



## Tender Specifications

Public contract  
for the supply and delivery of two powerboats

Open procedure

Navision code: COD21003-10009

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## 2 General remarks

### 2.1 Derogations from the General Implementing Rules

The ‘Specific contractual and administrative conditions’ of these Tender Specifications (CSC/Cahier Spécial des Charges) holds the specific administrative and contractual provisions that apply to this public contract by way of derogation from the Royal Decree of 14 January 2013 or as a complement or an elaboration thereof.

These Tender Specifications derogate Article 26 of the General Implementing Rules – GIR (Royal Decree of 14 January 2013).

### 2.2 Contracting authority

The contracting authority of this public contract is Enabel, the Belgian development agency, public-law company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in Belgium (enterprise number 0264.814.354, RPM/RPR Brussels). Enabel has the exclusive competence for the execution, in Belgium and abroad, of public service tasks of direct bilateral cooperation with partner countries. Moreover, it may also perform other development cooperation tasks at the request of public interest organisations, and it can develop its own activities to contribute towards realisation of its objectives.

For this public contract, Enabel is represented by Laura JACOBS, Contract Support Manager of Enabel in DRC and CAR.

### 2.3 Institutional framework of Enabel

The general framework of reference in which Enabel operates is:

- The Belgian Law on Development Cooperation of 19 March 2013<sup>1</sup>;
- The Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company<sup>2</sup>;
- The Belgian Law of 23 November 2017 changing the name of the Belgian Technical Cooperation and defining the missions and functioning of Enabel, the Belgian development agency, published in the Belgian Official Gazette on 11 December 2017.

The following initiatives are also guiding Enabel in its operations and are given as main examples:

- In the field of international cooperation: the United Nations Sustainable Development Goals and the Paris Declaration on the harmonisation and alignment of aid;
- In the field of the fight against corruption: the Law of 8 May 2007 approving the United Nations Convention against Corruption, adopted in New York on 31 October 2003<sup>3</sup>, as well as the Law of 10 February 1999 on the Suppression of Corruption transposing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
- In the field of Human Rights: the United Nations’ Universal Declaration of Human Rights (1948) as well as the 8 basic conventions of the International

<sup>1</sup> Belgian Official Gazette of 30 December 1998, of 17 November 2001, of 6 July 2012, of 15 January 2013 and of 26 March 2013.

<sup>2</sup> Belgian Official Gazette of 1 July 1999.

<sup>3</sup> Belgian Official Gazette of 18 November 2008.

Labour Organization<sup>4</sup> on Freedom of Association (C. n°87), on the Right to Organise and Collective Bargaining (C. n°98), on Forced Labour (C. n°29 and 105), on Equal Remuneration and on Discrimination in Respect of Employment (C. n°100 and 111), on Minimum Age for Admission to Employment (C. n°138), on the Prohibition of the Worst Forms of Child Labour (C. n°182);

- In the field of environmental protection: The Climate Change Framework Convention of Paris, of 12 December 2015;
- The first Management Contract contracting Enabel and the Belgian federal State (approved by the Royal Decree of 17 December 2017, Belgian Official Gazette of 22 December 2017) that sets out the rules and the special conditions for the execution of public service tasks by Enabel on behalf of the Belgian State;
- Enabel's Code of Conduct of January 2019, Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management of June 2019.

## 2.4 Rules governing the public contract

- The following, among other things, apply to this public contract:
- The Law of 17 June 2016 on public procurement<sup>5</sup>;
- The Law of 17 June 2013 on justifications, notification and legal remedies for public contracts and certain contracts for works, supplies and services<sup>6</sup>;
- The Royal Decree of 18 April 2017 on the awarding of public contracts in the classic sectors<sup>7</sup>;
- The Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement and for concessions for public works<sup>8</sup>;
- Circulars of the Prime Minister with regards to public procurement.
- All Belgian regulations on public contracts can be consulted on [www.publicprocurement.be](http://www.publicprocurement.be).
- Enabel's Policy regarding sexual exploitation and abuse – June 2019;
- Enabel's Policy regarding fraud and corruption risk management – June 2019;
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter referred to as 'the GDPR'), and repealing Directive 95/46/EC;
- The Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data;

All Belgian regulations on public contracts can be consulted on [www.publicprocurement.be](http://www.publicprocurement.be); Enabel's Code of Conduct and the policies mentioned

<sup>4</sup> <https://www.ilo.org/global/standards/lang--en/index.htm>

<sup>5</sup> Belgian Official Gazette of 14 July 2016

<sup>6</sup> Belgian Official Gazette of 21 June 2013.

<sup>7</sup> Belgian Official Gazette of 9 May 2017

<sup>8</sup> Belgian Official Gazette of 27 June 2017

above can be consulted on Enabel's website via <https://www.enabel.be/content/integrity-desk>.

## 2.5 Definitions

The following definitions apply to this contract:

The tenderer: An economic operator submitting a tender;

The contractor/ service provider: The tenderer to whom the public contract is awarded;

The contracting authority: Enabel, represented by the Resident Representative of Enabel in the DRC;

The tender: The commitment of the tenderer to perform the public contract under the conditions that he has submitted;

Days: In the absence of any indication in this regard in the Tender Specifications and the applicable regulations, all days should be interpreted as calendar days;

Procurement documents: Tender Specifications including the annexes and the documents they refer to;

Technical specifications: A specification in a document defining the characteristics of a product or a service, such as the quality levels, the environmental and climate performance levels, the design for all needs, including accessibility for people with disabilities, and the evaluation of conformity, of product performance, of the use of the product, safety or dimensions, as well as requirements applicable to the product as regards the name by which it is sold, terminology, symbols, testing and test methods, packaging, marking or labelling, instructions for use, the production processes and methods at every stage in the life cycle of the supply or service, as well as the evaluation and conformity procedures;

Variant: An alternative method for the design or the performance that is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;

Option: A minor and not strictly necessary element for the performance of the contract, which is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;

Inventory: The procurement document which splits up the performance in different items and specifies the quantity or the method to determine the price for each of them;

General Implementing Rules (GIR): Rules laid down in the Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement and for concessions for public works;

The Tender Specifications (Cahier spécial des charges/CSC): This document and its annexes and the documents it refers to;

BDA: Belgian Public Tender bulletin;

OJEU: Official Journal of the European Union;

OECD: Organisation for Economic Cooperation and Development;

E-tendering: Through the E-tendering platform tenderers can submit and open electronic tenders/requests to participate;

Corrupt practices: The offer of a bribe, gift, gratuity or commission to a person as an inducement or reward for performing or refraining from an act relating to the award of a contract or performance of a contract already concluded with the contracting authority;

Litigation: Court action;

Subcontractor in the meaning of public procurement regulations: The economic operator proposed by a tenderer or contractor to perform part of the contract;

Controller in the meaning of the GDPR: The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.

Processor (subcontractor) in the meaning of the GDPR: A natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

Recipient in the meaning of the GDPR: a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not;

Personal data: Any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

## 2.6 Confidentiality

### 1.6.1 Processing of personal data

The contracting authority undertakes to process the personal data that are communicated to it under the framework of this procedure with the greatest care, in accordance with legislation on the protection of personal data (General Data Protection Regulation, GDPR). Where the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data contains stricter provisions, the contracting authority will act in accordance with said law.

### 1.6.2 Confidentiality

The tenderer or contractor and Enabel are bound to secrecy vis-à-vis third parties with regards to any confidential information obtained within the framework of this public contract and will only divulge such information to third parties after receiving the prior written consent of the other party. They will disclose this confidential information only among appointed parties involved in the assignment. They guarantee that said appointed parties will be adequately informed of their obligations in respect of the confidential nature of the information and that they shall comply therewith.

PRIVACY NOTICE OF ENABEL Enabel takes your privacy serious. We undertake to protect and process your personal data with due care, transparently and in strict compliance with privacy protection legislation.

See also: <https://www.enabel.be/content/privacy-notice-enabel>.

## 2.7 Deontological obligations

1.7.1. Any failure to comply with one or more of the deontological clauses may lead to the



exclusion of the candidate, tenderer or contractor from other public contracts for Enabel.

1.7.2. For the duration of the contract, the contractor and his staff respect human rights and undertake not to go against political, cultural or religious customs of the beneficiary country. The tenderer or contractor is bound to respect fundamental labour standards, which are internationally agreed upon by the International Labour Organization (ILO), namely the conventions on union freedom and collective bargaining, on the elimination of forced and obligatory labour, on the elimination of employment and professional discrimination and on the abolition of child labour.

1.7.3. In accordance with Enabel's Policy regarding sexual exploitation and abuse, the contractor and his staff have the duty to behave in an irreproachable manner towards the beneficiaries of the projects and towards the local population in general. They must abstain from any acts that could be considered a form of sexual exploitation or abuse and they must abide by the basic principles and guidelines laid down in this policy.

1.7.4. Any attempt of a candidate or a tenderer to obtain confidential information, to proceed to illicit arrangements with competitors or to influence the evaluation committee or the contracting authority during the investigation, clarification, evaluation and comparison of tenders and candidates procedure will lead to the rejection of the application or the tender.

1.7.5. Moreover, in order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

1.7.6. The contractor of the public contract commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any desk review or on-the-spot check which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure. Depending on the gravity of the facts observed, the contractor having paid unusual commercial expenditure is liable to have his contract cancelled or to be permanently excluded.

1.7.7. In accordance with Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management complaints relating to issues of integrity (fraud, corruption, etc.) must be sent to the Integrity desk through the <https://www.enabelintegrity.be> website.

## **2.8 Applicable law and competent courts**

The contract must be performed and interpreted according to Belgian law.

The parties commit to sincerely perform their engagements to ensure the good performance of the public contract.

In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution.

If agreement is lacking, the Brussels courts are the only courts competent to resolve the matter.

## 3 Subject-matter and scope of the public contract

### 3.1 Type of contract

Public supply contract (purchase and delivery)

### 3.2 Subject-matter of procurement

This public supply contract concerns the purchase and delivery in the DR Congo of two powerboats, in accordance with the conditions of these Tender Specifications.

### 3.3 Lots<sup>9</sup>

The public contract has two lots, each of which is indivisible. The tenderer may submit a tender for one or for both lots. A tender for part of a lot is inadmissible.

The description of each lot is included in Part 5 of these Tender Specifications.

The lots are:

- Lot 1 : A powerboat with a metal hull and accessories and two 150 HP 4-stroke engines – Delivery in Kisangani
- Lot 2 : A powerboat with a metal hull and accessories and two 150 HP 4-stroke engines – Delivery in Lisala

When tendering for several lots, the tenderer may offer discounts or better conditions in his tender in case these lots were to be awarded to him.

### 3.4 Items

Each lot of this public contract consists of the following items. (See also Part 6 and/or inventory)

These items are pooled and form one single lot. It is not possible to tender for one or several items and the tenderer must submit price quotations for all items of a same lot.

### 3.5 Duration of the public contract<sup>10</sup>

Fixed duration

For each of the lots, the public contract commences upon award notification and lasts 180 days.

### 3.6 Variants

The tenderer may, beside his basic tender (delivery in Kinshasa), introduce a variant for

<sup>9</sup> For contracts of a value equal to or greater than € 135 000 excl. VAT, the contracting authority is obliged to consider dividing the contract into lots unless a valid reason is given in the procurement documents.

<sup>10</sup> Please note: duration of the contract not to be confused with the period of performance.

delivery at the final place of destination of the boats (per lot).

The distribution of the items according to their final destination is shown in the Technical Specifications as well as on the "variant" form.

The tenderer's attention is drawn to the fact that this is not an additional price but a second tender which he is free to submit or not, it being understood that if the variant is selected only those tenderers who have submitted a variant will be considered.

For this variant it is not allowed to submit only a variant without the basic offer.

Free variants will be in economic terms (comparison with delivery via the airfreight framework agreement) and in terms of time.

Moreover, the tenderer may complete his basic tender with one or more variants. Free variants will be considered insofar as they present an economic advantage whether in terms of price or cost (life span, price of spare parts, maintenance etc.).

If the tenderer proposes a variant, he it must demonstrate that the variant meets the functional description described in the ToR. The burden of proof for such compliance lies with the tenderer.

### **3.7 Option**

Options are presented in a separate part of the tender.

The tenderer is invited (authorised option) to submit price quotations for .....

- Tool kit,
- Ramp dolly trailer.

The technical requirements are set out in the technical specifications.

However, the contracting authority maintains the right not to order the option.

See also Article 'Performance modalities'.

### **3.8 Quantity**

The fixed quantities are mentioned in the financial tender form of these Tender Specifications.

The contracting authority reserves the right to place additional orders. The unit prices quoted in the 'schedule of prices' attached to the tender will apply.

The supplier must be able to supply the quantities mentioned in the schedule of these Tender Specifications.

## 4 Subject-matter and scope of the public contract

### 4.1 Award procedure

This public contract is awarded in accordance with Article 36 of the Law of 17 June 2016 via an open procedure.

### 4.2 Publication

#### 4.2.1 Official notification

This public contract is officially advertised in the Belgian Public Tender bulletin and in the Official Journal of the European Union.

#### 4.2.2 Additional publication

These Tender Specifications are posted on the website of Enabel ([www.enabel.be](http://www.enabel.be)).

The contract notice was advertised through the OECD website and specialised sites

### 4.3 Information

The award of this procurement contract is coordinated by the Representation of Enabel in DRC. [procurement.cod@enabel.be](mailto:procurement.cod@enabel.be). Throughout this procedure all contacts between the contracting authority and the (prospective) tenderers about this contract will exclusively pass through this service / this person. (Prospective) tenderers are prohibited to contact the contracting authority in any other way with regards to this contract, unless otherwise stipulated in these Tender Specifications.

Until the 10th day before tender reception inclusive, prospective tenderers may ask questions about these Tender Specifications and the public contract. Questions will be in writing to [procurement.cod@enabel.be](mailto:procurement.cod@enabel.be) and they will be answered in the order received. The complete overview of questions asked will be available at the address mentioned above as from the next day.

Until the notification of the award decision no information will be given about the evolution of the procedure.

The procurement documents can be consulted free of charge at the following internet address:

- [www.enabel.be](http://www.enabel.be) (go to 'Work with us' and then 'Public procurement').

The tenderer is to submit his tender after reading and taking into account any corrections made to the Tender Specifications that are published on the Enabel website or that are sent to him by e-mail. To do so, when the tenderer has downloaded the Tender Specifications, it is strongly advised that he gives his coordinates to the public procurement administrator mentioned above and requests information on any modifications or additional information.

The tenderer is required to report immediately any gap, error or omission in the procurement documents that precludes him from establishing his price or compare tenders, within ten days at the latest before the deadline for receipt of tenders.

### 4.4 Tender

#### 4.4.1 Data to be included in the tender

Tenderers are advised to consult the general principles set out under Heading 1 of the Law of 17 June 2016, which are applicable to this award procedure.

The tenderer must use the tender form in annex. In case he does not use this form, he is fully responsible for the perfect concordance between the documents he has used and the form.

The tender and the annexes to the tender form are drawn up in French or English.

By submitting a tender, the tenderer automatically renounces to his own general or specific sales conditions, even if these are mentioned in any of the annexes to his tender.

The tenderer clearly designates in his tender which information is confidential and/or relates to technical or business secrets and may therefore not be divulged by the contracting authority.

#### **4.4.2 Period the tender is valid**

The tenderers remain bound by their tender for a period of 90 calendar days from the tender reception deadline date.

#### **4.4.3 Determination of prices**

All prices given in the tender form must obligatorily be quoted in euro.

This public contract is a price-schedule contract, i.e. a contract in which only the unit prices are flat fee prices. The price to be paid will be obtained by applying the unit prices given in the inventory to the quantities actually performed.

In accordance with Article 37 of the Royal Decree of 18 April 2017, the contracting authority may for the purpose of verifying the prices carry out an audit of any and all accounting documents and perform on-the-spot checks with a view of verifying the correctness of the indications supplied.

#### **4.4.4 Elements included in the price**

The tenderer is to include in his unit and global prices any charges and taxes generally inherent to the performance of the contract, with the exception of the value-added tax.

The following are in particular included in the prices:

- 1° packaging (except if these remain the property of the tenderer), loading, trans-shipment and intermediate unloading, transportation, insurance and customs clearance;
- 2° unloading, unpacking and deployment at the place of delivery, provided that the procurement documents state the exact place of delivery and the means of access;
- 3° documentation pertaining to the delivery of supplies and any documentation required by the contracting authority;
- 4° assembly and taking into operation;
- 5° training required for operation;
- 6° Where applicable, the measures imposed by occupational safety and worker health legislation;
- 7° Customs and excise duties;
- 8° Acceptance costs.

#### **All prices are DDP.**

### **4.5 How to submit tenders**

Without prejudice to any variants, the tenderer may only submit one tender only per lot.

The tenderer submits his tender as follows:

Tender Specifications Bxl **XX title (Navision code)**

- One original copy of the completed tender will be submitted on paper. Moreover, the tenderer shall attach the copies requested by the tender guidelines to the tender. These copies may be submitted in one or more PDF files on a USB stick.

It is submitted in a properly sealed envelope bearing the following information:  
Tender – Opening of tenders on May 9<sup>th</sup> 2023 -10.00 AM .

It may be submitted:

- a) By mail (standard mail or registered mail)

In this case, the sealed envelope is put in a second closed envelope addressed to:

Enabel

Embassy of Belgium

Boulevard du 30 juin, 135

Gombe - Kinshasa

- b) Delivered by hand with acknowledgement of receipt.

The service can be reached on working days during office hours: from 9 am to 12 pm and from 1 pm to 5pm (see the address given under point Opening of Tenders).

Any request for participation or tender must arrive before the final submission date and time. Requests for participation or tenders that arrive late will not be accepted. (Article 83 of the Royal Decree on Awarding)

#### **4.5.1 Change or withdrawal of a tender that has already been submitted**

When a tenderer wants to change or withdraw a tender already sent or submitted this must be done in accordance with the provisions of Articles 43 and 85 of the Royal Decree of 18 April 2017.

To change or withdraw a tender already sent or submitted a written statement is required, which will be correctly signed by the tenderer or his representative. The subject-matter and the scope of the changes must be clearly indicated. Any withdrawal must be unconditional.

The withdrawal may also be communicated by fax or electronic means, provided that it is confirmed by registered letter deposited at the post office or against acknowledgement of receipt at the latest the day before the tender acceptance deadline.

When the tender is submitted via e-tendering, the tender is modified or withdrawn in accordance with Article 43, §2 of the Royal Decree of 18 April 2017.

Thus, modifying or withdrawing a tender after the submission report has been signed requires a new submission report to be signed in accordance with paragraph 1.

The subject-matter and the scope of the changes must be indicated in detail.

The withdrawal must be pure and simple.

Where the submission report issued following modification or withdrawal as referred to in clause 1 is not signed as referred to in paragraph 1, the modification or withdrawal is automatically void. This nullity applies only to the modifications or withdrawal, not to the tender itself.

#### **4.5.2 Opening of Tenders**

The tenders must be in the possession of the contracting authority before may 9<sup>th</sup> 2023 at 10.00 AM. The tender opening is open to the public.

The tender opening session will take place at the address given above for the submission of tenders.

## 4.6 Selection of tenderers

### 4.6.1 Exclusion grounds

The obligatory and facultative grounds for exclusion are given in attachment to these Tender Specifications.

By submitting his tender together with the European Single Procurement Document (ESPD) the tenderer declares officially on his honour that:

1° he is not in one of the mandatory or facultative exclusion cases, which must or may lead to his exclusion;

2° he fulfils the selection criteria established by the contracting authority in this contract;

The tenderer can either complete the ESPD given in attachment, or generate his document via the website: <https://ec.europa.eu/tools/espdc/filter>

The contracting authority will ask the tenderer, if necessary, at any time during the procedure, to provide all or part of the supporting documents, if necessary to ensure the smooth proceeding of the procedure. The tenderer is not required to submit any supporting documents or other evidence if and to the extent that the contracting authority has the possibility to directly obtain certificates or relevant information by accessing a free national database in a Member State.

With the exception of the exclusion grounds relating to tax and social security, the tenderer that is in one of the mandatory or optional exclusion situations can prove on his own initiative that he has paid or undertaken to pay compensation for any prejudice caused by the criminal offence or the fault, clarified totally the facts and circumstances by collaborating actively with the authorities in charge of the enquiry and taken concrete specific technical, organisational and personnel measures to prevent a new criminal offence or a new fault.

**Conflicts of interests- Revolving doors** (Art. 51 Royal Decree of 18 April 2017).

Without prejudice to Articles 6 and 69, paragraph 1, 5° of the Law, a conflict of interest is also considered any ('revolving doors') situation in which a natural person who has worked for a contracting authority as an internal staff member, whether in a hierarchy relation or not, as a concerned civil servant, public officer or any other person linked whatsoever to the contracting authority, would later intervene under a public contract awarded by this contracting authority and where a relation exists between the former activities that the above person conducted for the contracting authority and the activities he or she conducts under the contract.

The application of above-mentioned provision is limited however to a two-year term from the resignation of said person or any other type of termination of the former activities.

### 4.6.2 Selection criteria

Moreover, by means of the documents requested below, the tenderer must prove that he is sufficiently capable, from an economic and financial as well as from a technical point of view, to successfully perform this public contract.

#### **Financial and economic capacity**

1. The tenderer must prove having realised an average annual turnover for the last three years amounting to 1.5 times the value of his tender.
2. In addition, the tenderer must provide certified Financial Statements and balance sheets for the last three years.

#### **Technical capacity**

1. The tenderer must demonstrate that he has carried out three similar public supply contracts (powerboats) over the last five years. This list must be accompanied by the acceptance reports or certificates of successful completion signed by the client.

Only tenders from tenderers who meet the selection criteria are taken into consideration in order to participate in the comparison of tenders on the basis of the award criteria set out below, subject to the regularity of these tenders.

#### **4.6.3 Modalities relating to tender examination and regularity of the tenders**

Before starting the evaluation and comparison of the tenders, the contracting authority examines their regularity.

The tenders must be drawn up in such a way that the contracting authority can make a selection without starting negotiations with the tenderer. For this reason, and in order to be able to assess the tenders fairly, it is essential that the tenders be completely in conformity with the provisions of the Tender Specifications, both formally and materially.

The substantially irregular tenders are excluded.

A substantial irregularity is such as to give a discriminatory advantage to the tenderer, to distort competition, to prevent the evaluation of the tenderer's tender or its comparison with the other tenders, or to render non-existent, incomplete or uncertain the commitment of the tenderer to perform the contract under the conditions laid down.

The following irregularities are deemed substantial:

1° failure to comply with environmental, social or labour law, provided that such non-compliance is punishable by law

2° failure to comply with the requirements of Articles 38, 42, 43, §1, 44, 48, §2, clause 1, 54, §2, 55, 83 and 92 of the Royal Decree of 18 April 2017 and of Article 14 of the Law, insofar as they contain obligations vis-à-vis the tenderers;

3° failure to comply with the minimum requirements and the requirements that are indicated as substantial in the procurement documents;

4° tenders that do not bear an original handwritten signature on the tender form.

The contracting authority will also declare void any tender that is affected by several non-substantial irregularities which, by reason of their accumulation or combination, are capable of having the same effect as described above (in accordance with Article 76 of the Royal Decree of 18 April 2017).

#### **4.6.4 Award criteria ♣**

The contracting authority will choose the regular tender that it finds being most economically advantageous, taking account of the price.

##### **4.6.4.1 Awarding the public contract**

*Article 36 and 81-82 of the Law of 17 June 2016*

The lots of the public contract will be awarded to the tenderers who have submitted the most economically advantageous tender for the lot.

Notice though that, in accordance with Art. 85 of the Law of 17 June 2016, there is no obligation for the contracting authority to award the contract.



The contracting authority may either decide not to award the contract, either redo the procedure, if necessary through another award procedure.

The contracting authority also reserves the right to award only (a) certain lot(s) and to decide that the other lots will be the subject matter of one or more new contracts, if necessary according to another award procedure in accordance with Article 58 §1, third paragraph.

#### **4.6.5 Concluding the public contract**

In accordance with Art. 88 of the Royal Decree of 18 April 2017, the contract occurs through the notification to the selected tenderer of the approval of his tender.

Notification is via digital platforms, e-mail or fax and, on the same day, by registered post.

So, the full contract consists of a contract awarded by Enabel to the chosen tenderer in accordance with:

- These Tender Specifications and its annexes;
- The approved tender of the contractor and all of its annexes;
- The registered letter of notification of the award decision;
- Any later documents that are accepted and signed by both parties, as appropriate.

In view of transparency, Enabel undertakes to annually publish the list of contractors of its public contracts. By submitting tender, the contractor of the public contract declares agreeing with the publication of the contract title, the nature and subject-matter of the contract, his name and location as well as the value of the contract.

## 5 Specific contractual provisions

This chapter of these Tender Specifications holds the specific provisions that apply to this public contract by way of derogation from the 'General Implementing Rules for public procurement and for concessions for public works' of the Royal Decree of 14 January 2013, hereinafter referred to as 'GIR', or as a complement or an elaboration thereof. The numbering of the articles below (between brackets) follows the numbering of the GIR articles. Unless indicated, the relevant provisions of the General Implementing Rules (GIR) apply in full.

These Tender Specifications do <<not>> derogate <<Article(s) .., .. and .. of>> the GIR.

### 5.1 Managing official (Art. 11)

The Managing official is:

- LOT 1: Tshopo: **Ms Mamy RAJAONARISOA**, Intervention Manager/ GIFT Province de la Tshopo, RD Congo  
E-mail: [mamy.rajaonarisoa@enabel.be](mailto:mamy.rajaonarisoa@enabel.be)
- LOT 2: Mongala: **Mr Stéphane CYTRYN**: Intervention Manager/ Province de la Mongala, RD Congo  
E-mail: [stephane.cytryn@enabel.be](mailto:stephane.cytryn@enabel.be)

Once the public contract is concluded the managing official is the main contact point for the supplier. Any correspondence or any questions with regards to the performance of the contract will be addressed to him or her, unless explicitly mentioned otherwise in these Tender Specifications.

The managing official is responsible for the follow-up of the performance of the public contract.

The managing official is fully competent for the follow-up of the satisfactory performance of the public contract, including issuing service orders, drawing up reports and states of affairs, approving the services, progress reports and reviews. He or she may order any modifications to the public contract with regards to its subject-matter provided that they remain within its scope.

However, the signing of amendments or any other decision or agreement implying derogation from the essential terms and conditions of the contract are not part of the competence of the managing official. For such decisions the contracting authority is represented as stipulated under the point Contracting authority.

Under no circumstances is the managing official allowed to modify modalities (e.g. delivery deadlines) of the contract, even if the financial impact is nil or negative. Any commitment, change or agreement derogating the conditions in the Tender Specifications and that has not been notified by the contracting authority, will be considered null and void.

### 5.2 Subcontractors (Art. 12 to 15)

When the contractor uses a subcontractor to carry out specific processing activities on behalf of the contracting authority, the same data protection obligations as those of the contractor are imposed on that subcontractor by contract or any other legal act.

In the same way, the contractor will respect and enforce to his subcontractors, the provisions

of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, GDPR). The contracting authority may conduct an audit of the processing carried out in order to validate compliance with this legislation.

### **5.3 Confidentiality (Art. 18)**

Knowledge and information obtained by the contractor, including any persons responsible for the mission and any other person involved in this public contract, are strictly confidential.

Under no circumstances may the information collected, regardless of its origin and nature, be transferred to third parties in any form.

All parties directly or indirectly involved are therefore bound by the duty of discretion.

In accordance with Article 18 of the Royal Decree of 14 January 2013 establishing the general rules for public procurement, the tenderer or contractor undertakes to consider and process in a strictly confidential manner any information, all facts, any documents and/or any data, whatever their nature and support, which have been communicated to him, in any form and by any means, or to which he has access, directly or indirectly, in the context or on the occasion of this public contract. Confidential information covers, in particular, the very existence of this public contract, without this list being limited.

Therefore, he undertakes to:

- Respect and enforce the strict confidentiality of these elements and to take all necessary precautions in order to preserve their secrecy (these precautions cannot in any case be inferior to those taken by the tenderer for the protection of his own confidential information);
- Consult, use and/or exploit, directly or indirectly, all of the above elements only to the extent strictly necessary to prepare and, where applicable, to carry out this public contract (particularly regarding the privacy legislation with respect to personal data processing);
- Not reproduce, distribute, disclose, transmit or otherwise make available to third parties the above elements, in whole or in part, and in any form, unless having obtained prior and written consent of the contracting authority;
- Return, at the first request of the contracting authority, the above elements;
- In general, not disclose directly or indirectly to third parties, whether for advertising or any other reason, the content of this public contract, or the fact that the tenderer or contractor performs this public contract for the contracting authority, or, where applicable, the results obtained in this context, unless having obtained prior and written consent of the contracting authority. "

### **5.4 Personal data protection**

#### **4.4.1 Processing of personal data by the contracting authority**

The contracting authority undertakes to process the personal data that are communicated to it in response to the Call for Tenders with the greatest care, in accordance with legislation on the protection of personal data (General Data Protection Regulation, GDPR). Where the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data contains stricter provisions, the contracting authority will act in accordance with said law.

#### 4.4.2 Processing of personal data by the contractor

##### OPTION 1: PROCESSING OF PERSONAL DATA BY A SUBCONTRACTOR] =

Where during contract performance, the contractor processes personal data of the contracting authority exclusively in the name and on behalf of the contracting authority, for the sole purpose of performing the services in accordance with the provisions of the Tender Specifications or in execution of a legal obligation, the following provisions apply:

For any processing of personal data carried out in connection with this public contract, the contractor is required to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR) and the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data.

By simply participating in the contracting process, the tenderer certifies that he will strictly comply with the obligations of the GDPR for any processing of personal data conducted in connection with that public contract.

The personal data that will be processed are confidential. The contractor will therefore limit access to data to the strictly necessary personnel for the performance, management and monitoring of the public contract.

For the performance of the public contract, the contracting authority will determine the purposes and means of processing personal data. In this case, the contracting authority will be responsible for the processing and the contractor will be its processor, within the meaning of Article 28 of the GDPR.

Processing carried out on behalf of a controller must be governed by a contract or other legal act that is binding on the processor with regard to the personal data controller and that sets out that the subcontractor acts only on the instruction of the person in charge of the processing and that the confidentiality and security obligations regarding the processing of personal data are also the responsibility of the subcontractor (Article 28 §3 of the GDPR).

To this end, the tenderer must fill out, sign and submit to the contracting authority the subcontracting agreement given in Annex [X]. Filling out and signing this annex is therefore a condition of regularity of the tender.

##### OPTION 2: PROCESSING OF PERSONAL DATA BY A CONTROLLER (RECIPIENT)

Where during contract performance, the contractor processes personal data of the contracting authority or in execution of a legal obligation, the following provisions apply:

For any processing of personal data carried out in connection with this public contract, the contractor is required to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR) and the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data.

By simply participating in the contracting process, the tenderer certifies that he will strictly comply with the obligations of the GDPR for any processing of personal data conducted in connection with that public contract.

Given the public contract, it is to be considered that the contracting authority and the contractor will each be responsible, individually, for the processing.

## **5.5 Intellectual property (Art. 19 to 23)**

§1 The contracting authority acquires the intellectual property rights created, developed or used during performance of the public contract.

## **5.6 Performance bond (Art. 25 to 33)**

The performance bond is set at 5% of the total value, excluding VAT, of procurement. The value thus obtained is rounded up to the nearest 10 euros.

In accordance with the legal and regulatory provisions, the performance bond may be constituted either of cash or of public funds or may take the form of a joint performance bond.

The performance bond may also take the form of a surety bond issued by a credit institution meeting the requirements of the law on the statute and control of credit institutions, or by an insurance company meeting the requirements of the law on control of insurance companies and approved for branch 15 (bonds).

By way of derogation from Article 26 performance bond may be posted through an establishment that has its registered office in one of the countries of destination of the services. The contracting authority reserves the right to accept or refuse the posting of the bond through that institution. The tenderer mentions the name and address of this institution in the tender.

This derogation is founded on the idea of providing possible local tenderers with an opportunity to submit a tender. This measure is made essential by the specific requirements of the contract.

The contractor must, within 30 calendar days from the day of contract conclusion, furnish proof that he or a third party has posted the bond in one of the ways set out below:

1° in the case of cash, by transfer of the amount to the bpost bank account number of the Deposit and Consignment Office. Fill out the following form as completely as possible: [https://finances.belgium.be/sites/default/files/01\\_marche\\_public.pdf](https://finances.belgium.be/sites/default/files/01_marche_public.pdf)

(PDF, 1.34 Mo), and forward it by e-mail to [info.cdcdck@minfin.fed.be](mailto:info.cdcdck@minfin.fed.be)

2° in the case of public funds, by depositing such funds, for the account of the Deposit and Consignment Office, with the State Cashier at the head office of the National Bank in Brussels or at one of its provincial agencies or with a public institution with an equivalent function;

3° in the case of a joint surety, by deposit via an institution that lawfully carries out this activity of a deed of joint surety with the Deposit and Consignment Office or with a public institution with an equivalent function

4° in the case of a guaranty, by the deed of undertaking of the credit institution or the insurance company.

Proof is provided, as appropriate, by submission to the contracting authority of:

1° the deposit receipt of the Deposit and Consignment Office or of a public institution with an equivalent function; or

2° a debit notice issued by the credit institution or the insurance company; or

- 3° the deposit certificate issued by the State Cashier or public institution with an equivalent function; or
- 4° the original copy of the deed of joint surety stamped by the Depot and Consignment Office or by a public institution with an equivalent function; or
- 5° the original copy of the deed of undertaking issued by the credit institution or the insurance company granting a guaranty.

These documents, signed by the depositor, must state why the performance bond was posted and its precise usage, consisting of a concise indication of the subject-matter of the contract and a reference to the procurement documents, as well as the name, first names and full address of the contractor and, where relevant, that of the third party that made the deposit on the contractor's account, bearing the statement 'lender' or 'mandatary', as appropriate.

The period of 30 calendar days specified above is suspended during the period of closure of the contractor's business for paid annual holidays and the days off in lieu stipulated by regulation or by a collective binding labour agreement.

Proof that the required performance bond has been posted must be sent to the address that will be mentioned in the contract conclusion notification.

**Request by the contractor for the acceptance procedure to be carried out:**

- 1° For provisional acceptance: This is equal to a request to release the first half of the performance bond;
- 2° For final acceptance: This is equal to a request to release the second half of the performance bond, or, in case no provisional acceptance applied, to release the whole of the performance bond.

## **5.7 Conformity of performance (Art. 34)**

The works, supplies and services must comply in all respects with the procurement documents. Even in the absence of technical specifications in the procurement documents, the works, supplies and services must comply in all aspects with good practice.

## **5.8 Changes to the public contract (Art. 37 to 38/19)**

### **5.8.1 Replacement of the contractor (Art. 38/3)**

Provided that he meets the selection and exclusion criteria set out in this document, a new contractor may replace the contractor with whom the initial contract was agreed in cases other than those provided for in Art. 38/3 of the General Implementing Rules (GIR).

The contractor submits his request as quickly as possible by registered post, stating the reasons for this replacement and providing a detailed inventory of the state of the supplies and services already delivered, the new contractor's contact details and the documents and certificates which the contracting authority cannot access free of charge.

The replacement will be recorded in an amendment dated and signed by all three parties. The initial contractor remains liable to the contracting authority for the performance of the remainder of the contract.

### **5.8.2 Revision of prices (Art. 38/7)**

For this public contract, price revisions are not permitted.

### **5.8.3 Indemnities following the suspensions ordered by the contracting authority during performance (Art. 38/12)**

The contracting authority reserves the right to suspend the performance of the contract for a given period, mainly when it considers that the contract cannot be performed without inconvenience at that time.

The performance period is extended by the period of delay caused by this suspension, provided that the contractual performance period has not expired. If it has expired, the return of fines for late performance will be agreed.

When activities are suspended, based on this clause, the contractor is required to take all necessary precautions, at his expense, to protect the services already performed and the materials from potential damage caused by unfavourable weather conditions, theft or other malicious acts.

The contractor has a right to damages for suspensions ordered by the contracting authority when:

- The suspension lasts in total longer than one twentieth of the performance period and at least ten working days or two calendar weeks, depending on whether the performance period is expressed in working days or calendar days;
- The suspension is not owing to unfavourable weather conditions;
- The suspension occurred during the contract performance period.

Within thirty days of their occurrence or the date on which the contractor or the contracting authority would normally have become aware of them, the contractor reports the facts or circumstances succinctly to the contracting authority and describes precisely their impact on the progress and cost of the contract.

### **5.8.4 Unforeseeable circumstances**

As a rule, the contractor is not entitled to any modification of the contractual terms due to circumstances of which the contracting authority was unaware.

A decision of the Belgian State to suspend cooperation with a partner country is deemed to be unforeseeable circumstances within the meaning of this article. Should the Belgian State break off or cease activities which implies therefore the financing of this public contract, Enabel will do everything reasonable to agree a maximum compensation figure.

## **5.9 Preliminary technical acceptance (Art. 41-42)**

As a general rule, products may not be used if they have not been technically accepted by the managing official or his or her representative.

Products that at a given stage do not satisfy the technical acceptance tests imposed will be declared unfit for technical acceptance. Upon the request of the contractor, the contracting authority in accordance with the procurement documents verifies whether the products have the required qualities or at the very least comply with good practice and satisfy the conditions of the contract. If certain products are destroyed during verification, the contractor replaces these at its own expense. The procurement documents specify the quantity of products to be destroyed.

Where the contracting authority declares that the product presented is not in the required condition for examination, the acceptance request by the building contractor will be considered not having been made. A new request is made when the product is fit for acceptance.

## **5.10 Performance modalities (Art. 115 et seq.)**

### **5.10.1 Deadlines and terms (Art. 116)**

The supplies must be delivered within 150 calendar days as from the day following the date on which the supplier received the contract conclusion notification letter. The closure of the supplier's business for annual holidays is not included in this calculation.

### **5.10.2 Quantities to be supplied (Art. 117)**

The public contract's minimum quantities are mentioned under 'Quantities'.

Without prejudice to the possibility for the contracting authority to terminate the contract if the supplies delivered do not meet the requirements imposed or if they are not delivered by the deadlines asked, by concluding this contract the supplier acquires the right to deliver these quantities, under penalty of indemnification by the contracting authority.

### **5.10.3 Place where the services must be performed and formalities (Art. 149)**

The supplies will be delivered at the following address:

#### **BASIC TENDER**

Enabel – Belgian development agency

Ambassade de Belgique, 135

Gombe-Kinshasa

DRC

#### **VARIANTS**

The supplies will be delivered at the following address:

- Lot 1: Enabel, Agence belge de développement, N°30, Boulevard Mobutu, Kinsangani, Tshopo, RD Congo
- Lot 2: Enabel, Agence Belge de Développement, N° 11, Avenue de la Mission I, Q. Kaba, Commune de Bolikangi, Ville de Lisala, Province de Mongala, RD Congo

Potential tenderers have the right to visit the place where the goods are to be delivered. They shall contact the following persons for the purpose:

- LOT 1: Tshopo: Ms Mamy RAJAONARISOA, Intervention Manager GIFT Tshopo : Bureau Enabel ; N°30, Boulevard Mobutu, Kinsangani, Tshopo, RD Congo, +243 977779023, mamy.rajaonarisoa@enabel.be
- Lot 2: Mongala: Mr Stéphane CYTRYN, Intervention Manager PIREDD MONGALA: N° 11, Avenue de la Mission I, Q. Kaba, Commune de Bolikangi, Ville de Lisala, Province de Mongala, RD Congo, +243 975554553, stephane.cytryn@enabel.be

### **5.10.4 Packaging (Art. 119)**

Packaging will become the property of the contracting authority, without the supplier having any claim to compensation in this regard.



### **5.10.5 Inspection of the supplies delivered (Art. 120)**

The supplier delivers only goods that have no apparent and/or hidden defects and that correspond strictly to the order (in kind, quantity, quality...) and, if necessary, to the prescriptions of related documents as well as applicable regulations, in compliance with good practice, the state of the art, the highest standards of usage, of reliability and of longevity, and for the purposes that the contracting authority has in mind, which the supplier knows or at least should know.

Acceptance (provisional acceptance) only takes place after the complete inspection by the contracting authority of the conformity of the goods and services delivered. The contracting authority disposes of a period for verification of thirty days starting on the date of delivery. This period will begin on the day after arrival of the supplies at the place of delivery, provided that the contracting authority is in possession of the delivery note or invoice.

The signature of (a staff member of) the contracting authority, in particular in electronic reception devices, upon delivery of the goods, does consequently only count as evidence of taking possession and does not concern the acceptance of the goods.

Acceptance on the premises of the contracting authority counts as complete provisional acceptance

Acceptance implies the transfer of ownership and of risks of damage and loss.

In case of full or partial refusal of a delivery, the supplier is bound to take back, at his own costs and risks, the products refused. The contracting authority may ask the supplier to deliver goods that comply as soon as possible, either cancel the order and get supplied by another supplier.

### **5.10.6 Liability of the supplier (Art. 122)**

The supplier shall be liable for his supplies up to the time when the inspection and notification formalities referred to in Art. 120 are carried out, unless losses or damage sustained in the warehouses of the consignee are due to the events or circumstances referred to in Articles 54 and 56.

Moreover, the supplier indemnifies the contracting authority against damages for which it is liable towards third parties due to late performance of the contract or due to failure of the supplier.

## **5.11 Zero tolerance Sexual exploitation and abuse**

In application of Enabel's Policy regarding sexual exploitation and abuse of June 2019 there will be zero tolerance towards any misconduct that could impact the professional credibility of the tenderer.

## **5.12 Means of action of the contracting authority (Art. 44–51 and 123–126)**

The service provider's default is not solely related to services as such but also to the whole of the service provider's obligations.

In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the service provider to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

In case of violation, the contracting authority may impose a lump-sum fine to the service provider for each violation, which can be to up to three times the amount obtained by adding up the

(estimated) values of the advantage offered to the employee and of the advantage that the contractor hoped to obtain by offering the advantage to the employee. The contracting authority will decide independently about the application and the amount of this fine.

This clause is without prejudice to the possible application of other measures as of right provided in the GIR, namely the unilateral termination of the contract and/or the exclusion from procurement by the contracting authority for a determined duration.

#### **5.12.1 Failure of performance (Art. 44)**

§1 The contractor is considered to be in failure of performance under the public contract:

1° when performance is not carried out in accordance with the conditions specified in the procurement documents;

2° at any time, when performance has not progressed in such a way that it can be fully completed on the due dates;

3° when he does not observe written orders, which have been given in due form by the contracting authority.

§2 Any failure to comply with the provisions of the public contract, including the non-observance of orders of the contracting authority, is recorded in a report ('process verbal'), a copy of which will be sent immediately to the contractor by registered mail.

The contractor must repair the defects without any delay. He may assert his right of defence by registered letter addressed to the contracting authority within fifteen days from the date of dispatch of the report (process verbal). Silence on his part after this period shall be deemed acknowledgement of the reported facts.

Any defects detected that can be attributed to the contractor render him liable to one or more of the measures provided for in Articles 45 to 49, 154 and 155.

#### **5.12.2 Fines for delay (Art. 46 and 123)**

The fines for delay differ from the penalties referred to in Article 45. They are due, without the need for notice, by the mere lapse of the performance period without the issuing of a report and they are automatically applied for the total number of days of delay.

Regardless of the application of any fines for delay, the contractor indemnifies the contracting authority against damages for which it is liable towards third parties due to late performance of the contract.

#### **5.12.3 Measures as of right (Art. 47 and 124)**

§1 When, upon expiry of the term given in Article 44, §2, the contractor has not taken action or has presented means deemed unjustified by the contracting authority, the contracting authority may apply the measures as of right described in paragraph 2.

However, the contracting authority may apply measures as of right without waiting for the expiry of the term given in Article 44, §2, when the contractor has explicitly recognised the defects detected.

§2 The measures as of right are:

1° Unilateral termination of the contract. In this case the entire performance bond, or if no bond has been posted an equivalent amount, is acquired as of right by the contracting authority as lump sum damages. This measure excludes the application of any fine for delay in performance in Tender Specifications Bxl **XX title (Navision code)**

respect of the terminated part;

2° Performance under regie of all or part of the non-performed contract;

3° Conclusion of one or more replacement contracts with one or more third parties for all or part of the contract remaining to be performed.

The measures referred to in 1°, 2° and 3° will be taken at the expense and risk of the defaulting contractor. However, any fines or penalties imposed during the performance of a replacement contract will be borne by the new contractor.

## **5.13 End of the public contract**

### **5.13.1 Acceptance of the products delivered (Art. 64-65 and 128)**

The managing official will closely follow up the delivery.

#### **Provisional acceptance**

Upon expiry of the thirty-day period specified in Article 120, §2, as appropriate, a provisional acceptance report or acceptance refusal report will be drawn up.

Full acceptance is proceeded to at the place of delivery without partial acceptance at the place of manufacture;

Provisional acceptance is carried out in full at the place of delivery. To investigate and test the supplies as well as to notify its decision to accept or reject the delivery, the contracting authority disposes of a period of thirty days

This period will begin on the day after the date of arrival of the supplies at the place of delivery, provided that the contracting authority is in possession of the delivery note or invoice. It comprises the 30-day period stipulated in Article 120.

### **5.13.2 Transfer of ownership (Art. 132)**

The contracting authority automatically becomes the owner of the supplies as soon as they have been accepted for payment pursuant to Article 127 of GIR.

### **5.13.3 Guarantee period (Art. 134)**

The warranty period commences on the date on which provisional acceptance is given. It lasts one year.

### **5.13.4 Final acceptance (Art. 135)**

Final acceptance occurs upon expiry of the warranty period. It is implicit when the delivery has not led to any claims during said period.

If delivery has led to complaints during the warranty period, a final acceptance or refusal of acceptance report will be issued within 15 days prior to the expiry of said period.

### **5.13.5 Invoicing and payment of services (Art. 66 to 72 – 160)**

The contractor sends (one copy only of) the invoices and the public contract acceptance report (original copy) to the following address, given under “Delivery”:

Only delivery that has been performed correctly may be invoiced.

The contracting authority disposes of a period for verification of thirty days starting on the end date of the delivery, established in conformity with the modalities in the procurement documents, Tender Specifications Bxl **XX title (Navision code)**

to carry out the technical acceptance and provisional acceptance formalities and to notify the result to the supplier.

The amount owed to the supplier provider must be paid within thirty days with effect from the expiry of the verification term or with effect from the day after the last day of the verification term, if this is less than thirty days. And provided that the contracting authority possesses, at the same time, the duly established invoice <<and any other documents that may be required.

When the procurement documents do not provide for any separate debt claim, the invoice will constitute the debt claim.

The invoice must be in EUROS.

**In order for Enabel to obtain the VAT exemption and customs clearance documents as quickly as possible, the original invoice and all ad hoc documents will be transmitted as soon as possible before provisional acceptance.**

An advance of maximum 20% may be asked by the contractor and the payment is made after provisional acceptance of each delivery of a same order.

### **5.14 Litigation (Art. 73)**

The competent courts of Brussels have exclusive jurisdiction over any dispute arising from the performance of this public contract. French or Dutch are the languages of proceedings.

The contracting authority will in no case be held liable for any damage caused to persons or property as a direct or indirect consequence of the activities required for the performance of this contract. The contractor indemnifies the contracting authority against any claims for compensation by third parties in this respect.

In case of 'litigation', i.e. court action, correspondence must (also) be sent to the following address:

Belgian development agency - Enabel

Legal unit of the Logistics and Acquisitions service (L&A)

To the attention of Inge Janssens

rue Haute 147

1000 Brussels

Belgium

## 6 Terms of reference

### Functional description

The two riverboats will be used to navigate the Congo River and its tributaries (the Lomami River for Tshopo Province and the Akula and Mongala Rivers for Mongala Province).

The hydrological data for the Congo River at these locations are as follows:

- Flood/ebb tidal ratio: 2.5
- Average speed of the surface current at high water: 2.16 to 2.7kt (4 to 5 km/h)
- Average speed of the surface current at low water: 4.3 to 5.4kt (8 to 10 km/h)
- Average wind speed 19 to 28m/s

Precise hydrological data on the tributaries of the Lomami, Akula and Mongala Rivers are not known, but are similar to that of the Congo River.

In view of these hydrological and geographical data, the two riverboats must be able in all circumstances :

1. Achieve a guaranteed minimum cruising speed of 25kt, upstream and downstream and vice versa.
2. Their hulls must be able to lift off at full load at cruising speed.

Their range with their original tanks, at cruising speed and full load, should be min. 10 hours without refuelling.

The routes that these powerboats should be able to cover are, indicatively, listed as follows:

#### 1. *Tshopo Province*

- Kisangani - Isangi: 140 Km.
- Kisangani - Yanonge: 100 Km.
- Kisangani - Lisala: 800 Km (with a break for refuelling).

#### 2. *Mongala Province*

- Lisala-Bumba: 110 Km.
- Lisala - Bongandanga bank: +/- 10 Km.
- Lisala-Akula Port: 320 Km.

The capacity of each powerboat should be 8 to 10 people excluding the pilot.

Their radius of action must be able to cover a distance of 300 kms (i.e. 150 km roundtrip upstream-downstream and vice versa).

### General conditions

The supplies must be new and guaranteed of origin. They must be free of any flaw or defect that could harm their appearance and proper functioning and they must comply with the "Technical forms".

The tenderer attaches the following to his tender:

- The duly completed technical forms of the supplies + options to be delivered;
- The certificates and attestations of origin of the supplies which must be delivered at the same time as the power boats.
- The manufacturer's marketing authorisation certificates attesting to the validity of the manufacturer's guarantee if a distributor or reseller.
- A working drawing or photographs of the power boat (inside and out), at least the documentation relating to the power boat (brochure, technical documentation and so forth).
- Detailed delivery and installation schedules.

The technical documentation provided should clearly indicate the brands and models offered, so that the exact configuration can be seen. It must be sufficiently clear to easily compare the required specifications and the specifications offered.

In addition, the tenderer shall explicitly state the following characteristics:

- Hull profile
  - Over All Length (LOA) [Longueur Hors Tout (LHT)]
  - Beam Over All (BOA or B) [Largeur Hors Tout (B)]
  - Length Water Line (LWL) [Longueur à la flottaison (L)]
  - Beam Water Line (BWL) [Largeur à la flottaison]
  - The Draught of the Vessel (DV) [ Le tirant d'eau du bateau (Calaison)]
  - Deadweight tonnage ou (DWT) [Le Déplacement ( $\Delta$ )]
  - Sinkage [Volume d'enfoncement (m<sup>3</sup>/cm)]
- Prismatic Coefficient (Cp)
- Block coefficient (Cb)

Tenders that do not accurately identify the models and specifications may be rejected. The tenderer shall enclose technical data sheets for all equipment with his tender.

The tenderer shall also enclose with his tender the brochures with photographs provided by the manufacturer of the proposed engine(s) with their technical specifications.

The tenderer shall also enclose with his tender the leaflets with photographs provided by the manufacturer or the manufacturer's representative of the other equipment.

## **Documentation**

*The user and technical documents are a mandatory prerequisite for technical acceptance.*

### **User documentation**

User documentation (user manual) should be provided with each piece of equipment.

The user manual will be written in French (possibly accompanied by an original English version if necessary).

If accessories, such as echo sounder, GPS, lock, compass, etc. are supplied, they must also be accompanied by their own user manual written in French.

### **Technical documentation**

Technical documentation should be provided with each piece of equipment.

The set of technical documentation provided with the equipment shall include at least the following documents:

- Technical features of the equipment (including accessories),
- Workshop manual [Manuel d'Atelier],

The workshop manual will be written in French (possibly accompanied by an original English version if necessary).

This manual must include, but not be limited to, the following:

- All maintenance intervals and their components. (Engine, Propeller, Hull, Fittings etc.)
- All diagrams and mechanical dimensions.
- All setting dimensions.
- Replacement tolerances (cylinder, liners, bearings, crank pin journals, cylinder head gaskets, various rectifications, etc.).
- All tightening torques.
- Features of fluids (lubricants, fuel, hydraulics, coolant, etc.)
- The troubleshooting algorithms.
- Wiring diagrams [Les schémas électriques]
- Hydraulic diagrams (with all troubleshooting features such as pressure and flow control points).
- Schematics of the drive train.
- CPU fault codes if available.
- Any access keys to FCUs and Databuses such as CAN Bus or EOBD.
- Intervention methods, replacement and inspection intervals, all dimensional data, views and sections and exploded views with references of all parts, etc.
- The manufacturer's nomenclature and references of the spare parts in views and exploded sections.

## **Technical specifications**

The technical documentation provided should clearly indicate the models offered and the options included, so that the exact configuration can be seen. It must be sufficiently clear to easily compare the required specifications required and the specifications offered.

Tenders that do not accurately identify the models and specifications may be rejected. The tenderer shall enclose technical data sheets for the equipment with his tender.

The tenderer shall also enclose with his tender the brochures with photographs provided by the manufacturer or the manufacturer's representative of the equipment.

Tenderers shall, if requested by Enabel, provide the certificates of origin of the equipment.

**The technical specifications are provided as a basis with the understanding that variants are allowed provided that the tenderer demonstrates that the proposed power boats are suitable to meet the needs described (cf. Functional description).**

No.	Technical specifications required	Specifications proposed	Notes, remarks, documentation references
<b>1</b>	<b>Hull of the boat - General conditions</b>		
1.1	<p>Indicative dimensions:</p> <p>Over All Length: between +/-7.5 m and +/-10 m            Beam Over All: between +/- 2.5 m and +/-3.0 m</p> <p>The boat must have unsinkable buoyancy.</p> <p>"The dimensions must be in line with the performance of the hull and its measure capabilities. "</p>		
1.2	<p>Draught of the Vessel: maximum 0.5 m.            Freeboard less than 1.0 m.</p> <p>The boat must be suitable for river navigation with strong surface currents.</p> <p>It must have a shallow draught.</p>		
1.3	<p>Fabrication materials:</p> <p>5000 series aluminium alloy (AW-ALMg3-AGM3)            (Composition according to EC Standard 573-1)</p> <p>The shell will have a thickness of min. 4 to 4.5 mm            The bridge will have a thickness of min. 4.5 to 5 mm</p>		
1.4	<p>Berthing with possibility of beaching on sand and gravel.</p>		



	<p>To this end, the boat will be fitted with replaceable hull reinforcements such as "rushes", "rails" or bottom "runners".</p> <p>Hull protectors and stringers can be made of rubber or white polyurethane, stainless steel martyrs or half-rounders, snap-on stringers or easily replaceable radial PVC rope systems.</p> <p>Thanks to their interlocking rails these protectors have a professional finish and are easy to fix and reassemble.</p> <p>They will secure the hull against shocks on the quay or when beached by cushioning the impact.</p>		
1.5	<p>Provision of cargo loading and secure luggage storage areas: on deck and in the hold.</p>		
1.6	<p>The body works of the boats consist of :</p> <p><i>Except for the cockpit with rigid and possibly removable windscreen.</i></p> <p>A rigid metal frame (either aluminium alloy or stainless steel)</p> <p>Covered with a tarpaulin roof (rollable tarpaulin with lateral overhangs, made of transparent film, ensuring perfect protection against rain and sun and UV resistant constituent materials).</p> <p>If the structure is made with rigid side guards, these must be removable and must allow sufficient visibility without blind spots for steering the boat when installed.</p>		

1.7	<p>Cockpit:</p> <p>The cockpit must be protected by a rigid windscreen, which may be removable, and be equipped with a windscreen wiper.</p> <p>Course control (rudder) is by means of a hydraulically assisted wheel.</p> <p>IP68 waterproof electric dashboard with backlighting.</p>		
1.8	<p>The boat shall be fitted with the regulation lights; the leading (mast) lights, the green starboard and red port lights, the stern lights and the white all round lights.</p> <p>It can be a combined light lantern mounted on a pole. All lights will be LED.</p> <p>Deck lighting will be a plus as well as a long range adjustable headlight (optional)</p>		
1.9	Boat weight: ideally under 3.5 T.		
<b>2</b>	<b>Fittings</b>		
2.1	<p>The deck and/or balcony shall be covered with a non-slip coating or system.</p> <p>The rail shall be fitted with rungs for boarding.</p>		
2.2	Cylindrical type fender (8 elements)		
2.3	The boat will also be equipped with a bow angle fender, a chainplate and a mooring ring		

2.4	Aluminium alloy mooring cleats. (Number and position to be defined) A capstan on the bow for the mooring anchor.		
2.5	Automatically activated bilge pump. A manually operated bilge pump.		
2.6	Anchor mounted on a capstan, adapted to a sandy river bottom that can "anchor" the boat against the river's flooding current.  "Plough" type anchor or other type better adapted to the sand;model to be proposed		
2.7	Waterproof cover for boat protection with anti-UV fixing ropes, OXFORD type fabrics		
<b>3</b>	<b>Motorisation and electricity of the boat</b>		
3.1	Total power rating of 300 HP: It will consist of 2 steerable outboard motors The engines will be atmospheric 4-stroke petrol engines of 150 HP each. The engines will be fitted with "contra-rotating propellers" to cancel the torque effect of the propellers		
3.2	The outboard motors will be controlled from the steering console.		

3.3	<p>The control and electric starting of the engines will be done from the steering console by means of a non-coded key (transponder type).</p> <p>An additional set of 2 keys will be provided (3 in total).</p> <p>With at least feedback of engine speed count and low oil pressure and engine overheating warning.</p>		
3.4	<p>Motors mounted on a mobile chair or with hinges so that they can be lifted or tilted to examine or replace the propellers.</p>		
3.5	<p>Transmission of Outboard Motors</p> <p>Will be of the vertical crankshaft, vertical shaft, angular gear, propeller behind the hull type.</p> <p>Or "Sail-drive" transmission, with one or two angle transmissions depending on the position of the engine, vertical or horizontal, propeller under the hull.</p> <p>Z-drive transmission, two angle gears, transom mount and propeller (launches)</p>		
3.6	<p>Optional 4-blade propellers with propeller pitch and rack optimised for speed on rivers with strong surface currents.</p>		
3.7	<p>The engines must be able to run on regular gasoline with a "research" or RON octane rating: Research Octane Number) from 89 to 92.</p> <p>i.e. fuel not corresponding to the E10 standard.</p>		

	<p>In addition, the fuel may contain traces of water or oil.</p> <p>The filtration system must therefore be adapted accordingly with at least:</p> <p>A removable 5µ cartridge filter.</p> <p>Having an optimum filtration and flow capacity suiting the timing of operation and maintenance of the engines.</p> <p>The filtration system shall be equipped with an independent (or separate pre-filter) desiccant or decantation system to separate water from the fuel.</p>		
3.8	<p>Fuel tanks shall be of the compartmentalised type made of synthetic materials.</p> <p>They will be integrated, below deck, with capacities ranging from +/- 2 x 150 litres to +/- 2 x 300 litres.</p> <p>The contents of the tanks is defined according to the desired autonomy of 10 hours of operation and the desired range.</p> <p>The fuel inlets and lines will be independent.</p> <p>Secure closing cap (possibly with padlock)</p>		
3.9	<p>Bipolar battery cut-off system and an acid and corrosion proof battery tray.</p> <p>A charge protection separator for the starter battery if an auxiliary instrument battery is fitted.</p>		
<b>4</b>	<b>Instruments - Navigation</b>		

4.1	<p>Instrument panel with instruments including:</p> <ul style="list-style-type: none"> <li>• Navigation: <ul style="list-style-type: none"> <li>➤ A Loch.</li> <li>➤ A GPS system. (With integrated map of the Congo River basin)</li> <li>➤ An echo sounder. (with high background alarm).</li> <li>➤ Backlit "globe" type magnetic compass.</li> </ul> </li> <li>• Motor: <ul style="list-style-type: none"> <li>➤ Engine rpm counter.</li> <li>➤ Oil pressure.</li> <li>➤ Temperature.</li> <li>➤ Battery voltage.</li> <li>➤ Alarms.</li> </ul> </li> </ul>		
<b>5</b>	<b>Security equipment</b>		
5.1	<p>One (1) crown type lifebuoy with rope. (Lifting capacity of 100 N min.).</p> <p>One (1) castaway pole or gaff</p>		
5.2	100N lifejacket capable of carrying a mass of at least 100 kg (12 pieces)		
5.3	<p>CO2 fire extinguisher class B</p> <p>CO2 container &lt; 2kg (1 piece)</p>		

	The fire extinguisher must be securely attached to the fixed structure of the boat within easy reach of the pilot or the steering console.		
5.4	First aid kit (1 piece) waterproof first aid box. The first aid kit must be securely attached to the fixed structure of the boat within easy reach of the passengers.		
5.5	Flare gun (or flares) with at least 3 sealed cartridges.		
5.6	Regulatory traffic lights. (See point 1.8 above)		
<b>6</b>	<b>Options</b>		
6.1	Motor tool kit : A complete toolbox will be provided, from a recognised manufacturer of professional tools, compliant with General Regulations on Industrial Safety, allowing for all usual maintenance and repairs. All tools must be listed and their dimensions must match the engine and boat components.		
6.2	Ramp dolly trailer: It will be adapted to the proposed boat model with protective cover attachment points. It can tow a load of 3.5T.		

	<p>It shall be equipped with a winch (electric or hydraulic) for towing the boat.</p> <p>The frame shall be hot-dip galvanised according to EN-ISO 1461 (70µ or equivalent coating of 505 gr/m<sup>2</sup>).</p> <p>The trailer will be braked and equipped with a hand brake and a "jokey" type wheel.</p> <p>The trailer will be equipped with a spare wheel.</p>		
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## 7 Forms

### 7.1 Identification of the tenderer

#### 7.1.1 Natural person

<b>I. PERSONAL DATA</b>	
FAMILY NAME(S) <sup>11</sup>	
FIRST NAME(S)	
DATE OF BIRTH	
DD	MM YYYY
PLACE OF BIRTH (CITY, VILLAGE)	COUNTRY OF BIRTH
TYPE OF IDENTITY DOCUMENT	
IDENTITY CARD	PASSPORT
DRIVING LICENCE <sup>12</sup>	OTHER <sup>13</sup>
ISSUING COUNTRY	
IDENTITY DOCUMENT NUMBER	
PERSONAL IDENTIFICATION NUMBER <sup>14</sup>	
PERMANENT PRIVATE ADDRESS	
POSTCODE	P.O. BOX
	CITY
REGION <sup>15</sup>	COUNTRY
PRIVATE PHONE	
PRIVATE E-MAIL	
<b>II. BUSINESS DATA</b>	
If YES, please provide business data and attach copies of the official supporting documents.	
Do you run your own business without a separate legal personality (e.g. sole traders, self-employed etc.) and you provide as such services to the Commission, other Institutions, Agencies and EU-Bodies?	<b>BUSINESS NAME (if applicable)</b> <b>VAT NUMBER</b> <b>REGISTRATION NUMBER</b> <b>PLACE OF MAIN REGISTRATION CITY</b> <b>COUNTRY</b>
YES NO	
DATE	SIGNATURE

<sup>11</sup> As indicated on the official document.

<sup>12</sup> Accepted only for Great Britain, Ireland, Denmark, Sweden, Finland, Norway, Iceland, Canada, United States and Australia.

<sup>13</sup> Failing other identity documents: residence permit or diplomatic passport.

<sup>14</sup> See table with corresponding denomination by country.

<sup>15</sup> To be completed with Region, State or Province by non EU countries only, excluding EFTA and candidate countries.

## 7.1.2 Private/public law body with legal form

<b>OFFICIAL NAME<sup>16</sup></b>	
<b>BUSINESS NAME (if different)</b>	
<b>ABBREVIATION</b>	
<b>LEGAL FORM</b>	
<b>ORGANISATION</b>	<b>FOR PROFIT</b>
<b>TYPE</b>	<b>NON FOR PROFIT</b> <b>NGO<sup>17</sup></b> <b>YES</b> <b>NO</b>
<b>MAIN REGISTRATION NUMBER<sup>18</sup></b>	
<b>SECONDARY REGISTRATION NUMBER (if applicable)</b>	
<b>PLACE OF MAIN</b>	
<b>REGISTRATION</b>	<b>CITY</b> <b>COUNTRY</b>
<b>DATE OF MAIN REGISTRATION</b>	
	<b>DD</b> <b>MM</b> <b>YYYY</b>
<b>VAT number</b>	
<b>ADDRESS OF</b>	
<b>HEAD OFFICE</b>	
<b>POSTCODE</b>	<b>P.O. BOX</b> <b>CITY</b>
<b>COUNTRY</b>	<b>PHONE</b>
<b>E-MAIL</b>	
<b>DATE</b>	<b>STAMP</b>
<b>SIGNATURE OF AUTHORISED REPRESENTATIVE</b>	

<sup>16</sup> National denomination and its translation in EN or FR if existing.

<sup>17</sup> NGO = Non-Governmental Organisation, to be completed if NFPO is indicated.

<sup>18</sup> Registration number in the national register of companies. See table with corresponding denomination by country.

## 7.2 Tender form - Prices

By submitting this tender the tenderer commits to performing this public contract in conformity with the provisions of the Tender Specifications/ – and explicitly declares accepting all conditions listed in the Tender Specifications and renounces any derogatory provisions such as his own general sales conditions.

The unit prices and the global prices for each item in the inventory are established relative to the value of these items in relation to the total value of the tender. All general and financial costs as well as the profits are distributed between the various items in proportion to their weight.

### LOT 1 – BASIC TENDER (delivery Kinshasa)

Item 1:	UP VAT excluded
Powerboat + accessories	
Option 1: Tool kit	
Option 2: Ramp dolly trailer	

### Lot 2 – BASIC TENDER (delivery Kinshasa)

Item 1:	UP VAT excluded
Powerboat + accessories	
Option 1: Tool kit	
Option 2: Ramp dolly trailer	

The value-added tax is a special item of the inventory, to be added to the tender value. The tenderer commits to performing the public contract in accordance with the provisions of the Tender Specifications / for the following prices, given in euros and exclusive of VAT:

VAT percentage: .....%.

Should this tender be approved, the performance bond will be constituted under the conditions and deadlines stipulated in the Tender Specifications.

The confidential information and/or the information relating to technical or business secrets is indicated clearly in the tender.

In order to correctly compare the tenders, the duly signed information or documents mentioned in the Terms of reference must be attached to the tender.

In annex ....., the tenderer attaches .....to his tender.

The tenderer declares on honour that the information given is accurate and correct and that it has been established while fully aware of the consequences of misrepresentation.

Certified true and sincere,

Done at ....., on .../.../20

### 7.3 Declaration on honour – Exclusion grounds

Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer declare that the tenderer is not in any of the following cases of exclusion:

1. The tenderer nor any of its directors was found guilty following an **indefeasible judgement** for one of the following offences:
  - 1° Involvement in a criminal organisation
  - 2° **Corruption**
  - 3° **Fraud**
  - 4° Terrorist offence, offence linked to terrorist activities or incitement to commit such offence, collusion or attempt to commit such an offence
  - 5° Money laundering or financing of terrorism
  - 6° Child labour and other trafficking in human beings
  - 7° Employment of foreign citizens under illegal status
  - 8° Creation of a shell company.The exclusions on the basis of this criterion apply for a 5-year term from the date of judgement.
2. The tenderer has failed to fulfil his obligations to **pay taxes or social security contributions** for an amount in excess of EUR 3 000, except if the tenderer can demonstrate that a contracting authority owes him one or more unquestionable and due debts which are free of all foreseeable liabilities. These debts are at least of an amount equal to the one for which he is late in paying outstanding tax or social charges.
3. The tenderer is in **a state of bankruptcy, liquidation, cessation of activities, judicial reorganisation** or has admitted bankruptcy or is the subject of a liquidation procedure or judicial reorganisation, or in any similar situation resulting from a procedure of the same kind existing under other national regulations.
4. The tenderer or one of its directors has committed **serious professional misconduct which calls into question their integrity.**

The following are considered serious professional misconduct, among others:

- a. A breach of Enabel's Policy regarding sexual exploitation and abuse – June 2019
- b. A breach of Enabel's Policy regarding fraud and corruption risk management – June 2019
- c. A breach of a regulatory provision in applicable local legislation regarding sexual harassment in the workplace
- d. The tenderer was seriously guilty of misrepresentation or false documents when providing the information required for verification of the absence of grounds for exclusion or the satisfaction of the selection criteria, or concealed this information
- e. Where Enabel has sufficient plausible evidence to conclude that the tenderer has committed acts, entered into agreements or entered into arrangements to distort competition

The presence of this tenderer on one of Enabel's exclusion lists as a result of such an act/agreement/arrangement is considered to be sufficiently plausible an element.

5. When a conflict of interest cannot be remedied by other, less intrusive measures than exclusion;
6. When significant or persistent failures by the tenderer were detected during the execution of an essential obligation incumbent on him in the framework of a past contract, a past contract with another contracting authority, when these failures have given rise to measures as of right, damages or another comparable sanction. Failures to respect applicable obligations regarding environmental, social and labour rights under European Union law, national law, labour agreements or international provisions on environmental, social and labour rights are considered 'significant'.

The presence of the tenderer on the exclusion list of Enabel because of such a failure serves as evidence.

7. Restrictive measures have been taken vis-à-vis the contractor with a view of ending violations of international peace and security such as terrorism, human-rights violations, the destabilisation of sovereign states and proliferation of weapons of mass destruction.

8. The tenderer or one of its directors are on the lists of persons, groups or entities subject to United Nations, European Union or Belgian financial sanctions:

For the United Nations, the lists can be consulted at the following address:  
<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-internationales-nations-unies>

For the European Union, the lists can be consulted at the following address:  
<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-europ%C3%A9ennes-ue>

<https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions>

[https://eeas.europa.eu/sites/eeas/files/restrictive\\_measures-2017-01-17-clean.pdf](https://eeas.europa.eu/sites/eeas/files/restrictive_measures-2017-01-17-clean.pdf)

Pour la Belgique :

[https://finances.belgium.be/fr/sur\\_le\\_spf/structure\\_et\\_services/administrations\\_generales/tr%C3%A9sorerie/contr%C3%B4le-des-instruments-1-2](https://finances.belgium.be/fr/sur_le_spf/structure_et_services/administrations_generales/tr%C3%A9sorerie/contr%C3%B4le-des-instruments-1-2)

9. If Enabel executes a project for another funder or donor, other grounds for exclusion may be added.

The tenderer formally declares being able, when asked and without delay, to provide the relevant certificates and other kinds of supporting documents, except if:

- a. Enabel can directly obtain the supporting documents concerned by consulting a national database in a Member State that is accessible for free, provided the tenderer has given the required information (website address, responsible authority for providing the information, specific reference of the documents) so Enabel can obtain these, with concomitant permission to access them;
- b. Enabel already has said documents.

The tenderer formally agrees with Enabel accessing the supporting documents substantiating the information provided in this document.

Date

Place

Signature

## 7.4 Integrity Statement of the tenderers

Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer, declare the following:

- Neither members of administration or employees, or any person or legal person with whom the tenderer has concluded an agreement in view of performing the public contract, may obtain or accept from a third party, for themselves or for any other person or legal person, an advantage appreciable in cash (for instance, gifts, bonuses or any other kind of benefits), directly or indirectly related to the activities of the person concerned for the account of Enabel.
- The board members, staff members or their partners have no financial or other interests in the businesses, organisations, etc. that have a direct or indirect link with Enabel (which could, for instance, bring about a conflict of interests).
- I have / we have read and understood the articles about deontology of this public contract (see 1.7.) as well as Enabel's Policy regarding sexual exploitation and abuse and Enabel's Policy regarding fraud and corruption risk management and I / we declare fully endorsing and respecting these articles.

If above-mentioned public contract is awarded to the tenderer, I / we declare, moreover, agreeing with the following provisions:

- In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the public contractor (i.e. members of the administration and workers) to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of Enabel who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.
- Any (public) contract will be terminated, once it appears that contract awarding or contract performance would have involved the obtaining or the offering of the above-mentioned advantages appreciable in cash.
- Any failure to comply with one or more of the deontological clauses **will lead** to the exclusion of the contractor from this and other public contracts for Enabel.

Finally, the tenderer takes cognisance of the fact that Enabel reserves the right to lodge a complaint with the competent legal instances for all facts going against this statement and that all administrative and other costs resulting are borne by the tenderer.

Date

Place

Signature

