



Tender Specifications

TAN180351T-10214

**Construction of 1 market Center in Zanzibar
(Pemba)**

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1 Administrative and contractual provisions

1.1 Derogations from the Royal Decree of 14 January 2013

The chapter ‘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.

1.2 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 procurement contract, Enabel is represented by Koen Goekint (Country Director) and Othman Boufaied (Contract Manager) who are mandated to represent Enabel towards third parties.

1.3 Institutional framework of Enabel

The general framework of reference in which Enabel operates is:

- The Belgian Law on Development Cooperation of 19 March 2013¹;
- The Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company²;
- 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 2003³, 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 Labour Organization⁴ 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;

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

² Belgian Official Gazette of 1 July 1999.

³ Belgian Official Gazette of 18 November 2008.

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

- 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;

1.4 Rules governing the public contract

The following, among other things, apply to this public contract:

- The Law of 17 June 2016 on public procurement⁵;
- The Law of 17 June 2013 on justifications, notification and legal remedies for public contracts and certain contracts for works, supplies and services⁶;
- The Royal Decree of 18 April 2017 on the awarding of public contracts in the classic sectors
- The Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement;
- Circulars of the Prime Minister with regards to public procurement.
- 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;
- 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; Enabel's Code of Conduct and the policies mentioned above can be consulted on Enabel's website via <https://www.enabel.be/content/integrity-desk>.

1.5 Definitions

The following definitions apply to this contract:

- The tenderer: The natural person (m/f) or legal entity that submits a tender;
- The contractor / building contractor: The tenderer to whom the public contract is awarded;
- The contracting authority: Enabel, represented by the Representation of Enabel in Tanzania;
- 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: Contract notice and 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

⁵ A consolidated version of this document can be consulted on www.publicprocurement.be.

⁶ Belgian Official Gazette of 21 June 2013.

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;
- Summary bill of quantities: The procurement document, in a public works contract, 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;
- 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.

1.6 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>

1.7 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 public contractor 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.

1.8 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.

2 Subject-matter and scope of the public contract

2.1 Type of contract

This contract is a public works contract.

2.2 Subject-matter of the public contract

This public works contract is for the construction of 1 market center in Zanzibar (Pemba) in conformity with the conditions of these tender specifications.

2.3 Lots

This public works contract has 1 lot, which is indivisible.

2.4 Items

The items of the tender for are detailed in the Bill of Quantities (BOQ). The BOQ and the drawings will be attached together with this tender document and to be filled in by tenderers.

2.5 Duration of the public contract

The contract begins on notification of the award and ends on final acceptance

The duration of the works is 90 calendar days from the award date, including the mobilization period.

2.6 Quantities

Quantities are specified in the Bill of Quantities (BoQ) provided for this public contract.

3 Procedure

3.1 Award procedure

Negotiated Procedure without Prior Publication in application of Article 42 of the Law of 17 June 2016.

3.2 Publication

3.2.1 Enabel Publication

These Tender Specifications are posted on the website of Enabel (www.enabel.be). Such publication constitutes an invitation to tender.

3.3 Information

The awarding of this contract is coordinated by **Lutufyo Mwakipesile**. 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. Once the contract is awarded, in a kick-off meeting, the single point-of-contact role will be transferred from Alern Mgeni to the contract manager.

Until 7 days before the deadline for submission of tenders, prospective tenderers may ask questions about the Tender Specifications and the contract. Questions will be in writing to lutufyo.mwakipesile@enabel.be + procurement.tza@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. Until the notification of the award decision no information will be given about the evolution of the procedure.

The tenderer is to submit his tender after reading and taking into account any corrections made to the tender notice or Tender Specifications that are published on the Enabel website or in the Belgian Public Tender bulletin 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.

In accordance with Article 81 of the Royal Decree of 18 April 2017, the tenderer is required to report immediately any gap, error or omission in the procurement documents that precludes the establishment of his price or the comparison of tenders, within ten days at the latest before the deadline for receipt of tenders.

3.4 Tender

3.4.1 Data to be included in the tender

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 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.

3.4.2 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.

The validity of the tender will be negotiated, if the deadline stated above is overrun.

3.4.3 Determination of prices

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

This public contract is a mixed contract, meaning that the prices are *price-schedule* or *lump-sum prices*, following indication in the BoQ.

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.

3.4.4 Elements included in the price

The tenderer is to include in his unit and global prices any charges and taxes generally applied to works.

In the unit and global prices for the contract for works any costs, measures and charges applied to the performance of the contract, namely:

- 1° Where applicable, the measures imposed by occupational safety and worker health legislation.
- 2° All the works and supplies, such as bracing, sheet piling and drainage, necessary to prevent landslips and other damage and to remedy these if necessary;
- 3° The perfect preservation, possible shift and redeployment of cables and pipes which might be encountered during excavation, earthworks and dredging, provided that these achievements are not the legal responsibility of the owners of such cables and pipes;
- 4° Removal, within the confines of the excavations, earthworks and dredging which may be necessary for construction of the structure, of:
 - a) earth, mud and gravel, stones, rubble, riprap of any kind, masonry remains, turf, plants, bushes, stumps, roots, coppices, debris and waste materials;
 - b) any rock regardless of size where the procurement documents state that the earthworks, excavation and dredging are to be carried out in land known to be rocky, and in the absence of this statement, any rock and any blocks of masonry or concrete the individual volume of which does not exceed half a cubic metre;
- 5° The transportation and removal of excavated material, either away from the property of the contracting authority, or to locations within the sites for re-use, or to designated dumping sites, in accordance with the requirements of the procurement documents;
- 6° All overheads, incidental expenses and maintenance costs during contractual performance and the warranty period, insurances needed for the performance;
- 7° Customs and excise duties;
- 8° Acceptance costs.

All the works which, by their nature, depend on or are associated with those described in the procurement documents are also included in the contract price.

3.4.5 How to submit tenders

The tenderer submits his tender as follows:

- One original copy signed 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: TAN180351T-10214–Construction of 1 market center in Zanzibar (Pemba).

It must be submitted before the 07/08/2025 at 04:00pm EAT

- a) By mail (standard or registered mail)

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

Enabel Tanzania
14/15 Masaki, Haile Selassie Road,
Oasis Office Park, 4th Floor,
P.O Box 23209,
Dar es Salaam, Tanzania.

- b) Delivered by hand with acknowledgment of receipt.

The service can be reached on working days during office hours: from 8 am to 5 pm EAT.

Any tender must arrive before the final submission date and time. Tenders that arrive late will not be accepted. (Article 83 of the Royal Decree on Awarding)

Attention: The bids sent by email will be rejected!

3.4.6 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 indicated in detail. 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 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.

3.4.7 Opening of Tenders

The tenders will be opened behind closed doors.

3.5 Selection of tenderers

3.5.1 Exclusion grounds

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

By submitting this tender, the tenderer certifies that he is not in any of the cases of exclusion listed in the Articles 67 to 69 of the Law of 17 June 2016 and the Articles 61 to 64 of the Royal Decree of 18 April 2017.

The contracting authority will verify the accuracy of this Declaration on honour for the tenderer with the best tender.

For that purpose, the contracting authority will ask the tenderer concerned to provide information or documents allowing the contracting authority to verify the tenderer's personal situation by the fastest means and within the term set by the contracting authority.

The contracting authority will itself ask for information or documents that it can obtain free of charge by digital means from the instances that manage the information or documents.

In addition to the declaration on honour to be signed, the tenderer is also asked to enclose the following documents with its tender (as recent as possible in relation to the date of submission):

- Extract from the criminal record of the signatories of the bid
- Certificate of regularity of social security contributions
- Tax clearance certificate

3.5.2 Selection criteria

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

Moreover, by means of the documents requested in the 'Selection file', the tenderer must prove that he/she is sufficiently capable, from an economic and financial as well as from a technical point of view to successfully perform this public procurement contract. To be selected the tenderer must comply with all the selection criteria requirements as described in the Terms of Reference (section 5.4).

Only tenders from tenderers who meet all the selection criteria are taken into consideration to participate in the comparison of tenders based on the award criteria, subject to the regularity of these tenders.

3.6 Overview of the procedure

In a first phase, the tenders submitted by the selected tenderers will be evaluated as to formal and material regularity. Irregular tenders will be rejected.

The contracting authority reserves the right to have the irregularities in the tenderers' tender regularised during the negotiations.

In a second phase, the formally and materially regular tenders will be evaluated as to content by an evaluation commission. The contracting authority will restrict the number of tenders to be negotiated by applying the award criteria stated in the procurement documents. This evaluation will be conducted on the basis of the award criteria given in these Tender Specifications and aims to setting a shortlist of tenderers with whom negotiations will be conducted.

Then, the negotiation phase follows. With a view of improving the contents of the tenders, the contracting authority may negotiate with tenderers the initial tenders and all subsequent tenders that they have submitted, except final tenders. The minimum requirements and the award criteria are not negotiable. However, the contracting authority may also decide not to negotiate. In this case, the initial tender is the final tender.

When the contracting authority intends to conclude the negotiations, it will so advise the remaining tenderers and will set a common deadline for the submission of any BAFOs. Once negotiations have closed, the BAFO will be compared with the exclusion, selection and award criteria. The tenderer whose BAFO shows the best value for money (obtaining the best score based on the award criteria given below) will be designated the contractor for this contract.

3.7 Award criteria

The tenderer will join to his bid a financial offer (form 6.3) and a technical offer as requested in the Terms of reference (section 5). The contracting authority will choose the most advantageous bid based on the award criteria listed in the Terms of reference (section 5).

Final score

The scores for the award criteria will be added up. The contract will be awarded to the tenderer with the highest final score, after the contracting authority has verified the accuracy of the Declaration on honour of this tenderer and provided the check shows that the Declaration on honour corresponds with reality.

3.8 Awarding the public contract

The contract will be awarded to the tenderer who has the best scores based on the criteria mentioned in section 3.7 and who has submitted a regular tender.

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 can also decide to award only one, two or all three lots.

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

3.9 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 BAFO of the contractor and all of its annexes.
- The registered letter of notification of the award decision.
- If applicable, the service agreement
- 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.

4 Specific contractual and administrative conditions

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

4.1 Definitions (Art. 2)

The following definitions apply to this contract:

- Progress payment: Payment of an instalment under the contract after acceptance of performance;
- Advance: Payment of part of the contract before acceptance of performance;
- Amendment: Agreement established between the contracting parties during contract performance in view of changing documents applicable to the contract;
- Performance bond: Financial collateral given by the contractor to ensure he will fulfil his obligations until final and good performance of the contract
- Managing official: The official or any other person who manages and controls the performance of the public contract;
- Acceptance: Observation by the contracting authority that the performance by the contractor of all or part of the works, supplies or services is in compliance with good practice and with the terms and conditions of the contract;

4.2 Usage of digital means (Art. 10)

The usage of digital means for the purpose of exchanging during the performance of the contract is allowed unless where indicated otherwise in these Tender Specifications.

In the latter cases, notifications of the contracting authority are sent to the domicile or the registered office mentioned in the tender.

4.3 Managing official (Art. 11)

The management and control of contract performance will be ensured by the person who will be designated managing official of the tender in the letter notifying the award of the contract to the successful bidder. For this tender, the manager official will be **Mr. Oscar Mlay**.

Once the contract is concluded the managing official is the main contact point for the building contractor. 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 (see namely, 'Payments' below).

The managing official is fully competent for the follow-up of the satisfactory performance of the 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 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 Contracting authority.

Under no circumstances is the managing official allowed to modify modalities (e.g. performance period) 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.

4.4 Subcontractors (Art. 12 to 15)

The fact that the contractor entrusts all or part of his commitments to subcontractors does not relieve him of liability to the contracting authority. The latter does not recognise any contractual relation with third parties.

The contractor remains, in any case, solely liable to the contracting authority.

The building contractor undertakes to having the contract performed by the persons indicated in the tender, except for force majeure. The persons mentioned or their replacements are all deemed to effectively be involved in the performance of the contract. Any replacements must be approved by the contracting authority.

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.

4.5 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 can 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.

4.6 Personal data protection

4.6.1 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.

4.6.2 Processing of personal data by the contractor

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.

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).

4.7 Intellectual property (Art. 19 to 23)

The contracting authority does not acquire the intellectual property rights created, developed or used during performance of the public contract.

Without prejudice to clause 1 and unless otherwise stipulated in the procurement documents, when the subject-matter of the public contract consists of the creation, manufacture or the development of designs or of logos, the contracting authority acquires the intellectual property thereof, as well as the right to trademark them, to have them registered and to have them protected.

For domain names created under the contract, the contracting authority also acquires the right to register and protect them, unless otherwise stipulated in the procurement documents.

Where the contracting authority does not acquire the intellectual property rights, it obtains a patent licence of the results protected by intellectual property law for the exploitation modes that are mentioned in the procurement documents.

The contracting authority lists the exploitation modes for which it intends to obtain a licence in the procurement documents.

4.8 Insurance (Art. 24)

The contractor takes out insurance policies covering his liability for occupational accidents and his third-

party liability for the performance of the contract.

The contractor also takes out any other insurance policy imposed by the procurement documents.

Within fourteen days from contract conclusion the contractor provides evidence that he has taken out these insurance policies through a certificate stating the extent of the liability covered required by the procurement documents.

At any time during contract performance, the contractor provides such certificate within fifteen days following the reception of such a request from the contracting authority.

4.9 Performance bond (Art. 25 to 33)

For this contract performance bond is NOT required.

4.10 Conformity of performance (Art. 34)

The works 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.

4.10.1 Plans, documents and objects prepared by the contracting authority (Art. 35)

At the request of the contractor, the contractor receives free of charge and where possible in digital form:

A complete set of copies of the plans on which contract awarding was based. The contracting authority is liable for the conformity of these copies with the original plans.

The contractor preserves all the documents and correspondence relating to the award and performance of the contract and keeps these available to the contracting authority until final acceptance.

4.10.2 Detailed plans and work plans prepared by the contractor (Art. 36)

The contractor prepares at its own expense all the detailed plans and work plans he requires for successful performance of the contract.

The procurement documents specify which plans require approval by the contracting authority, which has 30 days to approve or reject the plans starting from the date on which they are submitted to it.

Any corrected documents are resubmitted for approval to the contracting authority, which has 15 days to approve them, provided that the corrections requested are not the result of new demands made by the contracting authority.

4.10.2.1 Construction planning

How the planning is submitted is to be discussed with the Managing official.

The first planning is to be introduced within 15 calendar days following tender award notification and it is to be updated every month during construction.

This draft construction planning provides, in addition to deadlines for the 'on-site' works as such, the timing for the different preliminary achievements such as the establishment of documents prescribed by the technical provisions, implementation plans and detailed plans, calculation notes, selection of equipment and materials, including the approval of related documents, the supplies, workshop or factory work, preliminary tests and conformity tests, etc.

After it has been studied and remarks have been made and following approval of the contracting authority, the planning becomes contractually binding.

4.10.2.2 Master plan

The building contractor undertakes to deliver a master plan to be approved by the contracting authority and its advisors within 15 calendar days following notification of contract conclusion.

This plan must sufficiently anticipate situations to allow the contracting authority to take decisions or provide answers or supply the documents that are incumbent upon it.

The master plan will be updated at least every month and must be consistent with the construction planning. It will be aligned with the construction planning and will be based on the same document.

The contractor will be sole manager of the planning of all activities required to perform this contract.

In particular he plans:

- Set dates for delivering implementation plans that he needs,
- The placing of orders to his suppliers and subcontractors,
- The presentation in due time of samples and technical forms of products submitted for preliminary technical acceptance,
- Measuring the works and the workshop manufacture period,
- Indication of deadlines dates for decisions to be taken by the contracting authority,
- Indication of deadline dates for the conclusion of modifications to orders being elaborated,
- Indication of deadline dates for the achievement of works performed by other enterprises,
- Registration, in due time, of the measurements of the works,
- etc.

4.10.2.3 Performance documents

These plans consider the Tender Specifications and technical provisions, and the design drawings of the project annexed to the tendered Specifications.

All implementation plans and detail plans are to be submitted for approval to the contracting authority along with calculation notes, technical approvals and technical forms, and in particular those related to the works and the equipment listed below (non-exhaustive list):

- Construction of 1 market center in Zanzibar (Pemba).

The managing official may refuse technical forms that are partial, incomplete, or too commercial and do not provide the technical information required for assessment and approval.

Samples of materials to be used shall be submitted for approval to the managing official and the approved model will remain on the construction site until the last piece of its kind is placed.

At the request of the contracting authority, the building contractor shall also provide the following documents during the performance period:

- Samples of materials proposed corresponding to the technical forms;
- Test reports, technical manuals, technical approvals, technical forms, etc.;
- Products or equipment used for this contract.

4.10.2.4 Establishment of "As Built" plans

During performance, the building contractor shall revise and update the plans to the last detail in order to accurately reproduce the works and installations and their specifics as built.

When the works are completed and in view of provisional acceptance of the works, the building contractor is to submit the complete plans and diagrams of the works and installations as built.

When the works are completed and in view of provisional acceptance, the building contractor is to submit the technical files, at least including:

- As built drawings
- technical specifications with brands names, types, origin of the equipment installed,
- users manuals, explaining the functioning of all equipment,
- maintenance manuals, explaining everything that needs to be done for the maintenance and care of the equipment (regular control and maintenance, list and codes of spare parts...),
- and test reports, tuning and adjustment reports.

4.11 Changes to the public contract (Art. 37 to 38/ 19 and 80)

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 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.

Revision of prices (Art. 38/7)

For this contract, price revisions are not permitted.

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.

As a reminder, in accordance with Article 80 of the Royal Decree of 14 January 2013, the building contractor is required to continue the works without interruption, notwithstanding any disputes which might result from the determination of the new prices.

Any order amending the contract during performance of the contract is issued in writing. However, minor amendments need only be entered in the works logbook.

The orders or entries shall specify the changes to be made to the initial terms of the contract and to the plans.

Setting unit or global prices – Calculation of the price

The unit or global prices of changed works, which the building contractor is bound to carry out, are determined in the following order of priority:

1. In accordance with the unit or global prices of the approved tender;
2. By default, in accordance with the unit or global prices inferred from the approved tender;
3. By default, in accordance with the unit or global prices from another contract of Enabel;
4. By default, in accordance with the unit or global prices to be agreed upon on the occasion.

In the latter case, the building contractor shall justify the new unit price by detailing the supplies, person-hours, equipment hours and general costs as well as profits.

Setting unit or global prices – Procedure to follow

The building contractor submits his proposal for the execution of the complementary achievements or his new prices within 10 calendar days from the request of the managing official (unless the latter has specified a shorter deadline) and before executing the works considered. This proposal is submitted on the basis of a standard form that will be provided by the managing official and will come with all necessary annexes and justifications.

This form for agreed prices is established on the basis of a format from Enabel. The building contractor will attach at least the following annexes and documents to it:

- The amending order from the contracting authority and more in general the justification of the modification of the works;
- The calculation of new unit or global prices;
- The quantities to be implemented for the existing items and for any new items;
- If appropriate, the tenders of subcontractors or suppliers consulted;
- Any other documents he or she deems pertinent.

After executing the works and at the latest upon establishment of the final settlement of account, the building contractor shall transfer the invoices that have been sent to him by subcontractors and suppliers to the managing official. He shall certify on these invoices not having received any credit note or compensation from the supplier or subcontractor for the invoice.

When the building contractor defaults on providing an acceptable new price proposal or when the contracting authority deems the proposal made unacceptable, the contracting authority will set the new unit or global price as of right, all rights of the building contractor being preserved.

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 on a maximum compensation figure.

4.12 Control and supervision of the public contract

Scope of the control and supervision (Art. 39)

The contracting authority may have the preparation and the performance of the delivery supervised or controlled at any location by all appropriate means.

The contractor is required to provide the representatives of the contracting authority with all the information and facilities needed for carrying out their task.

The fact that such supervision or control has been carried out by the contracting authority does not release the contractor of its liability should delivery eventually be rejected due to defects of any kind.

Technical acceptance procedures (Art. 41)

Concerning technical acceptance, it is necessary to distinguish between:

- 1° Preliminary technical acceptance within the meaning of Article 42;
- 2° Ex post technical acceptance within the meaning of Article 43.

The contracting authority may waive all or part of the technical acceptance procedures where the contractor can prove that the products have been controlled by an independent body during their

production, following the specifications of the procurement documents. In this respect, any other certification procedure in force in a Member State of the European Union is regarded as comparable to the Belgian conformity certification procedure and deemed equivalent.

Preliminary technical acceptance (Art. 42)

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

All equipment proposed must be approved by the contracting authority. This approval is obtained on the basis of the preliminary technical forms that have been elaborated by the building contractor and are submitted to the managing official.

The technical forms give a general overview of the equipment and give specifications and choices made for the project.

The contracting authority refuses technical forms which are partial or incomplete and which do not provide the technical information required for examination and approval.

Once the comments made are in the possession of the building contractor, he will take them into account and will complete the technical form in order to have it approved.

Technical acceptance may be carried out at various stages of production.

Products that at a given stage do not satisfy the technical acceptance tests imposed will be declared unfit for technical acceptance.

The contractor is responsible for storing and conserving his products in view of any risks run by his company and this until provisional acceptance of the works.

Except for approved products, the costs pertaining to the preliminary technical acceptance are borne by the building contractor.

In any case, the costs include:

- Costs pertaining to tasks of the acceptance experts, including travel and accommodation costs of acceptance experts.
- Costs pertaining to collecting, packaging, and transporting samples, regardless of where or whereto,
- Costs pertaining to tests (preparation, manufacture of testing tools, the tests as such (in this respect, the circular letters pertaining to setting rates for tests apply),
- Costs pertaining to the replacement of products that are faulty or damaged.

Ex post technical acceptance (Art. 43)

Ex post technical acceptance will obligatorily be carried out for any defects to works or equipment components that would have remained hidden after completion of the works.

4.13 Performance period (Art. 76)

The building contractor is to complete the works within a period of **90 calendar days** as of the contract award date.

4.14 Provision of land (Art. 77)

The building contractor shall bear all costs pertaining to land that is needed for the installation of his construction sites, storing supplies, preparing and handling materials as well as land needed for storing soil, excavated soil that is known to be unsuitable for reuse as landfill, material from demolition, general waste of any kind and excess earth.

He is liable, vis-à-vis adjoining landowners, for any damage to private property while achieving the works or storing the materials.

The enclosing hoardings may not be used for advertising.

No advertising is allowed on the sites used, except for 'Construction site information'.

4.15 Labour conditions (Art. 78)

All the legal, regulatory and contractual provisions relating to the general conditions of work and health and safety in the workplace will apply to all personnel on the contractor's site.

The building contractor, all persons acting as a subcontractor at any stage and all persons providing personnel, shall be required to pay their respective personnel salaries, bonuses and allowances at the rates established by law, by collective agreements concluded by company agreements.

The building contractor shall keep available to the contracting authority at all times, at a location designated by the latter, a list, updated on a daily basis, of all the personnel it employs on the site.

This list contains at least the following personal information:

the name; the first name; actual occupation per day on the construction site; the date of birth; the job title; qualifications;

The contact person appointed by the building contractor for the performance of this contract with the contracting authority will have to master the English language.

4.16 Organisation of the construction site (Art. 79)

The building contractor shall comply with the local legal and regulatory provisions governing building works, road works, health and safety in the workplace as well as the provisions of collective, national, regional, local and company agreements.

During the performance of the works, the building contractor shall be required to maintain the security of the site for the duration of the works and, in the interests of his appointees and the representatives of the contracting authority and third parties, to take all necessary measures to ensure their safety.

The building contractor shall, under his sole responsibility and at his own expense, take all necessary measures to ensure the protection, preservation and integrity of existing buildings and works. He shall also take all the precautions required by best building practices and any special circumstances to protect neighbouring properties and to prevent any disturbance to them through his fault.

The building contractor shall bear all costs of and implement all necessary measures to signal in daylight, at night as well as in fog, the construction sites and storage sites that are located where vehicles and pedestrians circulate. He is to completely enclose his sites along temporary or permanent sidewalks as well as along temporary or permanent traffic arteries. Such enclosing and hoarding will also ensure the protection of the construction site during the construction period against any outside intrusion.

The building contractor shall supply a purpose-made notification billboard for this construction site with dimensions and following the model offered by the contracting authority prior to starting the works.

This informative panel will be put in place when construction work starts along the public road in a place that is to be defined by the contracting authority.

4.17 Means of control (Art. 82)

The building contractor shall notify the contracting authority of the precise location of works in progress on its site, in its workshops and factories, and on the premises of its subcontractors and suppliers.

Without prejudice to the technical acceptance operations to be carried out on-site, the building contractor shall at all times grant to the managing official and other agents appointed by the contracting authority free access to the sites of production, to monitor strict application of the contract, in particular concerning the origin and quality of the products.

If the building contractor uses products that have not been accepted or that do not meet the demands of the Tender Specifications, the managing official or his/her representative may forbid the further pursuit of the works concerned, until these refused products are replaced by others that meet the contract's conditions, without this decision generating an extension of the performance period or any entitlement to compensation. The building contractor is notified about the decision through a written report.

4.18 Works logbook (Art. 83)

Upon contract conclusion notification, the building contractor makes the necessary Works logbooks available to Enabel.

Once the works have started, the building contractor shall supply 2 copies with all necessary information for establishing the Works logbooks daily to the contracting authority's representatives. This concerns:

- Weather conditions;
- Interruptions to works caused by adverse weather conditions;
- Accidents at work;
- The number and capacity of workers employed on the site;
- Materials supplied;
- Equipment actually used and equipment out of service;
- Unforeseen events;
- Amending orders of minor impact;
- The attachments and quantities performed for each item and in each zone of the construction site. The attachments constitute the true and detailed representation of all works performed, in quantity, dimensions, and weights.

Delay in providing the above documents may result in the application of penalties.

When the building contractor does not formulate any remarks in due form and within above-mentioned deadlines, he is deemed to agree with the annotations made in the logbooks or detailed attachments.

When these observations are not deemed justified, the building contractor will be notified accordingly by registered letter.

4.19 Liability of the building contractor (Art. 84)

The building contractor shall be held liable in respect of all works performed by him or his subcontractors until final acceptance of all works.

During the warranty period, the building contractor shall carry out the work, as required, all the works and repairs necessary to restore it to a good state of operation and maintain it in this state.

Any repairs to shortcomings are performed in compliance with the instructions of the contracting authority.

4.20 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.

4.21 Means of action of the contracting authority (Art. 44-51 and 85-88)

The building contractor's default is not solely related to the works as such but also to the whole of the building contractor'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 building 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.

In case of violation, the contracting authority may impose a lump-sum fine to for each violation, which can be up to three times the amount obtained by adding up the (estimated) values of the advantage offered to the appointee and of the advantage that the contractor hoped to obtain by offering the advantage to the appointee. The contracting authority will decide independently about the application and the amount of this fine.

Moreover, in case of suspicion of fraud or bad workmanship during performance, the building contractor may be required to demolish the whole or part of the works executed and to rebuild them. The costs of demolition and reconstruction will be borne by the building contractor or the contracting authority, according to whether the suspicion is found to be justified or not.

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.

4.21.1 Failure of performance (Art. 44)

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.

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 or equivalent.

The contractor must repair the defects without any delay. He may assert his right of defence by registered letter or equivalent 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 an 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, 86, and 87.

4.21.2 Penalties (Art. 45)

Special penalties

Because of the significance of the works, are burdened, without the need for notice and by the breach only, with a daily penalty of EUR 150 for every calendar day of non-performance:

- Non-delivery of administrative and technical documents because not having delivered the documents listed by the time set during construction site meetings or by administrative order.
- Absence from construction site meetings or coordination meetings: For every absence a penalty will be imposed on the building contractor who has not attended or has not been validly represented at meetings which he was supposed to attend.
- Delay in executing observations or administrative orders of the contracting authority via the managing official: Where the lists of observations resulting from construction site visits, for painting orders, or upon acceptance, have not been fulfilled by the time set by the managing official, the contractor will be penalized per calendar day of delay until performance is effectively carried out.
- Change of one of the key staff members without prior agreement of the contracting authority: A lump sum penalty is applied per day of default, ending when, either the managing official obtains the approval of the contracting authority for the new member's being put in place, or the replaced member is re-established in its duties, or both parties agree about a new person as a replacement that is jointly accepted. When the penalties are applied, these may in no case be recuperated retrospectively, even where agreement is found.

If a shortcoming to one of the stipulations mentioned above is found in accordance with Article 44 §2 of the Royal Decree of 14 January 2013, the contracting authority may allow a period to the building contractor to repair the shortcoming and to inform it about this reparation by registered mail. In this case, the contractor is notified of the deadline along with the failure of the performance report mentioned in Art. 44 §2 of the Royal Decree of 14 January 2013.

If no term is indicated in the registered letter the contractor is to repair the shortcomings without any further delay.

4.21.3 Fines for delay (Art. 46 et seq. and 86)

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.

Fines are calculated following the formula given in Article 86 §1.

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.

In case the works being the subject-matter of these Tender Specifications were not completed within the period set in point 1.4.18, the following fine will be applied as of right for every working day of delay without the need for notice, simply by the expiry of the period in question:

$$R = 0,45 * ((M * n^2) / N^2)$$

where,

R = the sum of the fines to be applied for a delay of n working days;

M = the initial value of procurement;

N = the number of working days initially specified for performance of the contract;

n = the number of working days of delay.

However, if the factor M does not exceed EUR 75 000 and, at the same time, N does not exceed 150 working days, the denominator N² will be replaced by 150 × N.

If the contract includes several parts or several stages, each of which has its own period N and value M, each of them will be deemed a distinct contract for the application of fines.

If, without setting parts or stages, the Tender Specifications stipulate that partial periods apply, failure to observe these will be penalised by special fines provided for in the Tender Specifications, or, in the absence of such a provision, by fines calculated in accordance with the formula referred to in Art. 86§1 of the Royal Decree of 14 January 2013, in which the factors M and N refer to the total contract. However, the maximum sum of fines associated with each partial period of P working days shall be:

$$R_{par} = (M / 20) * (P / N)$$

4.22 Measures as of right (Art. 47 and 87)

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.

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 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.

Other sanctions (Art. 48)

Without prejudice to the sanctions provided in these Tender Specifications, the contractor defaulting on performance may be excluded by the contracting authority from its public contracts for three years. The contractor in question will be allowed to present a defence and the reasoned decision will be notified to him.

4.23 Acceptance, guarantee, and end of the public contract (Art. 64-65 and 91-92)

4.23.1 Acceptance of the works performed (Art. 64-65 and 91-92)

The managing official will closely follow up on the work during the performance. The services will not be accepted until after fulfilling audit checks, technical acceptance and prescribed tests.

Provisional acceptance is provided upon the completion of the performance of the works forming the subject matter of the contract and, on expiry of a warranty period, a final acceptance marking full completion of the contract.

The total or partial taking of possession of the work by the contracting authority does not constitute provisional acceptance.

The contracting authority disposes of a verification term of thirty days starting on the final or partial end date of the works, set in conformity with the modalities in the procurement documents, to carry out the acceptance formalities and to notify the result to the service provider.

When the work is completed on the date set for its completion, and provided that the results of the technical acceptance inspections and prescribed tests are known, a report confirming provisional acceptance or refusing acceptance will be drawn up.

When the work is terminated before or after this date, the building contractor notifies the managing official thereof, by registered letter or e-mail showing the exact date of dispatch, and requests, on that occasion, to proceed to provisional acceptance. Within 15 days after the date of receipt of the building contractor's request, and provided that the results of the technical acceptance inspections and prescribed tests are known, a report confirming provisional acceptance or refusing acceptance will be drawn up.

The warranty period commences on the date on which provisional acceptance is given and last for one year.

Within 15 days preceding the date of expiry of the warranty period, a report confirming final acceptance or refusing acceptance shall be drawn up.

The building contractor shall be held liable in respect of all works performed by him or his subcontractors until final acceptance of all works.

During the warranty period, the building contractor shall carry out on the work, as required, all the works and repairs necessary to restore it to a good state of operation and maintain it in this state.

However, after provisional acceptance, the building contractor will not be liable for damage the causes of which are not attributable to him.

The contractor who, during the warranty period, does certain works or partial works, shall restore the adjacent parts (such as paint, wallpaper, parquet floor...) if these have been damaged because of the repairs undertaken.

In buildings or other property that are being occupied the contractor may not hinder or endanger said occupation in any way for the performance of his works. The contractor shall bear all costs for the measures needed for that purpose.

During the warranty period, which amounts to 2 years, the building contractor shall carry out the work, as required, all the works and repairs necessary to restore it to a good state of operation and maintain it in this state.

From the time of provisional acceptance and without prejudice to the provisions of paragraph 1 relating to its obligations during the warranty period, the building contractor shall be responsible for the solidity of the work and the proper execution of the works in accordance with Articles 1792 and 2270 of the Civil Code.

Any breach of the contractor's obligations during the warranty period will be reported ('procès-verbal') and lead to measures as of right, in accordance with Article 44 of the GIR.

4.23.2 Price of the public contract in case of late performance (Art. 94)

The price of the works performed during a period of delay attributable to the building contractor will be calculated in accordance with whichever of the following procedures proves the more advantageous to the contracting authority:

- by assigning to the constituent elements of the prices contractually specified for revision the values applicable during the period of delay in question; or
- by assigning to each of these elements an average value (E) established as follows:

$$E = \frac{e_1 \times t_1 + e_2 \times t_2 + \dots + (e_n \times t_n)}{t_1 + t_2 + \dots + t_n}$$

where,

e1, e2, ... en, represent the successive values of the element in question during the contractual period, which may be extended insofar as the delay is not attributable to the building contractor;

t1, t2, ... tn, represent the corresponding periods for applying these values, expressed in months of 30 days, each fraction of a month being ignored and the periods of suspension of performance of the contract not being taken into consideration.

The value of E is calculated to the second decimal place.

4.24 Terms and conditions of payment of the works (Art. 66 et seq and 95)

Payment will be made within 30 days after submission and approval of the invoice.

The invoice can be submitted via email and physical delivery showing the full details of the works that justify the payment. The invoice will be signed and dated and will include the statement: 'Certified true and sincere for the amount of EUR (amount in words).'The reference is **TAN1880351T-10214** and the name of the managing official **Mr. Oscar Mlay**. The invoice that does not include this reference cannot be paid.

The invoice address is:

**Enabel Tanzania
14/15 Masaki, Haile Selassie Road,
Oasis Office Park, 4th Floor,
P.O Box 23209,
Dar es Salaam, Tanzania.**

The contractor will prepare reports that will include for each item the following:

- Total quantities to be achieved in accordance with departure measurements,
- The quantities already achieved and registered in the progress report of the preceding month,
- The quantities achieved during the month,
- Total quantities achieved by the end of the month,
- The unit prices of the order,
- The total prices of the quantities achieved during the month for each of the items,
- The total price of the invoice of the month.

An advance of 20% maximum of the total amount can be requested by the contractor after awarding.

This advance will be deducted from the intermediate payments, except the first instalment.

Payment will be by bank transfer only.

4.25 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:

Enabel

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

To the attention of Ms Inge Janssens

rue Haute 147

1000 Brussels

Belgium

5 Technical specifications

5.1 Context

The Beekeeping Value Chain Support (BEVAC) project, funded by the European Union, aims to enhance the beekeeping value chain in Tanzania. This initiative focuses on improving production quality, adding value to bee products, and strengthening trade and market access. The project is being implemented in the mainland regions of Tabora, Kigoma, Katavi, Shinyanga, and Pemba Island by Enabel in partnership with the Tanzanian government through the Ministry of Natural Resources and Tourism (MNRT) and the International Trade Centre (ITC).

These Terms of Reference (ToR) outline the requirements, objectives, scope, and deliverables for constructing 1 market centre in Pemba. This centre will play a crucial role in enhancing the collection, storage, and distribution processes for Honey for the Bee cooperatives. This initiative is part of the BEVAC Project, implemented by Enabel, the Belgian Development Agency.

5.2 Objectives

The primary goal of this assignment is to establish 1 Market centre that adheres to the necessary quality standards. This centre will strengthen local producers' ability to store and sell honey, enhancing the value chain and driving economic growth for regional cooperatives.

5.3 Scope of works

The contractor will be responsible for the following.

- i. **Construction Activities:**
 - a. Foundation works, masonry, and concreting.
 - b. Erection of walls, roofing, and installation of doors and windows.
 - c. Installation of plumbing and electrical systems, where applicable.
- ii. **Finishing Works:**
 - a. Plastering, painting, and flooring.
 - b. Provision of adequate ventilation and lighting.
 - c. Ensuring that the centre is compliant with health and safety standards.
- iii. **Quality Assurance and Quality Control (QA/QC):**
 - a. Adhering to approved architectural and structural designs.
 - b. Using materials that meet the specified quality standards.
- iv. **Health, Safety, and Environmental Compliance:**
 - a. The Contractor shall strictly adhere to all applicable health, safety, and environmental regulations throughout the construction period.
- v. **Handover:**
 - a. Cleaning and handing over the completed centre in functional and ready-to-use condition.

5.4 Selection Criteria

The tenderer must provide:

- i. CRB Certificate entailing Class 6 Building contractor (or above)
- ii. References for two (2) previous similar construction projects of euros 34,000 each or above.
- iii. Financial capacity:
 - o The tenderer must submit a declaration of honor with their tender, stating their average annual turnover for the past 3 years (2022-2024).
 - o The annual average turnover must be at least 50,000 euros to be eligible for selection
- iv. Key personnel:
 - o Site Supervisor: CVs of 2 registered civil engineers with a minimum of 5 years' experience each in Building work, attached with a university degree and a professional engineer registration certificate.
 - o Services Engineer: CVs of 2 registered Electrical, Mechanical or Electromechanical Engineers with a minimum of 5 years' experience each in similar tasks attached with a University Degree and a Professional Engineer registration certificate.

- Site Technicians: CVs of 2 technicians with a minimum of 3 years' experience each in similar tasks, attached with vocational training or university certificate.
- v. Proof of company registration with Zanzibar's regulatory authority must be attached.

5.5 Award Criteria

The contracting authority will select the regular BAFO (best-and-final offer) which it considers the most advantageous, considering the following:

Award criteria: Price – 100%	<p>Each tenderer shall quote a fixed total price. The bid offering the lowest evaluated price will receive the maximum score of 100 points.</p> <p style="text-align: center;">Scoring Formula:</p> <p style="text-align: center;">$\text{Bid X} = (\text{Lowest Price} / \text{Bid X Price}) \times 100$</p>
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5.6 Technical Offer

The tenderer must submit a detailed work programme in the form of a Gantt chart. The submitted work programme must include the following:

- Milestones and description of Activities – Clearly outline all key project milestones along with the major and minor activities required at each stage to ensure successful and timely completion of the project.
- Timeline – Indicate the start and end dates for each activity, ensuring logical sequencing and realistic scheduling within the contract duration.
- Resource Allocation – Specify the personnel, equipment, and materials to be deployed for each activity. This should demonstrate adequate resource planning to ensure timely execution.

The submitted work programme will be reviewed solely to verify the regularity of the tender, ensuring that all required components are included and that the proposed timeline aligns with the contractual duration and minimum technical requirements.

5.7 Quality Requirements

The quality requirements for the construction of the Market Centre are summarized in the table below and can also be referenced in the attached BoQ and drawings.

S/N.	Element	Quality Requirements
1	Substructure	<p>Trenches excavation; to receive foundations:</p> <ul style="list-style-type: none"> - Excavation to exceed 1.50 meters deep - Extra over any kind of excavation for breaking up Rocks - Backfilling; depositing and compacting in layers maximum 150mm thick imported material around foundations - For selected Excavated materials: Spread, well ram and consolidate to make up levels under floor <p>Filling</p> <ul style="list-style-type: none"> - Sand filling in making up levels; average 150 mm thick <p>Hardcore</p> <ul style="list-style-type: none"> - 150mm thick stone hardcore bed; levelled compacted and sand blinded to receive damp proof membrane measured separately - Soil Sterilization - Chemical anti termite treatment around the building plinth 30cm - Aldrin' solution or equivalent and approved applied at a rate of 7 litres per square metre to the floor. <p>Stone masonry foundation</p> <ul style="list-style-type: none"> - Strip foundations, stairs and ramps foundations - Damp-proof Membrane (DPM) - 500Gauge polythene sheet laying on blinded hardcore with 150mm sides and end laps - Pointing of the stone masonry foundation surface.

2	Frame	<ul style="list-style-type: none"> - Vibrated reinforced in-site concrete; Grade 20 nominal to: Lintel beams, shade on the side doors and columns; horizontal or sloping not exceeding 15degrees from horizontal, ramps and stairs according to the drawings. - Binding wire, 12mm,8mm diameter rebar fixing. - Sawn formwork to: Horizontal sides and soffits of beams and vertical sides of columns. - Rebars to be fixed as per structural drawing with correct covers. - All structural members to be straight, without honeycombing. - Curing done for a minimum of 7 days.
3	Walls	<ul style="list-style-type: none"> - 150mm 4Mpa internal wall bedded and jointed in cement: sand mortar (1:4). <p>Adhere to the following:</p> <ul style="list-style-type: none"> - Stone/block walls constructed with plumb lines and levelled properly. - 150*230*450 (4Mpa) with mortar mixing ratio of 1:4 - Joints well-filled and bonded. - External and internal plastering of 20mm applied smoothly. - Control joints applied where necessary.
4	Doors	<p>Supply and Install:</p> <ul style="list-style-type: none"> - Hardwood Mninga or equal and approved 45mm thick panelled door comprising of 45mm x100mm rebated stiles; all panels filled in with and including 25 mm thick Hardwood Boards complete with 15 mm x 150 mm frame with one labor, 50 mm x150 mm transom or Mullion to Engineers' Approval. - 1500x2400x45mm thick hardwood solidcore flush door; Double Door; Divided into two equal shutters; 900 x 2400 x 45mm thick; Single Door; ditto; - Ironmongery supply and fix the following as manufactured by Union ltd."or other equal and approved. - 150mm Brass butt hinges. (3 pieces equivalent to 1 pair) - Three-lever mortise union lockset model 1223 case 65; - Flush bolt 100mm - 30mm diameter rubber doorstop fixed to concrete floor or blockwork base. - Steel Grilled Doors of 1500 x 2400 and 900x 2400 <p>Adhere to the following:</p> <p>For Steel Doors:</p> <ul style="list-style-type: none"> - Steel doors fabricated to size, free from warp. - All welds smooth and ground. - Fixed with strong hinges, properly aligned. - Primed with red oxide and final coat black (or as specified). <p>Timber Doors:</p> <ul style="list-style-type: none"> - Timber doors to be of seasoned hardwood, kiln-dried and free from defects. - Doors to be fabricated to specified dimensions, smooth and well-sanded. - Joints to be tight-fitting and secured with approved wood adhesive and mechanical fasteners. - Hung on heavy-duty brass or stainless-steel hinges, properly aligned. - Finished with wood primer and at least two coats of approved varnish or paint (as specified). - All edges are to be sealed to prevent moisture ingress
5	Windows	<p>Supply and install:</p> <ul style="list-style-type: none"> - Aluminium glazing approved by the managing official ; single glazed combination frame and windows, 1.2 x 100mm Aluminium section framing, all mullions and transoms; epoxy power coat RAL 9006 finish, 5mm clear

		<p>glass pre assembled with stainless steel plates and screws window ironmongery, glazed beads, fibre mosquito net, rubber gaskets and backer rods and fixing to masonry or concrete grounds, sealing all around with non-hardening EPDM silicone sealant;</p> <ul style="list-style-type: none"> - 2000 x 1500mm high aluminium window consist of 2No casement shutters with 6mm tinted glass and 01No mosquito shutter. - 2400*2000 mm high; ditto; transparent glasses - 1200 x 700mm high; ditto; - Windows grilles comprising of 32x32x3mm SHS pipes framing; filled in with 25x25x3mm flat; bars cut and bent to patterns spaced at not more than 150mm centre complete to the approval of Architect for window size.
6	Roof	<p>Supply and Install:</p> <ul style="list-style-type: none"> - Soft wood; Impregnated with Preservatives - 2"x6" treated timber beams & King post - 2"x4" treated timber struts - 2"x6" (50x150mm) treated timber wall plate - 2"x2" (50x75mm) treated timber purlins at 600mm c/c - 2"x2" treated timber brandering (ceiling joists) at 500mm c/c - ALAF or equivalent IT5 profile coloured aluminium roofing sheets; 28 gauge lapped to sides and ends as per manufacturer's specifications; fixed to timber purlins (m/s). - Roof covering on sloped surfaces with angles of 8° and 12° from the horizontal, ensuring proper installation with all necessary fixings and accessories to achieve a secure and weatherproof roof. - Aluminium roof nails (colour to match roof covering) - 407mm girth valley (colour to match roof covering) - Silicon for water proofing. - Aluminium Flush 10cm x 20cm x 20cm to be placed on the joint between the parapet wall and the sheet <p>For Parapet, Roof Gutters & RC Roof:</p> <ul style="list-style-type: none"> - Construct masonry parapet walls using high-quality concrete blocks or brickwork, including plastering <p>Apply waterproofing finishing to parapet walls, using high-quality cement-based waterproofing solution, flexible and UV-resistant, including two coats of weather guard paint for enhanced protection.</p> <ul style="list-style-type: none"> - Supply and install gutter outlet pipes, PVC - Class C, including all necessary fittings - Supply and install PVC downpipes - high-strength PVC (Class c) including fittings and accessories <p>Adhere to following:</p> <ul style="list-style-type: none"> - Timber trusses fixed per design drawing; the timber should be dry. - All joints bolted in the tie beam and nailed in other members, no weak connections. - Iron sheets 28-gauge laid with proper overlaps and aligned. - Roof to be watertight and securely anchored.
7	Finishing	<ul style="list-style-type: none"> - Internal and external finishes smooth and uniform. - Floor screed 40mm thick as per drawing. - Corners straight, edges sharp, and surfaces free from cracks.
8	Painting and Decorations	<ul style="list-style-type: none"> - 40mm thick bed cement sand (1:4) screed - Internal wall plastering (1:4) cement sand mortar - External wall plastering (1:4) cement sand mortar - 9mm thick gypsum board ceiling complete with gypsum screw, and fibre tape fixed to brandering (measured separate) - 1200x2400x9mm thick gypsum board; ex Thailand or Gyproc brand or equivalent - Supply and fix 100 x 100mm Moulded cornices

		<ul style="list-style-type: none"> - Supply and fix PVC ceiling complete including PVC and corner joints, shoe nail and all accessories. - Prepare, skim and apply one thinned coat and two full coats of Silk vinyl paint; Wash and wear; Goldstar; Galaxy or equivalent approved as per Architect's instruction on plastered walls. - Prepare and apply one thinned coat and two full coats of plastic emulsion paint as per the Architect's approval on surface of gypsum ceiling - Prepare, skim and apply one undercoat and two full coats of weather guard paint as per architect's approval on surface of plastered walls and columns. - Prepare and apply one undercoat and two full coats of eggshell varnish on timber surfaces: <p>Adhere to the following:</p> <ul style="list-style-type: none"> - Surfaces cleaned and primed before painting. - Wall putty applied where needed. - Minimum of two coats of silk paint internally and weather guard paint. - Uniform finish without brush marks or peeling.
9	Electrical Installation	<ul style="list-style-type: none"> - All conduits and trunking fixed before plaster. - Wiring done as per approved layout and standards. - All switches and sockets aligned and tested.
10	Plumbing, Sanitary and Mechanical Installation	<ul style="list-style-type: none"> - Pipes properly embedded and leak-tested. - All joints sealed and supports in place. - Fixtures installed level and aligned. - Testing done for water flow and leakage. - Valves, traps, and vents installed as per specification. <p>Water Tank Post</p> <ul style="list-style-type: none"> -Block work masonry including foundation thickness 230mm -C25 concrete to slab. - Supply and fixing of reinforcement - Floor screed - Plastering - Construct septic tank overall internal dimensions; size 2900 x 1510x 2500mm. deep in 230mm (to drawings) - Construct Soak away pit overall internal dimensions; size 2200 x 2000mm. deep in 230mm. thick blocks walls;

Brand names, if mentioned, are only indicative of quality. Equivalent alternatives meeting the same specifications and performance standards are accepted, subject to approval.

5.8 Geographical Location

The following are the grantees' geographical locations:

Region	District	Village
Zanzibar	Pemba	Chamanangwe

5.9 Milestones and Payment Schedule

The Payment schedule will be per milestones as described in the table below:

Element No	Milestones	Description	Payment Schedule
	Advance	-Upon tender award.	1 st Instalment: 15% of the awarded contract value
1	Sub-structure	-Site Clearance	2 nd Instalment

		-Foundation excavation -Backfilling and hardcore -Soil sterilization -Casting of ground floor slab -Foundation walling.	
2	Frame	-Rebar work for lintel beams, side doors, columns, and ramps. -Formwork for lintel beams and columns -Casting of lintel beams, side doors, columns, and ramps. -Fixing of balustrades (sides of all ramps)	3 rd Instalment
3	Walls	-150mm Block work; 4 MPa bedded and jointed in cement/sand mortar (1:4)	
4	Doors	-Supply and fix hardwood mninga doors and all accessories as per the BoQ.	
5	Windows	-Supply and fix Aluminium wind, window grilles, and all accessories per the BoQ.	
6	Roof	-Fixing of timber roof (sawn softwood) and laying of corrugated Iron sheet per the BoQ	
7	Finishing	-20mm floor screed -Floor and wall tiling work -Internal and external plasterwork. -Supply and fix the gypsum board and cornices. -Supply and fix of PVC ceiling.	
8	Paintings and Decorations	-Skimming and painting works on walls and gypsum ceiling	4 th Instalment
9	Electrical Installation	-First and Second (final) fix of electrical appliances	
10	Plumbing sanitary and Mechanical Installation	-First and Second (final) fix of Plumbing and Mechanical fittings.	
DLP		After 12 Months of operation and rectification of all snags seems to appear at this time	5%

The 15% advance will be deducted in equal parts from Instalments 2 to 4. Additionally, a 5% retention will be deducted from each instalment and released after the Defects Liability Period.

Payments will be made in accordance with the above payment schedule for works that are completed, measured, and accepted by the Contracting Authority.

6 Forms

6.1 Identification form

Fill the form below:

OFFICIAL NAME ②			
ABBREVIATION			
MAIN REGISTRATION NUMBER③ SECONDARY REGISTRATION NUMBER			
(if applicable)			
PLACE OF MAIN REGISTRATION		CITY	COUNTRY DATE OF MAIN REGISTRATION
DD	MM	YYYY	
VAT NUMBER OFFICIAL ADDRESS			
POSTCODE	P.O. BOX	CITY	
COUNTRY		PHONE	EMAIL
DATE		STAMP	
SIGNATURE OF AUTHORISED REPRESENTATIVE			

National denomination and its translation in EN or FR if existing.
NGO = Non-Governmental Organisation, to be completed if NFPO is indicated.

Registration number in the national register of companies. See table with the corresponding denomination by country.

6.2 Subcontractors

Name and legal form	Address / Registered office	Regards

Last name, first name:

Function:

Date:

Signature:

6.3 Tender Forms – 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 with 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.

The value-added tax on the total amount of the work is dealt with on a separate line below, to be added to the total amount tender's 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:

DESCRIPTION	PRICE EXCLUDING VAT (Euro)
TOTAL PRICE for the construction of 1 market center in Zanzibar (Pemba)	
VAT 18%	

Tenderers are requested to follow the guidelines below when submitting this form:

- The tenderers are requested to quote for the total amount of all tasks listed in the BOQ.
- Enabel is exempt from VAT in Tanzania. Tenderers are required to clearly indicate:
 - The amount quoted exclusive of VAT
 - The VAT amount on a separate line in the above table.
- The use of this form to quote for prices is mandatory.
- All prices should be quoted in Euros, exclusive of VAT, and inclusive of any applicable withholding tax and delivery costs.

Attention! The tenderer must complete and attach the Price-Schedule (BOQ) to Form 6.3.

Certified true and sincere,

Handwritten original signature(s)

Last name, first name:

Function:

Date:

Signature:

6.4 Price-schedule (BoQ)

The Bills of Quantities are provided as a separate document in Excel format.

6.5 Power of attorney

The tenderer shall include in his tender the **power of attorney empowering the person signing the bid** on behalf of the company, joint venture or consortium.

In the case of a **consortium** or a **temporary association**, the joint bid must specify through the signed Joint Venture agreement, the role of each member of the consortium. A group leader must be designated, and the power of attorney must be completed accordingly.

6.6 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° establishment or 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 which fails to fulfil his obligations relating to the **payment of 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. When 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.

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 previous public contract, a previous contract placed with a 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 tenderer with a view of ending violations of international peace and security such as terrorism, human-rights violations, the destabilisation of sovereign states and de 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

For Belgium:
https://finances.belgium.be/fr/sur_le_spf/structure_et_services/administrations_generales/tr%C3%A9sorier/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

Location

Signature

6.7 Integrity statement for 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 and anti-corruption included in the Tender Documents (see 1.7.), as well as Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management of June 2019 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 public 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 be considered as a serious professional misconduct which will lead to the exclusion of the contractor from this and other public contracts for Enabel.

The public contractor 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 control, on paperwork or on site, which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure.

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

Signature preceded by 'read and approved', in writing, and indication of name and function of the person signing:

Date :

Location :

Signature

6.8 Documents to be submitted – exhaustive list

1. Identification form
2. Declaration on Honour- Exclusion Grounds
3. Integrity Statement
4. Price form
5. Declaration on honor - Average turnover
6. Price schedule (BOQ)
7. Power of attorney
8. Tax Clearance Certificate
9. TIN Certificate
10. Company Registration Document
11. Criminal Record of the signatories of the bid
12. Certificate of clearance with regards to the payments of social security contributions
13. Client references/certificates of completion from previous two similar works/projects.
14. CRB Certificate entailing a Class 6 (or above) building contractor
15. Audited financial statements for the past 3 years
16. Site Supervisor CVs
17. Site Technician CVs.
18. Technical Offer