shall be entitled to return rejected Goods to Supplier at Supplier's expense and risk of loss for, at Buyer's option, either: (i) full credit or refund of all amounts paid by Buyer to Supplier for the rejected Goods; or (ii) replacement Goods to be received within the time period specified by Buyer. Title to rejected Goods that are returned to Supplier shall transfer to Supplier upon such delivery and such Goods shall not be replaced by Supplier except upon written instructions from Buyer. Supplier shall not deliver Goods that were previously rejected on grounds of non-compliance with this Agreement, unless delivery of such Goods is approved in advance by Buyer, and is accompanied by a written disclosure of Buyer's prior rejection(s).

5. **Price/Payment Terms.** Prices for the Goods and/or Services will be set out in the applicable Order. Price increases or charges not expressly set out in the Purchase Order shall not be effective unless agreed to in advance in writing by Buyer. Supplier will issue all invoices on a timely basis. All invoices delivered by Supplier must meet Buyer's requirements, and at a minimum shall reference the applicable Purchase Order. Buyer will pay the undisputed portion of properly rendered Ten working days (10) days from the invoice date. Buyer shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of this Agreement nor shall any interest be charged on such amounts. Notwithstanding the foregoing, Buyer agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein.

6. **Taxes.** Unless otherwise stated in a Purchase Order, all prices or other payments stated in the Purchase Order are exclusive of any taxes. Supplier shall separately itemize all applicable taxes each on each invoice and indicate on each invoice its applicable tax registration number(s). Buyer will pay all applicable taxes to Supplier when the applicable invoice is due. Supplier will remit all applicable taxes to the applicable government authority as required by applicable laws. Notwithstanding any other provision of this Agreement, Buyer may withhold from all amounts payable to Supplier all applicable withholding taxes and to remit those taxes to the applicable governmental authorities as required by applicable laws.

7. **Hazardous Materials.** Supplier agrees to provide, upon and as requested by Buyer, to satisfy any applicable laws governing the use of any hazardous substances either of the following: (a) all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity used of each substance, of any Goods, and/or of any process used to make, assemble, use, maintain or repair any Goods; or (b) all reasonably necessary documentation to verify that any Goods and/or any process used to make, assemble, use, maintain or repair any Goods, do not contain, and the Services do not require the use of, any particular hazardous substances specified by Buyer.

8. **Legal Compliance; Workplace Safety.** In carrying out its obligations under the Agreement, including the performance of Services, Supplier shall at all times comply with all applicable national, provincial, and municipal laws, regulations, standards, and codes. Supplier shall be at all times registered with the Department of Labour and shall maintain its workers' compensation accounts in good standing, and provide Buyer with evidence of good standing upon request. Supplier shall obtain all applicable permits, licences, exemptions, consents and approvals required for the Supplier to manufacture and deliver the Goods and perform the Services.

9.

- a. **Product Warranties.** Supplier warrants to Buyer that during the Goods Warranty Period all Goods provided hereunder shall be: (i) of merchantable quality; (ii) fit for the purposes intended; (iii) unless otherwise agreed to by Buyer, new; (iv) free from defects in design, material and workmanship; (v) in strict compliance with the Specifications; (vi) free from any liens or encumbrances on title whatsoever; (vii) in conformance with any samples provided to Buyer; and (viii) compliant with all applicable federal, provincial, and municipal laws, regulations, standards, and codes.
- b. **Service Warranties.** Supplier shall perform all Services: (i) exercising that degree of professionalism, skill, diligence, care, prudence, judgment, and integrity which would reasonably be expected from a skilled and experienced service provided providing services under the same or similar circumstances as the Services under this Agreement; (ii) in accordance with all Specifications and all Buyer policies, guidelines, by-laws and codes of conduct applicable to Supplier; and (iii) using only personnel with the skills, training, expertise, and qualifications necessary to carry out the Services. Buyer may object to any of the Supplier's personnel engaged in the performance of Services who, in the reasonable opinion of Buyer, are lacking in appropriate skills or qualifications, engage in misconduct, constitute a safety risk or hazard or are incompetent or negligent, and the Supplier shall promptly remove such personnel from the performance of any Services upon receipt of such notice, and shall not re-employ the removed person in connection with the Services without the prior written consent of Buyer.
- c. **Intellectual Property Warranty.** Supplier further warrants to Buyer that at all times all Goods and or Services (including any Deliverables) will not be in violation of or infringe any Intellectual Property Rights of any person.
- d. **Manufacturer Warranties.** Supplier shall assign to Buyer all manufacturer's warranties for Goods not manufactured by or for Supplier, and shall take all necessary steps as required by such third-party manufacturers to effect assignment of such warranties to Buyer.

10. Warranty Remedies.

- a. In the event of breach of any of the warranties in Section a or 9.b, and without prejudice to any other right or remedy available to Buyer (including Buyer's indemnification rights hereunder), Supplier will, at Buyer's option and Supplier's expense, refund the purchase price for, or correct or replace the affected Goods, or re-perform the affected Services, within 10 day(s) after notice by Buyer to Supplier of warranty breach. All associated costs, including costs of re-performance, costs to inspect the Goods and/or Services, transport the Goods from Buyer to Supplier, and return shipment to Buyer, and costs resulting from supply chain interruptions, will be borne by Supplier. If Goods are corrected or replaced or Services are re-performed, the warranties in Section 9.a will continue as to the corrected or replaced Goods for a further Goods Warranty Period commencing on the date of Acceptance of the corrected or replaced Goods by Buyer. If Supplier fails to repair or replace the Product within the time periods required above, Buyer may repair or replace the Goods at Supplier's expense.
- b. In the event that any Goods provided by Supplier to Buyer are subject to a claim or allegation of infringement of Intellectual Property Rights of a third party, Supplier shall, at its own option and expense, without prejudice to any other right or remedy of Buyer (including Buyer's indemnification rights hereunder), promptly provide Buyer with a commercially reasonable alternative, including the procurement for Buyer of the right to continue using the Goods in question, the replacement of such Goods with a non-infringing alternative satisfactory to Buyer, or the modification of such Goods (without affecting functionality) to render them non-infringing.

11. **Intellectual Property Rights.** All Intellectual Property Rights in and to each Deliverable shall vest in Buyer free and clear of all liens and encumbrances on receipt of payment by Supplier for each Deliverable. To the extent that any Deliverables contain any intellectual property of Supplier, Supplier hereby grants to Buyer a worldwide, royalty-free, non-exclusive, perpetual

license to use, copy, modify and distribute such intellectual property as part of the Deliverables. Supplier agrees to provide to Buyer all assistance reasonably requested by Buyer to perfect the rights described herein, including obtaining all assignments and waivers of moral rights necessary or appropriate to vest the entire right, title and interest in such materials in Buyer and its successors and assigns.

12. **Confidentiality.** Supplier shall safeguard and keep confidential any and all information relating to Buyer obtained by it or provided to it by Buyer in connection with this Agreement, and shall use such information only for the purposes of carrying out its obligations under this Agreement.
13. **Insurance.** Supplier represents and warrants to Buyer that it has in place with reputable insurers such insurance policies in coverage amounts that would be maintained by a prudent supplier of goods and services similar to the Goods and Services provided hereunder, including, as applicable, professional errors and omissions liability insurance and comprehensive commercial general liability insurance (including product liability coverage, all-risk contractors' equipment insurance, and automobile liability insurance). In addition, Supplier will take out and maintain, at its own cost, such insurance policies and coverages as may be reasonably required by Buyer from time to time. Supplier will promptly deliver to Buyer, as and when requested, written proof of such insurance. If requested, Buyer will be named as an additional insured under any such policies. If requested by Buyer, such insurance will provide that it cannot be cancelled, or materially changed so as to affect the coverage provided under this Agreement, without the insurer providing at least 30 days prior written notice to Buyer.
14. **Indemnities.** Supplier shall indemnify, defend and hold harmless Buyer, its Affiliates, and their respective officers, directors, employees, consultants, and agents (the "Buyer Indemnified Parties") from and against any claims, fines, losses, actions, damages, expenses, legal fees and all other liabilities brought against or incurred by the Buyer Indemnified Parties or any of them arising out of: (a) death, bodily injury, or loss or damage to real or tangible personal property resulting from the use of or any actual or alleged defect in the Goods or Services, or from the failure of the Goods or Services to comply with the warranties hereunder; (b) any claim that the Goods or Services infringe or violate the Intellectual Property Rights or other rights of any person; (c) any intentional, wrongful or negligent act or omission of Supplier or any of its Affiliates or subcontractors; (d) Supplier's breach of any of its obligations under this Agreement; or (e) any liens or encumbrances relating to any Goods or Services.
15. **Limitation of Liability.** EXCEPT FOR SUPPLIER'S OBLIGATIONS UNDER SECTION 14, AND EXCEPT FOR DAMAGES THAT ARE THE RESULT OF THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A PARTY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING ANY LOST PROFITS, DATA, GOODWILL, OR BUSINESS OPPORTUNITY FOR ANY MATTER RELATING TO THIS AGREEMENT.
16. **Independent Contractors.** Supplier will perform its obligations under the Agreement as an independent contractor and in no way will Supplier or its employees be considered employees, agents, partners, fiduciaries, or joint venturers of Buyer. Supplier and its employees will have no authority to represent Buyer or its Affiliates or bind Buyer or its Affiliates in any way, and neither Supplier nor its employees will hold themselves out as having authority to act for Buyer or its Affiliates.
17. **Further Assurances.** The parties shall sign such further and other documents, cause such meetings to be held, resolutions passed and do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof.

18. **Severability.** If any provision of this Agreement is determined to be unenforceable or invalid for any reason whatsoever, in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part thereof and all other provisions shall continue in full force and effect.
19. **Waiver.** No waiver of any provision of this Agreement shall be enforceable against that party unless it is in writing and signed by that party.
20. **Assignment.** Supplier may not assign or subcontract this Agreement, in whole or in part, without Buyer's prior written consent. Supplier's permitted assignment or subcontracting of this Agreement or any part thereof will not release Supplier of its obligations under this Agreement, and it will remain jointly and severally liable with the assignee or subcontractor for any obligations assigned or subcontracted. The acts of omissions of any subcontractors of Supplier will be deemed to be the acts and omissions of the Supplier. Buyer may assign this Agreement, in whole or in part, to any Affiliate of Buyer, without the consent of Supplier. This Agreement shall endure to the benefit of and be binding upon the parties and their respective legal personal representatives, heirs, executors, administrators, assigns or successors.
21. **Cumulative Remedies.** Subject to Section 15, the rights and remedies of the Buyer in this Agreement are cumulative and in addition to any other rights and remedies at law or in equity.
22. **Survival.** Any provision of this Agreement which expressly or by implication from its nature is intended to survive the termination or completion of the Agreement will continue in full force and effect after any termination, expiry or completion of this Agreement.
23. **Interpretation.** The headings used in this Agreement and its division into articles, sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation. Unless the context requires otherwise, words importing the singular number include the plural and vice versa; words importing gender include all genders. References in this Agreement to articles, sections, schedules, exhibits, appendices, and other subdivisions are to those parts of this Agreement. Where this Agreement uses the word "including," it means "including without limitation," and where it uses the word "includes," it means "includes without limitation."
24. **Governing Law.** This Agreement shall be governed by the laws of Botswana. The parties irrevocably attorn to the jurisdiction of the courts of this country, which will have non-exclusive jurisdiction over any matter arising out of this Agreement.
25. **Electrical/Electronic Components and Equipment.** All electrical/electronic components or equipment must have South African Bureau of Standards (SABS) approvals or relevant country standards where Delivery Point is not South Africa and must conform to the applicable industry standards and all other applicable legislative requirements.
26. **Language.** It is the express wish of the parties that this Agreement and any related documentation be drawn up in English.