



**Tender Specifications BDI23002-10079 &  
BDI25003-10001**

**Lead project: BDI23002-10079**

Public contract for the « *Supply and  
Deployment of Instrumented Buoys on Lake  
Tanganyika* »

*Failure to submit the ESPD will result in the exclusion of your  
bid.*

**Open procedure (OP)**

**Navision code: BDI23002**

**Country: Burundi**

## Table of contents

1	General remarks.....	6
1.1	Derogations from the General Implementing Rules.....	6
1.2	Contracting authority.....	6
1.3	Institutional framework of Enabel .....	6
1.4	Rules governing the public contract .....	7
1.5	Definitions.....	8
1.6	Confidentiality.....	9
1.6.1	Processing of personal data.....	9
1.6.2	Confidentiality.....	9
1.7	Deontological obligations .....	10
1.8	Litigation management and competent courts .....	10
2	Subject-matter and scope of the public contract .....	11
2.1	Type of contract .....	11
2.2	Subject-matter of procurement.....	11
2.3	Lots.....	11
2.4	Items .....	11
2.5	Duration of the public contract.....	11
2.6	Variants .....	11
2.7	Option .....	11
2.8	Quantities.....	11
3	Procedure.....	12
3.1	Award procedure .....	12
3.2	Publication .....	12
3.2.1	Official notification.....	12
3.2.2	Additional publication.....	12
3.3	Information.....	12
3.4	Tender .....	12
3.4.1	Data to be included in the tender.....	12
3.4.2	Period the tender is valid .....	13
3.4.3	Determination of prices .....	13
3.4.4	Elements included in the price.....	13

3.4.5	How to submit tenders? .....	14
3.4.6	Change or withdrawal of a tender that has already been submitted.....	15
3.4.7	Opening of Tenders.....	16
3.5	Selection of tenderers.....	16
3.5.1	Exclusion grounds .....	16
3.5.2	Selection criteria .....	17
3.5.3	Modalities relating to tender examination and regularity of the tenders.....	17
3.5.4	Award criteria .....	17
3.5.4.1	Awarding the public contract.....	18
3.5.5	Concluding the public contract .....	18
4	Special contractual provisions .....	19
4.1	Managing official (Art. 11) .....	19
4.2	Subcontractors (Art. 12 to 15) .....	19
4.3	Confidentiality (Art. 18) .....	20
4.4	Personal data protection .....	20
4.5	Intellectual property (Art. 19 to 23).....	21
4.6	Performance bond (Art. 25 to 33).....	21
4.7	Conformity of performance (Art. 34).....	23
4.8	Changes to the public contract (Art. 37 to 38/19).....	23
4.8.1	Replacement of the supplier (Art. 38/3).....	23
4.8.2	Revision of prices (Art. 38/7) .....	23
4.8.3	Indemnities following the suspensions ordered by the contracting authority during performance (Art. 38/12) .....	23
4.8.4	Unforeseeable circumstances.....	24
4.8.5	Terms of introduction (Art. 38/14) .....	24
4.9	Preliminary technical acceptance (Art. 41 -42).....	24
4.10	Performance modalities (Art. 115 et seq.).....	24
4.10.1	Deadlines and terms (Art. 116).....	24
4.10.2	Quantities to be supplied (Art. 117) .....	24
4.10.3	Place where the services must be performed and formalities (Art. 149).....	25
4.10.4	Packaging (Art. 119) .....	25
4.10.5	Inspection of the supplies delivered (Art. 120).....	25
4.10.6	Gender equality .....	25

4.10.7	Zero tolerance Sexual exploitation and abuse.....	26
4.11	Liability of the supplier (Art. 122) .....	26
4.12	Means of action of the contracting authority (Art. 44-51 and 123-126) .....	26
4.12.1	Failure of performance (Art. 44) .....	26
4.12.2	Fines for delay (Art. 46 and 123).....	27
4.12.3	Measures as of right (Art. 47 and 124) .....	27
4.13	End of the public contract.....	27
4.13.1	Acceptance of the products delivered (Art. 64-65 and 128) .....	27
4.13.2	Transfer of ownership (Art. 132) .....	28
4.13.3	Guarantee period (Art. 134) .....	28
4.13.4	Final acceptance (Art. 135) .....	28
4.13.5	Acceptance costs.....	28
4.13.6	Invoicing and payment of services (Art. 66 to 72 – 160) .....	28
4.14	Litigation (Art. 73) .....	29
5	Terms of reference.....	30
5.1	Background and rationale.....	30
5.1.1	The TAKIWAMA Project .....	30
5.1.2	Lake Tanganyika Environmental and Climate Monitoring .....	30
5.2	Technical specifications for the purchase and deployment of instrumented surface and subsurfaces buoys including thermistors in Lake Tanganyika .....	32
5.2.1	General conditions.....	32
5.2.2	Types and numbers of buoys .....	32
5.2.3	Buoys Deployment and Maintenance Strategy .....	33
5.2.4	Surface Buoy Systems .....	33
5.2.4.1	General structure.....	33
5.2.4.2	Meteorological Monitoring.....	34
5.2.4.2.2	..... Sensors and Performance requirements	
	34	
5.2.4.3	Lake Sensors Installed with Surface Buoys .....	35
5.2.5	Subsurface Strings (depth~100 m).....	36
5.2.5.1	System Description .....	36
5.2.5.2	Subsurface Buoy.....	36
5.2.5.3	Load-bearing line .....	36

5.2.5.4	Recovery Mechanism .....	36
5.2.5.5	Anchor and Bottom Assembly .....	36
5.2.5.6	Sensor and Logger Specifications.....	36
5.2.6	Additional System Requirements.....	37
5.2.6.1	Cable Routing.....	37
5.2.6.2	Data Storage Requirements.....	37
5.2.6.3	Field Laptop to Download the Loggers .....	38
5.2.6.4	Mooring Chain and Bottom Weight.....	38
5.2.6.5	Navigation Alerts.....	38
5.2.6.6	Key Requirements .....	38
5.2.6.7	Deliverables.....	38
5.2.6.8	Maintenance Assistance (2026–2029).....	38
6	Forms .....	39
6.1	Appendix: Identification forms .....	39
6.1.1	Identification Form Natural person .....	39
6.1.2	Identification from Legal person.....	41
6.1.3	Identification Form Public actor – entity .....	42
6.2	Declaration on honour - mandatory exclusion criteria.....	43
6.3	Integrity Statement of the tenderer .....	46
6.4	Tender form - Prices.....	47
6.4.1	Appendix to the pricing form.....	48
6.4.2	Subcontractors.....	51
6.5	Selection file – Economic capacity .....	52
6.6	Selection file – Technical aptitude .....	53
6.7	Appendices for Qualitative Selection.....	54
6.7.1	Financial Capacity Certificate (Line of Credit) .....	54
6.7.2	Certificate of Financial Capacity (Equity) .....	54
6.8	Documents to be submitted – exhaustive list .....	55
6.9	Annexes.....	56
6.9.1	<< GDPR clause (in case where service provider will process personal data) .....	56

## 1 General remarks

### 1.1 Derogations from the General Implementing Rules

Section 4, '*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.

**In the present CSC, it is derogated to article 26 (bond) of the General implementing Rules-GIR - (AR of 14.01.2013). (only if the GIR are fully applicable).**

Considering article 14, §2, 1° of the law of June 17, 2016 relating to public procurement, it would not be appropriate to impose the obligation to use electronic means of communication referred to in article 14, § 7, of the law.

The nature of the public contract in question is such that national or regional economic operators do not have equal access to the requirements linked to the use of the Belgian federal "e-Procurement" platform. The technical characteristics can therefore be discriminatory and can restrict the access of economic operators to the procurement procedure, in particular, in terms of speed and quality of the internet connection, as well as the quality of the electricity transport network.

In addition, the particular forms provided by this platform from the point of view of electronic signature are not yet compatible with the ICT generally used.

### 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 public contract, Enabel is represented by **Ann DEDEURWAERDERE Country Director for Enabel Burundi and Abdoulaye KEITA, International expert in Contractualization and Administration.**

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

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

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

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

- In the field of international cooperation: the United Nations Sustainable Development Goals and the Paris Declaration on the harmonisation and alignment of aid;
- In the field of the fight against corruption: the Law of 8 May 2007 approving the United Nations Convention against Corruption, adopted in New York on 31 October 2003<sup>3</sup>, as well as the Law of 10 February 1999 on the Suppression of Corruption transposing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
- In the field of Human Rights: the United Nations' Universal Declaration of Human Rights (1948) as well as the 8 basic conventions of the International Labour Organization<sup>4</sup> on Freedom of Association (C. n°87), on the Right to Organise and Collective Bargaining (C. n°98), on Forced Labour (C. n°29 and 105), on Equal Remuneration and on Discrimination in Respect of Employment (C. n°100 and 111), on Minimum Age for Admission to Employment (C. n°138), on the Prohibition of the Worst Forms of Child Labour (C. n°182);
- In the field of environmental protection: The Climate Change Framework Convention of Paris, of 12 December 2015.
- The first Management Contract contracting Enabel and the Belgian federal State (approved by the Royal Decree of 17 December 2017, Belgian Official Gazette of 22 December 2017) that sets out the rules and the special conditions for the execution of public service tasks by Enabel on behalf of the Belgian State.
- Enabel's Code of Conduct of January 2019, Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management of June 2019.

## 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 procurement<sup>5</sup>;
- The Law of 17 June 2013 on justifications, notification and legal remedies for public contracts and certain contracts for works, supplies and services<sup>6</sup>;
- The Royal Decree of 18 April 2017 on the awarding of public contracts in the classic sectors<sup>7</sup>;
- The Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement and for concessions for public works<sup>8</sup>;
- Circulars of the Prime Minister with regards to public procurement.
- Enabel's Policy regarding sexual exploitation and abuse – June 2019.

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

<sup>4</sup> <http://www.ilo.org/ilolex/french/convdsp1.htm>.

<sup>5</sup> Belgian Official Gazette 14 July juillet 2016.

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

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

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

- 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](http://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: An economic operator submitting a tender.

The contractor/ supplier: The tenderer to whom the public contract is awarded.

The contracting authority: Enabel, **represented by the Country Director of Enabel in Burundi**.

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

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

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

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

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

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

Inventory: The procurement document, in a public supply or service 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.

BDA: Belgian Public Tender bulletin.



OJEU: Official Journal of the European Union.

OECD: Organisation for Economic Cooperation and Development.

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

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

Litigation: Court action.

Subcontractor in the meaning of public procurement regulations: The economic operator proposed by a tenderer or contractor to perform part of the public 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 Litigation management 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 this 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. The tenderer can address an e-mail to [complaints@enabel.be](mailto:complaints@enabel.be) cf. <https://www.enabel.be/content/complaints-management>.

If agreement is lacking, the Brussels courts are the only courts competent to resolve the matter (see point 4.14 Disputes).

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

### 2.1 Type of contract

This public contract is a supplies contract.

### 2.2 Subject-matter of procurement

This public contract consists of the « *Purchase and Deployment of Instrumented Buoys on Lake Tanganyika* », in conformity with the conditions of these Tender Specifications.

### 2.3 Lots<sup>9</sup>

The procurement contract has **one (1) lot** which is indivisible. A tender for part of a lot is inadmissible.

The description is included in Tender Specifications.

#### **N.B.:**

The contract was not divided into several lots, as it is necessary to have the same equipment at all sites for technical and scientific reasons and to ensure a single maintenance system for the different buoys.

### 2.4 Items

The procurement contract of this procurement contract consists of the following items: (See inventory or terms of reference).

It is not possible to tender for one or several items and the tenderer must submit price quotations for all items of the procurement contract.

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

Fixed duration

The procurement contract starts **one (1) day after award notification and lasts 465 days**, including the 12-month guarantee period.

### 2.6 Variants

Variants are not permitted.

Each tenderer may submit only one tender. Variants are forbidden.

### 2.7 Option

Options are not permitted.

### 2.8 Quantities

Quantities are indicated in the inventory form of these tender specifications, part 6 of these tender specifications.

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<sup>9</sup>

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

## 3 Procedure

### 3.1 Award procedure

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

### 3.2 Publication

#### 3.2.1 Official notification

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

#### 3.2.2 Additional publication

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

The contract notice was advertised through the OECD website<sup>11</sup>

### 3.3 Information

The awarding of this contract is coordinated by **Contractualization Unit**. Throughout this procedure all contacts between the contracting authority and the (prospective) tenderers about this contract will exclusively pass through this service / this person. (Prospective) tenderers are prohibited to contact the contracting authority in any other way with regards to this contract, unless otherwise stipulated in these Tender Specifications.

**Until 23/02/2026/**, candidate-tenderers may ask questions about these Tender Specifications and the public contract. Questions will be in writing to [mp.bdi@enabel.be](mailto:mp.bdi@enabel.be); copy: [abdoulaye.keita@enabel.be](mailto:abdoulaye.keita@enabel.be) and he will be answered in the order received. The complete overview of questions asked will be available at the address mentioned above as from **23/02/2026**.

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

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

### 3.4 Tender

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

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

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

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<sup>11</sup> If the estimated value of procurement exceeds EUR 150 000.

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

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 **120 calendar days** from the tender reception deadline date.

#### **3.4.3 Determination of prices**

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

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

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

#### **3.4.4 Elements included in the price**

*(Art. 32 Royal Decree of 18 April 2017)*

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

The following are in particular included in the prices:

- 1° packaging (except if these remain the property of the tenderer), loading, trans-shipment and intermediate unloading, transportation, insurance and customs clearance
- 2° unloading, unpacking and deployment at the place of delivery (6 sites), provided that the procurement documents state the exact place of delivery and the means of access
- 3° documentation pertaining to the delivery of supplies and any documentation required by the contracting authority
- 4° assembly and taking into operation
- 5° training required for operation
- 6° where applicable, the measures imposed by occupational safety and health legislation
- 7° customs and excise duties
- 8° des prestations relatives à l'identification des sites et à l'installation ;
- 8° Acceptance costs <<To be specified

**“All prices are DDP (INCOTERMS 2020), excluding VAT and customs duties**

The Contractor hereby undertakes to deliver the supplies under the DDP (Delivered Duty Paid) Incoterm to the agreed place of destination. However, the contract price is exclusive of customs duties and VAT, which shall be borne by Enabel. The Contractor shall be responsible for all costs related to transportation, insurance, warehousing, and any similar services, as well as for all import-related formalities, but shall not be liable for the payment of customs duties or import VAT in the country of

destination. The Contractor shall, however, carry out all administrative procedures required for customs clearance upon receipt of the exemption documents to be issued by Enabel.

The Contractor shall provide Enabel, without delay and upon first request, with all documents necessary for the issuance of the customs and/or tax exemption documents in Burundi. These documents may include, but are not limited to:

- Commercial invoice
- Certificate of origin
- Packing list
- Contract award notification
- Copy of the import authorization, where applicable: required for communication equipment and medical products; such authorization is issued by the competent technical ministry
- Transport document (e.g. Bill of Lading, Air Waybill).

The Contractor shall not be held liable for delays in the customs clearance process upon arrival of the supplies in Burundi. The duration of the customs clearance procedures is determined solely by the applicable administrative and customs regulations, including those of the Burundi Revenue Authority (OBR), as well as any inspections imposed by the competent authorities. Any extension of the delivery period resulting from delays in customs clearance shall not give rise to penalties, liquidated damages, compensation, or cancellation of the order. Enabel shall actively cooperate with the customs authorities and shall provide all required exemption documents in a timely manner to facilitate customs clearance.

The contract implementation period may be extended to cover the time necessary for Enabel to obtain the exemption documents, once the supplies have arrived at the port.

**Note:** The issuance of exemption documents by Enabel may take up to 30 days. It is therefore the Contractor's responsibility to submit the above-mentioned documents within the prescribed time limits."

### 3.4.5 How to submit tenders?

*(Article 54 et seq. and Art. 83-84 of the Royal Decree of 14 April 2017)*

The bidder may submit only one bid for this contract. Bids must be submitted as follows:

An original copy of the complete bid must be submitted in hard copy. In addition, **the bidder must attach two (2) copies to the bid**. This complete bid must also be submitted as a PDF file on a USB drive, **along with an editable Excel version of the bill of quantities/inventory of services**.

The bidder submits their offer as follows:

It must be submitted in a sealed envelope, marked: Offer **BID23002-10079 & BDI25003-10001** – "Supply public contract of the « **Purchase and Deployment of Instrumented Buoys on Lake Tanganyika** »" – Deadline for submission of offers: **10/03/2026, at 10:00 AM, Bujumbura time (GMT+2)**.

**It may also be submitted: by mail (registered mail).**

In this case, the sealed envelope is placed inside a second sealed envelope addressed to:

Enabel – Belgian Agency for International Cooperation

Bujumbura, Mukaza Commune, Rohero I Quarter

2 Avenue de la Grèce,

Hellenic Building/Secretariat

BDI23002-10079

B.P: 6708 Bujumbura

**The outer envelope must not bear the bidder's identification.**

**By hand delivery against receipt.**

Enabel – Belgian Agency for International Cooperation

Bujumbura, Mukaza Commune, Rohero I Quarter

2 Avenue de la Grèce,

Hellenic Building/Secretariat.

B.P: 6708 Bujumbura

**The outer envelope must not bear the bidder's identification.**

The service is available every working day during office hours: from 8:00 a.m. to 12:30 p.m. and from 1:30 p.m. to 4:30 p.m. (see address mentioned above).

**All requests to participate or bids must be received before the final submission date and time. Late requests to participate or bids will not be accepted (Royal Decree No. 83 of the Procurement Regulations).**

**Note:**

**Bids submitted electronically will not be accepted.**

**Furthermore, a late bid will be accepted provided that the contracting authority has not yet awarded the contract and that the bid was sent by registered mail no later than the fourth (4) day preceding the bid opening date (Articles 57 and 83 of the Procurement Regulations).**

**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.

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.

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

*Article 83-84 of the Royal Decree of 14 April 2017*

The tenders must be in the possession of the contracting authority **before 10/03/2026 at 10** hours. The opening will take place in private.”

## 3.5 Selection of tenderers

*Article 66 – 80 of the Law; Articles 59 to 74 of the Royal Decree on Awarding*

### 3.5.1 Exclusion grounds

*Articles 52 and 69 of the Law; Article 51 of the Royal Decree of 18.04.2017*

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

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

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

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

The contracting authority will ask the tenderer, if necessary, at any time during the procedure, to provide all or part of the supporting documents, if necessary to ensure the smooth proceeding of the procedure such as:

- 1) A valid certificate of non-bankruptcy issued by a competent government body;
- 2) A valid extract from the criminal record of the signatory of the offer;
- 3) Valid tax clearance certificate issued by a competent government body;
- 4) A valid certificate of non-liability for tax purposes, issued by a body responsible for social security.

The tenderer is not required to submit any supporting documents or other evidence if and to the extent that the contracting authority has the possibility to directly obtain certificates or relevant information by accessing a free national database in a Member State.

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

**Conflicts of interest - Revolving doors** (Art. 51 Royal Decree 18/04/2017).

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



and where a relation exists between the former activities that the above person conducted for the contracting authority and the activities he or she conducts under the contract.

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

### 3.5.2 Selection criteria

*Article 71 of the Law and Articles 65 -74 of the Royal Decree of 18 April 2017*

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

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

### 3.5.3 Modalities relating to tender examination and regularity of the tenders

*Art. 75-76 of the Royal Decree of 18 April 2017*

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

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

The substantially irregular tenders are excluded.

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

**The following irregularities are deemed substantial:**

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

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

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

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

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

### 3.5.4 Award criteria

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

The contracting authority will choose the regular tender that it finds being most economically advantageous, taking account of the following criteria: **Price 100%**

#### **3.5.4.1 Awarding the public contract**

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

The contract will be awarded to the tenderer who has submitted the most economically advantageous 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 may either decide not to award the contract, either redo the procedure, if necessary, through another award procedure.

#### **3.5.5 Concluding the public contract**

##### ***Article 88 of the Royal Decree on Awarding***

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

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

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

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

In view of transparency, Enabel undertakes to annually publish the list 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 Special contractual provisions

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

### 4.1 Managing official (Art. 11)

The managing official is **Mr Didier CADELLI, the Project Manager of TAKIWAMA Project, e-mail: [didier.cadelli@enabel.be](mailto:didier.cadelli@enabel.be)**

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

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

The managing official is 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 'The 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. For such decisions the contracting authority is represented as stipulated under 'The contracting authority'.

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

The fact that the successful tenderer (or supplier) entrusts all or part of its commitments to subcontractors does not release its liability towards the contracting authority. The latter does not recognize any contractual link with these third parties.

The successful tenderer remains, in all cases, solely responsible vis-à-vis the contracting authority.

When the supplier 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.

### 4.3 Confidentiality (Art. 18)

Knowledge and information obtained by the contractor, including any persons responsible for the mission and another 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, if necessary, to carry out this public contract (particularly in accordance with 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 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.

### 4.4 Personal data protection

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

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

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

<< OPTION 1: PROCESSING OF PERSONAL DATA BY A SUBCONTRACTOR =

Where during contract performance, the contractor may process 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.

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

#### << OPTION 2: Processing of personal data by a controller (recipient)

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1° in the case of cash, by transfer of the amount to the bpost bank account number of the Deposit and Consignment Office Complete the following form as well as possible: [https://finances.belgium.be/sites/default/files/01\\_marche\\_public.pdf](https://finances.belgium.be/sites/default/files/01_marche_public.pdf) (PDF, 1.34 Mo), and forward it by e-mail to [info.cdcdck@minfin.fed.be](mailto:info.cdcdck@minfin.fed.be);
- 2° in the case of public funds, by depositing such funds, for the account of the Deposit and Consignment Office, with the State Cashier at the head office of the National Bank in Brussels or at one of its provincial agencies or with a public institution with an equivalent function;
- 3° in the case of a joint surety, by deposit via an institution that lawfully carries out this activity of a deed of joint surety with the Deposit and Consignment Office or with a public institution with an equivalent function;
- 4° in the case of a guaranty, by the deed of undertaking of the credit institution or the insurance company.

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

- 1° the deposit receipt of the Deposit and Consignment Office or of a public institution with an equivalent function; or,
- 2° a debit notice issued by the credit institution or the insurance company; or
- 3° the deposit certificate issued by the State Cashier or public institution with an equivalent function;  
or
- 4° the original copy of the deed of joint surety stamped by the Depot and Consignment Office or by a public institution with an equivalent function; or
- 5° the original copy of the deed of undertaking issued by the credit institution or the insurance company granting a guaranty.

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

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

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

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

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

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

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

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

### **4.8.1 Replacement of the supplier (Art. 38/3)**

Provided that he meets the selection and exclusion criteria set out in this document, a new supplier may replace the supplier 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 supplier submits his request as quickly as possible by registered post, stating the reasons for this replacement and providing a detailed inventory of the state of the supplies and services already delivered, the new supplier'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 supplier remains liable to the contracting authority for the performance of the remainder of the contract.

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

For this contract, price revisions are not permitted.

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

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

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

When activities are suspended, based on this clause, the supplier 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 supplier** 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 supplier or the contracting authority would normally have become aware of them, the supplier reports the facts or circumstances succinctly to the contracting authority and describes precisely their impact on the progress and cost of the contract.

#### **4.8.4 Unforeseeable circumstances**

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

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

#### **4.8.5 Terms of introduction (Art. 38/14)**

The contracting authority or the successful tenderer who wishes to rely on one of the review clauses, as referred to in Articles 38/09 to 38/12, must disclose the facts or circumstances on which it is based, in writing within 30 days of their occurrence or of the date on which the successful tenderer or the contracting authority should normally have known of them.

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

Products may not be used if they have not been accepted by the managing official or his or her representative.

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

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

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

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

The supplies must be delivered within **100 calendar days** as from the day following the date on which the supplier received the contract conclusion notification letter.

All days are indistinguishably included in the period.

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

The quantities are indicated in Part 6/Inventory of these tender specifications.



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

Delivery is scheduled to take place in Bujumbura, and the buoys will be deployed according to the following coordinates: **Burundi, Tanzania and Zambia.**

Site Number	Buoy Number	Country	Main Partner	Type of buoy	Pelagic/coastal	Lat (°)	Long (°)	Depth (m)
1	1	Burundi	REGIDESO	SB +meteo	Pelagic	-3,388	29,318	60
	2			SSS sensors				
2	3	Tanzania	TAFIRI	SSS sensors	Coast Kigoma	-4,885	29,592	100
3	4				Pelagic Mahale	-6,01	29,74	450
4	5				Coast Kipili	-7,433	30,586	100
5	6	Zambia	LTRU	SB + meteo	Pelagic - Nsumbu	-8,514	30,844	450
	7			SSS sensors				
6	8			SSS Sensor	Coast Nsumbu	-8,520	30,517	100

#### 4.10.4 Packaging (Art. 119)

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

#### 4.10.5 Inspection of the supplies delivered (Art. 120)

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

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

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

Acceptance on the premises of the contracting authority or, where applicable, on site counts as complete provisional acceptance.

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

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

#### 4.10.6 Gender equality

In accordance with article 3, 3 ° of the law of January 12, 2007 “Gender Mainstreaming”, public contracts must take into account any differences between women and men (the gender dimension). The successful tenderer must therefore analyze, depending on the area concerned by the contract, whether there are any differences between women and men. As part of the performance of the contract, it must therefore take into account the differences noted. Communication should fight against sexist stereotypes in terms of message, image and language, and take into account the differences in the situation between women and men in the target audience.

#### **4.10.7 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.

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

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

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

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

The supplier's default is not solely related to performance as such but also to the whole of the supplier'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 supplier to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

In case of violation, the contracting authority may impose a lump-sum fine to the supplier 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 employee and of the advantage that the supplier hoped to obtain by offering the advantage to the employee. The contracting authority will decide independently about the application and the amount of this fine.

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

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

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

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

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

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

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

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

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

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

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

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

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

§1 When, upon expiry of the term given in Article 44, §2, the supplier 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 supplier has explicitly recognised the defects detected.

§2 The measures as of right are:

1° Unilateral termination of the contract. In this case the entire performance bond, or if no bond has been posted an equivalent amount, is acquired as of right by the contracting authority as lump sum damages. This measure excludes the application of any fine for delay in performance in 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 supplier. However, any fines or penalties imposed during the performance of a replacement contract will be borne by the new supplier.

### **4.13 End of the public contract**

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

The contracting authority disposes of a period for verification of thirty days (30) starting on the end date of the delivery, set in conformity with the modalities in the procurement documents, to carry out the technical acceptance and provisional acceptance formalities and to notify the result to the supplier.

When the supplies will be delivered before or after this date, it is the responsibility of the supplier to inform them by registered mail or electronic mail, ensuring in an equivalent manner the date of dispatch to the managing official and to ask, at the same time, to proceed to reception. Within thirty days of the date of receipt of the suppliers request, a report of receipt or refusal of receipt is drawn up, as the case may be.

The products are stored for delivery in the supplier's warehouses. Delivery cannot occur prior to the contracting authority's accepting the goods stored for delivery. The managing official who will carry out acceptance is named in the contract award notification if his/her name has not yet been mentioned in the procurement documents.

In this contract, the following acceptances are provided for:

##### **Provisional acceptance:**

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

Provisional acceptance is carried out in full at the place of delivery. To investigate and test the supplies as well as to notify its decision to accept or reject the delivery, the contracting authority disposes of a period of thirty (30) days

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

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

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

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

The warranty period commences on the date on which provisional acceptance is given. **It lasts one (1) year.**

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

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

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

#### **4.13.5 Acceptance costs**

When drawing up his tender, the tenderer shall take into account the following acceptance costs.

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

The supplier sends (one copy only of) the invoices and the contract acceptance report (original copy) to the following address:

**TAKIWAMA Project**

**Bujumbura, Burundi**

**Lake Tanganyika Authority Building**

**Kigobe Sud, avenue des Etats-Unis, 17**

**E-mail : [didier.cadelli@enabel.be](mailto:didier.cadelli@enabel.be)**

#### **Only delivery that has been performed correctly may be invoiced.**

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

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

#### **The invoice must be in EUROS.**

No advance may be asked by the supplier, and the payment is made according to the following payment schedule:

- Delivery in Bujumbura: 60%
- Deployment of the buoys: 30%

- Connecting and data transfer: 10%

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

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

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

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

**Belgian development agency - Enabel**  
**Global Procurement Services (GPS)**  
**To the attention of Ms Laura JACOBS**  
**rue Haute 147**  
**1000 Brussels**  
**Belgium**

## 5 Terms of reference

### 5.1 Background and rationale

#### 5.1.1 The TAKIWAMA Project

The TAKIWAMA project funded by the EU and Wallonia and implemented by Enabel aims to enhance the monitoring system for Lake Tanganyika and the Lake Kivu basin through a multi-faceted approach comprising five key components:

1. **Environmental Monitoring Network:** The project will strengthen the existing water-quality monitoring network while introducing additional elements focused on water quantity and biological monitoring. This comprehensive monitoring is intended to provide better insights into the health and dynamics of these critical aquatic ecosystems.
2. **Capacity Building:** The project includes initiatives to enhance local capacity for data collection and analysis, supporting local stakeholders and institutions involved in environmental and resource management.
3. **Data Management and Sharing:** A vital part of TAKIWAMA is establishing an efficient data management system that supports collaboration and information sharing among various stakeholders. This will ensure that the data collected is accessible and usable for decision-making.
4. **Policy Development and Advocacy:** Finally, TAKIWAMA aims to influence policy development through the data and insights generated from monitoring activities. The project will advocate for sustainable management practices to protect the ecological balance and resources of Lake Tanganyika and surrounding areas.

Overall, the TAKIWAMA project seeks to ensure the sustainable use of Lake Tanganyika and Lake Kivu's natural resources while promoting environmental protection and community welfare.

As part of the implementation of the water quality monitoring network, it is planned to strengthen the partner laboratories and public-bodies in the four countries belonging to the Lake Tanganyika Authority, which is the institutional partner of the project.

#### 5.1.2 Lake Tanganyika Environmental and Climate Monitoring

The lake's unique ecosystems harbour a wide range of biodiversity, but they face increasing threats from climate change, pollution, invasive species, and unsustainable fishing practices. To effectively monitor these changes and their impacts, the deployment of instrumented buoys equipped with advanced sensors, including weather stations and thermistors, is paramount. These buoys represent a state-of-the-art solution for continuous data collection that is essential for understanding the lake's complex dynamics.

The deployment of instrumented buoys in Lake Tanganyika, particularly those equipped with weather stations and thermistors, is driven by several compelling reasons:

1. **Comprehensive Environmental Monitoring:** Instrumented buoys equipped with thermistors allow for precise measurement of water temperature at various depths. This data is crucial for understanding thermal stratification, which significantly affects aquatic life and nutrient cycling in the lake. When paired with weather stations, these buoys can also track

atmospheric conditions such as temperature, humidity, wind speed, and precipitation, providing a holistic data monitoring of the environmental factors influencing the lake.

2. **Real-time Data Collection:** The integration of weather stations into the buoy system facilitates real-time collection of meteorological data alongside aquatic measurements. This capability allows researchers and environmental managers to quickly assess and respond to changes in both water and weather conditions, such as identifying potential triggers for harmful algal blooms or monitoring the effects of extreme weather events. It allows also the lake stakeholders (fishermen, harbour, meteo departement..) to be fastly informed of weather conditions to improve safety of navigation and favour the need to protect the buoys.
3. **Enhanced Climate Change Research:** Understanding the impact of climate change on Lake Tanganyika's water levels and ecosystem requires detailed climatic data. The combination of thermistors in the water with weather station data enables the analysis of how atmospheric changes influence the lake's thermal and hydrological dynamics, crucial for predicting future conditions. Other sensors include chlorophyll a measurement to calibrate remote sensing data, oxygen sensors to understand impact of internal waves on fish vital conditions and currents speed, turbulence and waves as linked to the mixing of deep water allowing the lake primary production at the base of the food web.
4. **Effective Fisheries Management:** Accurate water temperature profiles and measurement of dissolved oxygen provided by thermistors guide limnological changes understanding in regard to evaluate natural changes compared to anthropic impact on fish populations. Predicting the level of turbulence could allow to forecast main fish breeding and feeding conditions. Weather stations help correlate fish activity with climatic conditions, optimizing fishing efforts for local communities. For the short term, this will be directly useful for fishermen while long term changes understanding will help managers to forecast fisheries abundance.
5. **Public Awareness and Community Engagement:** The installation of instrumented buoys with visible weather stations can serve as educational tools for local communities. By demonstrating the importance of monitoring both water and atmospheric conditions, these buoys can engage communities in conservation efforts and highlight the impacts of climate variability on their livelihoods.
6. **Facilitation of Research and Data Sharing:** The continuous data stream from instrumented buoys fosters collaboration among researchers, governments, and non-governmental organizations. This shared knowledge will enhance regional efforts and collaboration to protect the lake's biodiversity and promote sustainable development practices.

In summary, the incorporation of instrumented buoys including weather stations, thermistors and other sensors at Lake Tanganyika is a strategic move towards effective environmental monitoring at the level of definition that is required for such a wide and complex ecosystem. These advanced tools not only provide critical data for understanding the complex interactions within the lake but also empower local communities and policymakers to take informed actions to preserve this invaluable resource amidst emerging challenges.



## 5.2 Technical specifications for the purchase and deployment of instrumented surface and subsurface buoys including thermistors in Lake Tanganyika

### 5.2.1 General conditions

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

The tenderer attaches the following to his tender:

- The duly completed technical forms of the supplies + options to be delivered.
- The certificates and attestations of origin of the supplies which must be delivered at the same time as the supplies.
- A working drawing or photographs of the supplies, at least the documentation relating supplies (brochure, technical documentation and so forth).

Those specifications aim to ensure that the equipment is suitable for the environmental conditions of Lake Tanganyika and research objectives of the TAKIWAMA project.

### 5.2.2 Types and numbers of buoys

Table 1 and 2 specify the type, number and location of the buoys:

Table 1. Number and type of buoys in each country

Country / Type of Buoys	Surface buoy with Automatic Weather Station (SB + AWS)	Subsurface String System with sensors (SSS sensors)
Burundi	1	1
Tanzania		3
Zambia	1	2
<b>Total</b>	<b>2</b>	<b>6</b>

Table 2. Details of sites location, depth, partners and types of buoys in each country

Site Number	Buoy Number	Country	Main Partner	Type of buoy	Pelagic / coastal	Lat (°)	Long (°)	Depth (m)
1	1	Burundi	REGIDESO	SB +meteo	Pelagic	-3,388	29,318	60
	2			SSS sensors				
2	3	Tanzania	TAFIRI	SSS sensors	Coast Kigoma	-4,885	29,592	100
3	4				Pelagic Mahale	-6,01	29,74	450
4	5				Coast Kipili	-7,433	30,586	100
5	6				Pelagic - Nsumbu	-8,514	30,844	450
	7	Zambia	LTRU	SSS Sensor	Coast Nsumbu	-8,520	30,517	100
6	8							

At Mahale an existing buoy will be equipped with thermistors and some meteorological sensors.

Real time data transmission is needed for the instruments linked to the surface buoys while loggers linked to subsurface buoys will store information and download at least once a year.

Training of local team for maintenance needing only on a small boat and particularly downloading loggers is required.



Previous experiences in installing similar type of equipment in the African Great Lakes Region will be an asset.

### **5.2.3 Buoys Deployment and Maintenance Strategy**

As installation of the equipment on the lake by the bidder is mandatory, the service provider must present and detail the strategy for deploying the buoys on the lake to ensure that the location and proper functioning of the equipment, including data transmission, are respected. The strategy will include training for technicians and scientists from the three countries and the maintenance plan.

The bid must include at least the following:

1. Reconnaissance survey: Carrying out site surveys of 6 locations using an echosounder.
2. Detail the logistic for transporting equipment on the lake (boat type, deck space, lifting equipment), anchoring the buoys, and lowering the subsurface string into the lake (use of divers...). The respect of safety conditions and proper insurance are required.
3. Verification of the good functioning of installed equipment needed upon installation at the lake.
4. Ensure the correct telemetry for remote monitoring capabilities, including efficient real-time data collection, access to different categories of users and preliminary analysis.
5. Maintenance and Calibration: Indicate regular maintenance and calibration of the buoys and subsurface sensors that are needed and will be provided to ensure data accuracy and reliability over time.
6. Additional intervention: Indicate cost modalities for interventions linked to problems outside of normal maintenances.
7. Indicate previous experiences for similar deployments in other Great African Lakes is an asset.

### **5.2.4 Surface Buoy Systems**

#### **5.2.4.1 General structure**

- Floater designed to withstand wave heights up to 6 m.
- Installation performed from a workboat equipped with adequate lifting gear (crane or A-frame). The lifting gear used at the installation site shall have sufficient capacity for all components to be handled.
- Permanent deployment with sensors installed as fixed equipment.
- Mooring attachment points designed for secure and redundant connection.
- Solar-powered system with Li-ion or LiFePO<sub>4</sub> batteries ensuring at least one month of autonomy without recharge.
- All external components suitable for tropical freshwater conditions, including high temperature, UV radiation, heavy rainfall, corrosion and biofouling.
- Navigation lights installed on designated buoys to ensure visibility to local fishermen.
- Central data logger compatible with RS232, Modbus and SDI-12, equipped with secure internal storage; local buffering during transmission outages.
- Cloud interface enabling real-time visualization, CSV/API export, remote diagnostics and navigation alerts (see below).

#### **5.2.4.1.1 Surface Buoy in Burundi — Shallow site (depth~60 m)**

- Surface or low-freeboard buoy adapted to the local wave climate and access conditions
- Bottom anchor: permanent deadweight (concrete or steel) or embedded/drag anchor sized for design loads with a safety factor  $\geq 2.5$
- Indicative anchor mass: 200–400 kg; final mass determined after engineering calculations and seabed assessment

- Mooring line: low-stretch synthetic rope with minimum breaking load  $\geq 30$  kN and documented long-term creep characteristics
- Installation from a workboat; final mooring tension verified using lift measurement or line-angle method
- Telemetry for this site: 3 or 4 G
- Contractor to provide complete mooring layout, design justification and installation method statement

#### 5.2.4.1.2 Surface Buoy in Zambia — Deep site (~450 m)

- Surface buoy with protected instrument frame mounted on the buoy structure or on the upper mooring segment
- Bottom anchor sized for deep-water catenary or taut-mooring configuration; safety factor  $\geq 3.0$
- Indicative anchor mass: 700–1200 kg; validated by engineering analysis and seabed characterization
- Mooring line: low-creep synthetic rope with MBL  $\geq 60$  kN; chain leaders at upper and lower terminations; dual swivels and corrosion-resistant shackles
- No acoustic release
- Telemetry for this site: satellite

### 5.2.4.2 Meteorological Monitoring

#### 5.2.4.2.1 Measurement Setup

- Logging interval: 10 minutes.
- Parameters measured: wind speed and direction, air temperature, relative humidity, atmospheric pressure, solar radiation, precipitation.
- Instruments shall be suitable for African Great Lakes and marine-grade conditions: high humidity, strong winds, intense solar radiation, heavy rainfall, UV exposure and corrosion.

#### 5.2.4.2.2 Sensors and Performance requirements

- Ultrasonic anemometer (bird-resistant vane if a separate direction sensor is used).
  - Wind speed: resolution  $\leq 0.1$  m/s; accuracy  $\pm 0.5$  m/s or  $\pm 2$  %.
  - Wind direction: resolution  $\leq 1^\circ$ ; accuracy  $\pm 3^\circ$ .
- Air temperature sensor with ventilated radiation shield (marine-grade housing).
  - Resolution  $\leq 0.1$  °C; accuracy  $\pm 0.3$  °C.
- Relative humidity sensor (marine-grade enclosure; may be combined with temperature).
  - Resolution  $\leq 1$  %RH; accuracy  $\pm 2$  %RH.
- Barometric pressure sensor with thermal compensation and long-term stability.
  - Resolution  $\leq 0.1$  hPa; accuracy  $\pm 1$  hPa.
- Thermopile pyranometer (corrosion-resistant).
  - Solar radiation: resolution  $\leq 1$  W/m<sup>2</sup>; accuracy meeting ISO 9060
- Optical, non-mechanical rain gauge (sealed for marine humidity).
  - Precipitation: resolution  $\leq 0.1$  mm
- Compact integrated marine station such as Gill GMX200, Vaisala WXT, or equivalent.

### 5.2.4.3 Lake Sensors Installed with Surface Buoys

#### 5.2.4.3.1 Chlorophyll-a Sensor (Surface Layer)

- Antifouling fluorometric sensor installed < 20 cm below the water surface
- Installation flexibility: 50–100 cm depth permissible when required by buoy geometry
- Range:  $\geq 0$ –100 mg/m<sup>3</sup>
- Detection limit: preferably < 0.5 mg/m<sup>3</sup>
- Resolution:  $\leq 0.1$  mg/m<sup>3</sup>.
- Outputs: SDI-12, RS-485 or Modbus; optional analog output.
- Rugged, low-power design; optional CDOM/turbidity correction.
- Antifouling by wiper or copper; clear calibration and maintenance guidance.

#### 5.2.4.3.2 Surface Temperature Sensor (not a thermistor chain)

- Measurement range: 22–32 °C
- Resolution:  $\leq 0.01$  °C
- Accuracy: ideally  $\pm 0.02$  °C; acceptable 0.02–0.1 °C
- Sensor installed directly under the buoy, typically at ~1–2 m depth
- Single-depth measurement only (no vertical profiling)

#### 5.2.4.3.3 Surface Dissolved Oxygen Sensor (Optical)

- Luminescence-quenching principle with temperature compensation
- Range: 0–500  $\mu$ M (0–16 mg/L; 0–150 % saturation)
- Resolution:  $\leq 1$   $\mu$ M
- Accuracy:  $\pm 8$   $\mu$ M ( $\pm 0.25$  mg/L or  $\pm 5$  %)
- Response time:  $\leq 30$  s; compatible with antifouling systems
- Operating temperature: 23–30 °C
- Outputs: RS-232, RS-485, Modbus or SDI-12
- Factory calibration with traceable certificate
- Installed at ~1–2 m depth (surface layer only)

#### 5.2.4.3.4 Wave Monitoring Sensor

- Parameters: significant wave height (H<sub>s</sub>), mean and peak periods, direction, directional spectrum.
- Technology: inertial sensors, GNSS or equivalent with onboard processing.
- Sampling:  $\geq 2$  Hz; reporting every 20 minutes.
- Resolution: H<sub>s</sub>  $\leq 0.01$  m; period  $\leq 0.1$  s; direction  $\leq 1^\circ$
- Outputs: RS232, RS485 or SDI-12.

#### 5.2.4.3.5 Acoustic Doppler Current Profiler (ADCP)

- Downward-looking ADCP mounted 3–5 m below the buoy.
- Current profiling below 25 m (shallow site) or 60 m (deep site)
- Typical bin size: 1–4 m
- Velocity resolution  $\leq 0.01$  m/s; accuracy  $\leq 1\% \pm 0.01$  m/s
- Synchronization with buoy logger; duty-cycling supported.

#### 5.2.4.3.6 Acoustic Doppler Velocimeter (ADV)

- Single-point Doppler current sensor on a rigid arm or frame
- Sampling frequency  $\geq 8$  Hz
- Velocity resolution  $\leq 0.001$  m/s; accuracy  $\leq 1\% \pm 0.005$  m/s
- Low-power duty-cycling; depth rating adapted to site

## **5.2.5 Subsurface Strings (depth~100 m)**

### **5.2.5.1 System Description**

- Vertical taut-mooring with a subsurface buoy positioned at 20 m depth.
- Designed for 24-month continuous operation in tropical freshwater.
- Materials: titanium, 316L or duplex stainless steel, HMPE/Dyneema lines, certified shackles and swivels.
- Deployable and recoverable by a 3 4-person team from a small boat.

### **5.2.5.2 Subsurface Buoy**

- Installation depth: 20 m
- Maximum operating depth:
  - Configuration A:  $\leq 150$  m
  - Configuration B:  $\leq 500$  m (acceptable up to 750 m with documented vendor rating)
- Buoyancy sized with  $\geq 30$  % margin; streamlined exterior

### **5.2.5.3 Load-bearing line**

- Preferred material: HMPE/Dyneema, offering low elongation, high abrasion resistance and excellent long-term stability.
- Other high-tenacity synthetic ropes with similar mechanical performance may also be used, provided they offer low creep, good UV resistance and suitable protective sheathing.
- Minimum breaking load:
  - A:  $\geq 25$  kN
  - B:  $\geq 40$  kN
- A shock-absorbing element is recommended to limit dynamic loads during deployment, recovery and wave-induced motion.

### **5.2.5.4 Recovery Mechanism**

- The release will be acoustic• Depth rating:
  - A:  $\leq 150$  m
  - B:  $\leq 750$  m
- Allowable line tension (WLL):
  - A:  $\geq 500$  kg
  - B:  $\geq 1000$  kg

### **5.2.5.5 Anchor and Bottom Assembly**

- Manual handling by 3 ideally (max: 4 persons)
- Indicative dry weight:
  - A: 50–60 kg
  - B: 60–70 kg
- High-holding-power anchor (Danforth or Brittany)
- Includes abrasion-resistant chain, swivel and weak-link

### **5.2.5.6 Sensor and Logger Specifications**

#### **5.2.5.6.1 Temperature Logger**

- Accuracy  $\leq \pm 0.1$  °C; resolution 0.01 °C; drift  $\leq 0.02$  °C/year
- Environmental range 23–31 °C; measurement range 23°C–30 °C
- Autonomy  $\geq 24$  months at 10–30 min intervals

#### 5.2.5.6.2 Optical Dissolved Oxygen Sensor

- 0–150 % saturation (0–500  $\mu\text{M}$ ); accuracy  $\pm 5\%$  or  $\pm 0.25\text{ mg/L}$ .
- Response  $\leq 30\text{ s}$ ; drift  $\leq 1\%$ /year
- Antifouling shutter or copper
- Temperature compensation range 23–30  $^{\circ}\text{C}$
- Autonomy  $\geq 24$  months

#### 5.2.5.6.3 Downward-Looking Doppler Current Profiling Sensor

(only for subsurface strings not installed near a surface buoy)

- Frequency 300–600 kHz
- Cell size 1–4 m; accuracy  $\pm 0.5\text{ cm/s}$  or  $1\%$
- Tilt tolerance  $\leq 10$
- Autonomy 12–24 months; integrated compass and tilt sensor

#### 5.2.5.6.4 Single-Point Doppler Current Sensor

(only for subsurface strings not installed near a surface buoy)

- 3-D velocity range  $\pm 2\text{ m/s}$ ; accuracy  $\pm 1\%$  or  $\pm 0.5\text{ cm/s}$ .
- Burst sampling with 10–30 min averaged output
- Sampling volume 5–15 cm.
- Autonomy 12–24 months; integrated tilt and compass.

#### 5.2.5.6.5 Environmental and Deployment Requirements

- Operational temperature range: 23–31  $^{\circ}\text{C}$  (design range 23–30  $^{\circ}\text{C}$ )
- High biofouling, strong internal waves and local fishing activity
- System must withstand drag and tilt specific to taut-mooring designs
- All components rated for  $\geq 24$ -month continuous immersion

#### 5.2.5.6.6 Documentation Required

- Complete mooring drawings and parts list
- Buoyancy, drag and anchor-holding calculations.
- Pressure/depth certificates for submerged components.
- Assembly, deck-test and recovery procedures.
- Recommended spare parts list

### 5.2.6 Additional System Requirements

#### 5.2.6.1 Cable Routing

- Designed for tropical freshwater conditions with high temperature, UV, rainfall, corrosion and biofouling.
- Mechanical protection, sealed connectors, strain-relief and accessible routing for maintenance.

#### 5.2.6.2 Data Storage Requirements

- Automatic onboard logging in case of telemetry failure.
- For each sensor:
  - data storage capacity
  - download method and required interfaces
  - recommended retrieval frequency (real-time, semi-annual or annual)

#### **5.2.6.3 Field Laptop to Download the Loggers**

A rugged laptop suitable for outdoor fieldwork, meeting MIL-STD-810 durability and IP65 water/dust protection, with daylight-readable display, sealed ports, long-life battery, and required connectivity (USB, Ethernet, RS-232 if applicable). Complete unit with charger & standard accessories.

#### **5.2.6.4 Mooring Chain and Bottom Weight**

- Contractor shall provide complete specifications for mooring chain types, corrosion protection, bottom weights and integration within the final mooring plan for both types of installations (surface buoys and subsurface strings).

#### **5.2.6.5 Navigation Alerts**

- Real-time environmental data provided by instruments installed on main buoys shall feed an automated alert system for local navigation safety
- Alerts disseminated via website, SMS or other channels accessible to fishing communities
- Typical triggers:
  - sudden winds > 30 km/h
  - rapid pressure drop
  - thunderstorm indicators
  - significant wave heights exceeding safe limits
- Alerts must be simple, visible or audible and easily understood by non-specialists.

#### **5.2.6.6 Key Requirements**

- Long-term reliability of all components.
- Waterproofing appropriate to each component's immersion depth.
- Maintenance tasks limited and executable by trained local teams.
- Maintenance obligations clearly described in contractor documentation.
- System integration must rely on robust, proven hardware and software.

#### **5.2.6.7 Deliverables**

- Fully operational turnkey buoys and subsurface strings
- Technical documentation provided in English; French version required for Burundi deployments
- Post-delivery technical support and training modules

#### **5.2.6.8 Maintenance Assistance (2026–2029)**

- Contractor shall describe and price all maintenance services for the full project duration.
- Any out-of-warranty maintenance options shall also be fully described and costed.
- Training for field teams on maintenance procedures.
- Illustrated manual for cleaning, inspection and basic troubleshooting (English and French).
- Basic toolkit (brushes, spare seals, USB cable, multimeter).
- Contractor shall specify warranty terms, coverage and exclusions.

## 6 Forms

### 6.1 Appendix: Identification forms

#### 6.1.1 Identification Form Natural person

This form must be completed, signed and accompanied by a legible photocopy of the identity document.

Please complete the form in CAPITAL LETTERS and LATIN LETTERS

I. PERSONAL DATA	
FAMILY NAME(S) <i>As indicated on the official document.</i>	
FIRST NAME(S) <i>As indicated on the official document.</i>	
DATE OF BIRTH <i>DD MM YYYY</i>	
PLACE OF BIRTH <i>(town, village)</i>	
TYPE OF IDENTITY DOCUMENT <i>(identity card, passport, driving licence etc.)</i>	
ISSUING COUNTRY	
IDENTITY DOCUMENT NUMBER	
ADDRESS (permanent) <i>Street+ P.O. Box Postal code City, Region/Province Country</i>	
TELEPHONE NUMBER	
E-MAIL	
II. BUSINESS DATA	
PLEASE SPECIFY YOUR STATUS:	<input type="checkbox"/> Duly registered independent  <input type="checkbox"/> Unregistered self-employed (no official formalisation)  <input type="checkbox"/> other (please specify): ..... .....
REGISTRATION NUMBER (if applicable)	
VAT NUMBER (if applicable)	
PLACE OF REGISTRATION (if applicable)	
COUNTRY	

DATE <i>DD MM YYYY</i>	SIGNATURE
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### 6.1.2 Identification from Legal person

This form must be completed, signed and accompanied by a copy of the official documents (articles of association, trade register(s), extract from the publication in the official gazette or VAT registration) substantiating the information given.

Please complete the form in CAPITAL LETTERS and LATIN LETTERS.

#### **PRIVATE/PUBLIC-LAW ENTITY WITH A LEGAL FORM**

OFFICIAL NAME <i>As indicated on the official document.</i>	
COMMERCIAL NAME <i>(if different from official name)</i>	
ABBREVIATION <i>(if applicable)</i>	
LEGAL FORM	
TYPE OF ORGANISATION <i>(Delete as appropriate)</i>	- FOR PROFIT - NOT FOR PROFIT - NGO
PRINCIPAL REGISTRATION NUMBER	
SECONDARY REGISTRATION NUMBER <i>(if applicable)</i>	
PLACE OF REGISTRATION <i>City</i> <i>Country</i>	
DATE OF REGISTRATION <i>DD MM YYYY</i>	
VAT NUMBER	
ADDRESS OF REGISTERED OFFICE <i>Street+ P.O. Box</i> <i>Postal code</i> <i>City, Region/Province</i> <i>Country</i>	
TELEPHONE NUMBER	
E-MAIL	

DATE <i>DD MM YYYY</i>	SIGNATURE OF AUTHORISED REPRESENTATIVE
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### 6.1.3 Identification Form Public actor – entity

This form must be completed, signed and accompanied by a copy of the official documents (law, resolution, trade register(s), official gazette, VAT registration etc) substantiating the information given.

Please complete the form in CAPITAL LETTERS and LATIN LETTERS.

OFFICIAL NAME <i>As indicated on the official document.</i>	
ABBREVIATION <i>(if applicable)</i>	
LEGAL FORM	
PRINCIPAL REGISTRATION NUMBER	
SECONDARY REGISTRATION NUMBER <i>(if applicable)</i>	
PLACE OF REGISTRATION <i>City</i> <i>Country</i>	
DATE OF REGISTRATION <i>DD MM YYYY</i>	
VAT NUMBER	
ADDRESS OF REGISTERED OFFICE <i>Street+ P.O. Box</i> <i>Postal code</i> <i>City, Region/Province</i> <i>Country</i>	
TELEPHONE NUMBER	
E-MAIL	

## 6.2 Declaration on honour - mandatory exclusion criteria

[I/We], [NAME(s) and FIRST NAME(s)], acting in my/our capacity as legal representative(s) of [name of tenderer/beneficiary/partner/contractor], hereinafter referred to as the "counterparty", declare(s) that \*:

*\*Please tick the appropriate boxes to confirm each situation.*

- **The counterparty nor any of his directors was ever found guilty following an indefeasible judgement for one of the following offences:**
  - involvement in a criminal organisation
  - corruption
  - fraud
  - terrorist offence, offence linked to terrorist activities or incitement to commit such offence, collusion or attempt to commit such an offence
  - money laundering or financing of terrorism
  - child labour and other trafficking in human beings
  - employment of foreign citizens under illegal status
  - creation of a shell company.
  
- **The counterparty fulfils its obligations relating to the payment of taxes and social security contributions for an amount of more than EUR 3 000, except if it can demonstrate that a contracting authority owes it one or more unquestionable and due debts which are free of all foreseeable liabilities for an amount at least equal to that which it is in arrears in payment of tax or social charges.**
  
- **The counterparty is not in a state of bankruptcy, liquidation, cessation of business, 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.**

**The counterparty has committed no serious professional misconduct which calls into question its integrity.** Are namely considered such serious professional misconduct:

- a. a breach of Enabel's Policy regarding sexual exploitation and abuse;
  - a. a breach of Enabel's Policy regarding fraud and corruption risk management;
  - b. a breach of a regulatory provision in applicable local legislation regarding sexual harassment in the workplace;
  - c. The tenderer was seriously guilty of misrepresentation or false documents when providing the information required to verify that there are no grounds for exclusion or that selection criteria are satisfied, or concealed this information

- d. Enabel has sufficient plausible evidence to conclude that the tenderer has committed acts, entered into agreements or entered into arrangements to distort competition.
- e. 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.

### **Regarding conflicts of interest:**

*Please tick the applicable situation*

- ☐ the Counterparty or any of its officers is not in any actual or potential conflict of interest situation and has no actual or potential business or family relationship, and does not reasonably appear to have any such relationship, with any member of the board of directors of Enabel or any member of its staff, or any other person who has been or could reasonably be directly or indirectly involved in (i) the preparation of the tender documents, call for proposals or any other contract, (ii) the selection procedure, or (iii) the execution of the contract, grant or contract.

**or**

- ☐ the counterparty informs Enabel of any actual, potential or reasonably perceived conflict of interest that may affect, or may reasonably be perceived to affect, impartiality in the procurement process, the award of a grant or any other contract, including the selection process and the execution thereof.

→ *Please provide a detailed description of any actual, potential or reasonably perceived conflicts of interest, including their nature and the persons involved.*

- **When significant or persistent failures by the tenderer were detected during the execution of an essential obligation incumbent on him in the framework of a past contract concluded with another contracting authority, when these failures have given rise to measures as of right, damages or another comparable sanction.**
- **Restrictive measures have been taken vis-à-vis the counterparty 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.**
- **The counterparty is not on the lists of persons, groups or entities subject to United Nations, European Union or Belgian or French financial sanctions**

For the **United Nations**, the lists can be consulted at the following address: [https://finance.belgium.be/en/about\\_fps/structure\\_and\\_services/general\\_administrations/treasury/financial-sanctions/international](https://finance.belgium.be/en/about_fps/structure_and_services/general_administrations/treasury/financial-sanctions/international)

For the **European Union**, the lists can be consulted at the following address: [https://finance.belgium.be/en/about\\_fps/structure\\_and\\_services/general\\_administrations/treasury/financial-sanctions/international](https://finance.belgium.be/en/about_fps/structure_and_services/general_administrations/treasury/financial-sanctions/international)

<https://data.europa.eu/data/datasets/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions?locale=fr>

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

<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-financi%C3%A8res-nationales-%C2%B-la-liste-nationale-%C2%BB>

[ add according to any additional requirements of the donor].

**[I/We undertake] to inform Enabel without delay of any change in the situation with regard to the above, including any sanctions or embargoes adopted by the United Nations, the European Union and/or Belgium and France following our signature of this Declaration.**

Done at [indicate place], on [DATE].

Name(s) of undersigned and signature(s)

### 6.3 Integrity Statement of the tenderer

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

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

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

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

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

Date

Location

Signature

## 6.4 Tender form - Prices

By submitting this tender the tenderer commits to performing this public contract in conformity with the provisions of the Tender Specifications **BDI23002-10079 & BDI25003-10001** - Public contract consists of the « ***Purchase and Deployment of Instrumented Buoys on Lake Tanganyika*** », – and explicitly declares accepting all conditions listed in the Tender Specifications and renounces any derogatory provisions such as his own general sales conditions.

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

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

VAT percentage: .....%.

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

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

In order to correctly compare the tenders, the duly signed information or documents mentioned below or under point ... must be attached to the tender.

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

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

Certified true and sincere,

Done at ....., on .....

#### 6.4.1 Appendix to the pricing form

### INVENTORY PRICE

Country/Site		N°	Instruments	Tele metry	Qty	Unit in €	Ext. Price in €
BURUNDI		1	BUOY + solar pannel/modem/lantern, including:	Real time (4 G)	1		-
Pelagic	Regideso	1.1	Marine-grade meteorological station, measuring all standard parameters (either as a single integrated unit or with additional external sensors				
Lat	-3,388	1.2	Water T° & DO (installed at 0–2 m)				
Long	29,318	1.3	Chlorophyll-a sensor with antifouling system (installed at 0–2 m)				
depth	60 m	1.4	Wave sensor				
		1.5	Central data hub				
		1.6	Mooring line and anchor weight included		1		-
		2	SUBSURFACE THERMISTOR CHAIN, including:	Logger s	1		-
		2.1	LOGGERS : T°+DO+Depth @ 20, 35 & 50 m				
		2.2	Acoustic Release				
		2.3	Rope Canister+Floats+Recov. line + Batteries 5 years				
		2.4	Acoustic Doppler Current Profiler (ADCP)				
		2.5	Acoustic Doppler Velocimeter (ADV)				
		2.6	Mooring line and anchor weight included		1		-
TANZANIA		3	SUBSURFACE THERMISTOR CHAIN, including:	Logger s	1		-
Coast	Kigoma	3.1	LOGGERS : T°+DO+Depth @ 20, 35, 50, 75, 90 m				
Lat	-4,885	3.2	Acoustic Release				
Long	29,592	3.3	Rope Canister+Floats+Recov. line + Batteries 5 years				
depth	100 m	3.4	Doppler Current Profiling Sensor				
		3.5	Single Point Doppler Current Sensor				
		3.6	Mooring line and anchor weight included		1		-
TANZANIA		4	Equipping an <b>existing buoy</b> with measurement sensors, including:	Logger s	1		-
(Pelagic)	Mahale	4,1	LOGGERS : T°+DO+Depth @ 20,35,50,75,90,110, 150 m + rope (NB: no releaser - string could be lifted by hand)				
Lat	(-6.01)	4,2	Wind speed & direction + air T° sensors (to be added)				
Long	(-29.74)						
depth	(450 m)						
TANZANIA		5	SUBSURFACE THERMISTOR CHAIN, including:	Logger s	1		-
Coast	Kipili	5.1	LOGGERS : T°+DO+Depth @ 20, 35, 50, 75, 90 m				
Lat	-7 433	5.2	Acoustic Release				



Country/Site		N°	Instruments	Tele metry	Qty	Unit in €	Ext. Price in €
Long	30 586	5.3	Rope Canister+Floats+Recov. line + Batteries 5 years		1		-
depth	100 m	5.4	Doppler Current Profiling Sensor				
		5.5	Single Point Doppler Current Sensor				
		5.6	Mooring line and anchor weight included				
<b>ZAMBIA</b>		<b>6</b>	<b>BUOY + solar pannel/modem/lantern, including:</b>	Real time (Satelli te)	1		-
Pelagic	Off Nsumbu	6.1	Marine-grade meteorological station, measuring all standard parameters (either as a single integrated unit or with additional external sensors)				
Lat	-8,514	6.2	Water T° & DO (installed at 0–2 m)				
Long	30,844	6.3	Chlorophyll-a sensor with antifouling system (installed at 0–2 m)				
depth	450 m	6.4	Wave sensor				
		6.5	Central data hub				
		6.6	Mooring line and anchor weight included		1		-
		<b>7</b>	<b>SUBSURFACE THERMISTOR CHAIN, including:</b>	Logger s	1		-
		7.1	LOGGERS : T°+DO+Depth @ 20, 35, 50,75, 90, 110, 150, 200, 250, 300 m				
		7.2	Rope Canister+Floats+Recov. line + Batteries 5 years				
		7.3	Acoustic release				
		7.4	Acoustic Doppler Current Profiler (ADCP)				
		7.5	Acoustic Doppler Velocimeter (ADV)				
		7.6	Mooring line and anchor weight included		1		-
<b>ZAMBIA</b>		<b>8</b>	<b>SUBSURFACE THERMISTOR CHAIN, including:</b>	Logger s	1		-
Coast	Nsumbu	8.1	LOGGERS : T°+DO+Depth @ 20, 35, 50, 75, 90 m				
Lat	-8 520	8.2	Acoustic Release				
Long	30 517	8.3	Rope Canister+Floats+Recov. line + Batteries 5 years				
depth	100 m	8.4	Acoustic Doppler Current Profiler (ADCP)				
		8.5	Acoustic Doppler Velocimeter (ADV)				
		8.6	Mooring line and anchor weight included		1		-
<b>ADDITIONAL ITEMS</b>		9.1	Deck-unit acoustic command system for underwater transponders/releases + Batteries for 5 years.		1		-
		9.2	Field laptop to download the loggers		4		-
		9.3	Cloud data hosting service for all devices (alarm possible)-4 years		1		-
		9.4	Consumables for four years		4		-
<b>SERVICES</b>		10.1	Reconnaissance survey : Carrying out site surveys of 6 locations using Echosounder		6		-
		10.2	Project Management, team mobilization and boat and crane uses on the lake for the six sites, including fuel		1		-

Country/Site		N°	Instruments	Tele metry	Qty	Unit in €	Ext. Price in €
(to be detailed separately)		10.3	Installation on the lake, including securing a suitable workboat and an appropriate lifting crane (or temporary crane).		1		-
		10.4	Supervision of the 8 systems		10		-
		10.5	Local training session (one site for all)		1		-
		10.6	Routine maintenance expected over a 4-year period				
		10.7	Remote support during the project		1		-
SHIPMENT		11.1	Transit in Dar es Salaam (Tanzania) & clearance at Bujumbura (Burundi). NB: storage in Bujumbura by the project is possible				
			(to be detailed separately)				
Total in EUR ex-VAT							

#### 6.4.2 Subcontractors

Name and legal form	Address / Registered office	Regards

## 6.5 Selection file – Economic capacity

<b>Economic and financial capacity – See Art. 67 of the Royal Decree of 18 April 2017</b>	
<p>In one of the past <b>three (3) financial years</b> the tenderer must have achieved a total turnover of at least <b>EUR 1,500,000</b>.</p> <p>He shall include in his tender a statement on the total turnovers achieved during the past three financial years, unless total turnover is mentioned in the approved Financial Statements that can be consulted via the digital portal (i.e. Financial Statements deposited with the National Bank of Belgium, in a full or shortened accounting scheme in which the option of turnover achieved has been filled out).</p>	<p>Provide declarations of turnover for fiscal years 2022, 2023 and 2024 (and/or 2025 For bidders whose fiscal years end on December 31to) to the competent entity (dody state) in the bidder's country (OBR for Burundian bidder), <b>OR</b></p> <p>Certificates of economic capacity conforming to the Tender specification models</p>
<p>A tenderer may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which he has with these entities. In that case, the following rules apply:</p> <ul style="list-style-type: none"> <li>• Where an economic operator wants to rely on the capacities of other entities, it shall prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing a commitment by those entities to that effect.</li> <li>• The contracting authority verifies whether the entities on whose capacity the economic operator intends to rely fulfil the relevant selection criteria and whether there are grounds for exclusion.</li> <li>• (OPTIONAL) Where an economic operator relies on the capacities of other entities with regard to criteria relating to economic and financial standing, the contracting authority may require that the economic operator and those entities be jointly liable for the execution of the contract.</li> <li>• (OPTIONAL) The contracting authority may require certain essential tasks to be carried out directly by the tenderer himself or, if the tender is submitted by a group of economic operators, by a member of the said group.</li> </ul> <p>Under the same conditions, a group of candidates or tenderers may submit the capacities of the group's participants or of other entities.</p>	<p>Provide the same documents like as asked f the bidder to justify economic and financial capacity of those entities.</p>

## 6.6 Selection file – Technical aptitude

Technical aptitude: See Art. 68 of the Royal Decree of 18 April 2017	
<p>The tenderer must show the <b>following references</b> of services delivered over the <b>past five (5) years (2021, 2022, 2023, 2024 et 2025)</b>:</p> <ul style="list-style-type: none"> <li>• To have carried out <b>at least three (3) similar contracts in kind, each worth €250,000 over the last 3 years.</b></li> </ul> <p><u>Through its technical references, the supplier must demonstrate its technical capacity to install the buoys and connect them to the data transfer network (satellite or 4/5G network).</u></p> <p><u>He must provide evidence of prior deployment of surface buoys and subsurface buoys under similar conditions in the African Great Lakes or in other contexts comparable in terms of technical and geographical complexity.</u></p> <p><u>He also must demonstrate its technical capacity to deploy the buoys using a vessel, the presence of which must be guaranteed in Lake Tanganyika.</u></p> <p>The tenderer includes in his tender a <u>list with the main supplies that have been delivered over the past five years including the amount and date as well as the public or private recipients</u>. The references are backed by certificates drawn up or approved by the competent authority or, where the consignee was a private purchaser by certification of the private purchaser, or by default, by a simple statement of the supplier.</p>	<ul style="list-style-type: none"> <li>- The bidder must provide certificates of performance/services rendered or acceptance reports for similar contracts;</li> <li>- List of main similar contracts already executed over the last three years.</li> </ul>
<p>An indication of the proportion of the contract which the supplier intends possibly to <b>subcontract</b>.</p>	<p>The subcontractor must provide information on its economic and financial capacity and experience of the subcontractor, depending on the tranche to be subcontracted.</p>

## 6.7 Appendices for Qualitative Selection

### 6.7.1 Financial Capacity Certificate (Line of Credit)

\_\_\_\_\_ [Name and address of issuing bank and address of issuing bank]

Beneficiary: \_\_\_\_\_ [Name of Bidder]

We, the undersigned [Name and address of issuing bank and address of issuing bank], hereby certify that [Name and address of Bidder] holds account no. [Indicate account number] in our books and maintains a normal business relationship with us.

Furthermore, should [Name of Bidder] be awarded contract no. [Insert Contract Number] relating to [Insert Subject of Contract] for the benefit of [Insert Name of Contracting Authority], we, [Insert Name of Issuing Bank], unconditionally and irrevocably commit to providing them with financial support up to [Insert Amount in Words and Figures].

[Signature of the person whose name and title appear below and stamp]

Name: [Full name of signatory]

Title: [Legal capacity of signatory]

### 6.7.2 Certificate of Financial Capacity (Equity)

\_\_\_\_\_ [Name and address of issuing bank and address of issuing bank]

Beneficiary: \_\_\_\_\_ [Name of Bidder]

We, the undersigned [Name and address of issuing bank and address of issuing bank], hereby certify that [Name and address of Bidder] holds account no. [Indicate account number] in our books and maintains normal business relations with us.

Furthermore, we, [Indicate name of issuing bank], solemnly certify that, within the framework of contract no. [Indicate contract number] for the benefit of [Indicate name of contracting authority], [Name of Bidder] has equity in the above-mentioned account held in our books of an amount at least equal to [Indicate amount in words and figures].

[Signature of the person whose name and title appear below and seal]

Name: [full name of the signatory]

Title: [legal capacity of the signatory]

## 6.8 Documents to be submitted – exhaustive list

### For qualitative selection:

- Declaration of turnover for the last three years to the competent entity (the OBR for local suppliers), or Certificates of economic capacity conforming to the Tender specification models;
- List of similar contracts already executed over the last five (5) years;
- Certificates of proper execution or Acceptance Report;
- An indication of the portion of the contract that the supplier may intend to subcontract.

### For administrative and technical regularity:

- Completed and signed bidder identification forms;
- Written confirmation authorizing the representative to submit the bidder's application;
- European Single Procurement Document (ESPD) **(Failure to submit the ESPD will result in the exclusion of your bid)**
- Bidder's declaration of integrity completed and signed;
- Sworn statement - grounds for exclusion completed and signed;

### For award criteria:

- Tender form completed, signed and sealed;
- Price inventories completed, signed and sealed.

## 6.9 Annexes

### 6.9.1 << GDPR clause (in case where service provider will process personal data)

*This Annex must be used where the contractor is a subcontractor in the meaning of the GDPR, i.e. a natural or legal person which processes personal data on behalf of Enabel.*

*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.*

AGREEMENT on the Processing of personal data (GDPR)

#### **BETWEEN:**

**Contracting authority: Enabel, the Belgian development agency**, public-law company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels, Belgium (enterprise number 0264.814.354, RPM/RPR Brussels).

Represented by: [.....],

Hereinafter referred to as 'the contracting authority' or 'personal data controller'.

#### **AND:**

**Contractor:** [.....], with its registered office at [.....], and which is registered with the Crossroad Bank for Enterprises under number [.....],

Represented by: [.....],

in accordance with Article [.....] of the statutes of the company,

Hereinafter referred to as 'the contractor' or 'processor'.

The contracting authority and the contractor are referred to separately as a 'Party' and are jointly referred to as the 'Parties'.

#### **Preamble**

By decision of the [.....], the contractor was awarded a public contract in accordance with Tender Specifications no. [.....].

The needs of this public contract involve the processing of personal data within the meaning of the Belgian law on the protection of natural persons with regard to the processing of personal data and of European Regulation 2016/679 (GDPR).

The purpose of this amendment is to comply with the requirements of Article 28 of the GDPR.

The public contract conditions are not otherwise derogated, particularly in terms of the time frame and value of the public contract awarded.



## **Article 1: Definitions**

- 1.1. Terms such as 'process'/'processing', 'personal data,' 'personal data controller', 'processor' and 'personal data breach' must be interpreted in light of data protection legislation. 'Data protection legislation' refers to any regulation of the European Union and/or its Member States, including, without being limited to laws, directives and regulations for the protection of personal data, in particular European Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and 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.

## **Article 2: Subject-matter of the Agreement**

- 2.1. During performance of the public contract, the contracting authority entrusts the contractor with the processing of personal data. The contractor undertakes to process personal data in the name of and on behalf of the contracting authority.
- 2.2. The contractor performs the public contract in accordance with the provisions of this Agreement.
- 2.3. Both Parties explicitly undertake to comply with the provisions of applicable data protection laws and to do nothing or fail to cause the other Party to violate relevant and applicable data protection laws.
- 2.4. The elements included in the processing are further included and clarified in Annex 1 of this Agreement. The following are particularly included in said Annex:
  - a) Personal data processing activities;
  - b) The categories of personal data processed;
  - c) The categories of stakeholders to which the personal data of the contracting authority's relate;
  - d) The purpose of the processing.
- 2.5. Only the personal data mentioned in Annex 1 of this Agreement may and must be processed by the contractor. In addition, personal data will only be processed in light of the purposes set out by the Parties in Annex 1 of this Agreement.
- 2.6. Both Parties undertake to take appropriate measures to ensure that personal data are not misused or acquired by an unauthorized third party.
- 2.7. In the event of a conflict between the provisions of this Agreement and those of the Tender Specifications, the provisions of this Agreement will prevail.

## **Article 3: Instructions of the contracting authority**

- 3.1. The contractor undertakes to process personal data only on the documented instructions of the contracting authority and in accordance with agreed processing activities as defined in Annex 1 of this Agreement. The contractor will not process the personal data subject to this Agreement in a manner inconsistent with the instructions and provisions of this Agreement.
- 3.2. The contractor undertakes to process personal data in accordance with the documented instructions of the personal data controller, including for transfers of personal data to third countries or to international organisations, unless it is required under EU or Member State law. In this case, the processor informs the personal data controller of this legal obligation prior to processing unless the relevant law prohibits such information for important public interest reasons.
- 3.3. The contracting authority may unilaterally make limited changes to the instructions. The contracting authority undertakes to consult with the contractor before making

significant changes to the instructions. Changes affecting the content of this Agreement must be agreed by the Parties.

- 3.4. The contractor undertakes to immediately notify the contracting authority if it considers that the instructions received (in whole or in part) constitute a violation of the Regulations or other provisions of EU law or Member State data protection law.

#### **Article 4: Assistance to the contracting authority**

- 4.1. **Legal conformity.** The contractor assists the contracting authority in accordance with its obligations under the Regulation, taking into account the nature of the processing and the information available to the contractor.
- 4.2. **Personal data breach** In the case of a personal data breach in relation to processing under this Agreement, the contractor must without undue delay after having become aware of it notify the personal data breach to the contracting authority.

At the very least, this notification should include the following information:

- (a) Nature of the personal data breach
- (b) The categories of personal data
- (c) The categories and approximate number of data subjects concerned
- (d) The categories and approximate number of personal data records concerned
- (e) The likely consequences of the personal data breach
- (f) The measures taken or proposed to be taken by the contractor to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

The contractor is required to remedy the negative consequences of a data breach as quickly as possible or to minimise other potential consequences. The contractor will immediately implement all remedies requested by the contracting authority or the relevant authorities to remedy any data breach or other non-compliance and/or mitigate the risks associated with these events. The contractor will have to cooperate at all times with the contracting authority and observe its instructions in order to enable it to carry out an appropriate investigation into the data breach, formulate a correct response and then take appropriate action.

- 4.3. **Data protection impact assessment** Where applicable and where requested by the contracting authority, the contractor assists the contracting authority in carrying out the data protection impact assessment in accordance with Article 35 of the Regulation.

#### **Article 5: Obligations of the contractor/processor**

- 5.1. The contractor will deal with all reasonable requests from the contracting authority for the processing of personal data related to this Agreement, immediately or within a reasonable period of time (based on the legal obligations set out in the Regulation) and in an appropriate manner.
- 5.2. The contractor guarantees that there is no obligation arising from any applicable legislation that makes it impossible to comply with the obligations of this Agreement.
- 5.3. The contractor maintains complete documentation, in accordance with the law or regulations applicable to the processing of personal data carried out for the contracting authority. In particular, the contractor must keep a record of all categories of processing activities carried out on behalf of the contracting authority in accordance with Article 30 of the GDPR.

- 5.4. The contractor undertakes not to process personal data for any purpose other than the performance of the public contract and the fulfilment of the responsibilities of this Agreement in accordance with the documented instructions of the contracting authority; if the contractor, for whatever reason, cannot comply with this requirement, he will notify the contracting authority without delay.
- 5.5. The contractor will immediately inform the contracting authority, if he believes that an instruction by the contracting authority violates applicable data protection legislation.
- 5.6. The contractor will ensure that personal data are disclosed only to those who need it to perform the public contract in accordance with the principle of proportionality and the principle of "need to know" (i.e. data are provided only to persons who need personal data to perform the public contract as determined in the relevant Tender Specifications and this Agreement).
- 5.7. The contractor undertakes not to disclose personal data to persons other than contracting authority personnel who require personal data to comply with the obligations of this Agreement and ensures that identified staff have accepted appropriate legal and contractual confidentiality obligations.
- 5.8. If the contractor is in breach of this public contract and the GDPR by determining the purposes and means of processing, he should be considered a personal data controller in the context of such processing.

#### **Article 6: Obligations of the contracting authority/controller**

- 6.1. The contracting authority will provide all necessary assistance and cooperate in good faith with the contractor to ensure that any processing of personal data is in accordance with the requirements of the Regulation, including the principles relating to the processing of personal data.
- 6.2. The contracting authority will agree with the contractor on the appropriate channels of communication to ensure that instructions, guidance and other communications regarding personal data that are processed by the contractor on behalf of the contracting authority are well received between the Parties. The contracting authority notifies the contractor of the identity of the single point of contact of the awarding authority that the contractor is required to contact under this Agreement. Unwritten instructions (e.g. oral instructions by telephone or in person) must always be confirmed in writing.

The point of contact of the contracting authority is: [dpo@enabel.be](mailto:dpo@enabel.be)

- 6.3. The contracting authority guarantees that it will not issue any instructions, guidance or requests to the contractor who does not comply with the provisions of the Regulation.
- 6.4. The contracting authority provides the necessary assistance to the contractor and/or his or her subsequent subcontractors to comply with a request, order, investigation or subpoena addressed to the contractor or his subsequent subcontractor(s) by a competent government or judicial authority.
- 6.5. The contracting authority guarantees that it will not instruct, guide or ask the contractor to compel the contractor and/or his subsequent subcontractor(s) to violate any obligation imposed by the applicable mandatory national legislation to which the contractor and/or his subcontractor(s) are subject.
- 6.6. The contracting authority ensures that it will cooperate in good faith with the contractor in order to mitigate the negative effects of a security incident affecting the personal data processed by the contractor and/or his subsequent contractor(s) on behalf of the contracting authority.

## **Article 7: Use of subsequent subcontractors/processors**

- 7.1. In accordance with the Tender Specifications, the contractor may use the capacity of a third party to tender for the public contract, which constitutes further subcontracting within the meaning of Article 28 of the GDPR.<sup>12</sup>.
- 7.2. The contractor may engage another subcontractor (hereinafter, the ‘subsequent subcontractor’) for carrying out specific processing activities. In this case, he informs the contracting authority in advance and in writing of any change considered with regards to adding or replacing other subcontractors. This information must clearly indicate the processing activities that are subcontracted, the identity and contact details of the subcontractor and the dates of the subcontracting contract. The contracting authority disposes of 30 days from the date of reception of said information to voice any objections. Such subsequent subcontracting may only be carried out if the contracting authority has not voiced any objection during said period.
- 7.3. The contractor will use only subsequent subcontractors who provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of this public contract, of Belgian legislation and of the GDPR and assures the rights of the data subject concerned.
- 7.4. When the contractor uses another subcontractor to carry out specific processing activities in the name of the contracting authority, obligations in any respect identical to those provided for in this Agreement will have to be imposed on this subsequent subcontractor; the latter in particular must provide the same sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the Regulation.  
  
Agreements with the subsequent subcontractor are written down. Upon request, the contractor will be required to provide the contracting authority with a copy of this contract or these contracts.
- 7.5. Where the subcontractor fails to fulfil his data protection obligations, the contractor shall remain fully liable to the contracting authority for the performance of that subsequent subcontractor's obligations.
- 7.6. The contractor must pass on the specific objectives and instructions issued by the contracting authority in a precise and timely manner to the subsequent subcontractor(s) when and where these objectives and instructions relate to the part of the processing in which the subsequent subcontractor(s) is or are involved.

## **Article 8: Rights of the data subject concerned**

- 8.1. Where possible, taking into account the nature of the processing and through appropriate technical and organisational measures, the contractor undertakes to assist the contracting authority in fulfilling its obligation to respond to requests of exercise of data subject rights in accordance with Chapter III of the Regulation.
- 8.2. With respect to any request from the data subjects concerned in connection with their rights regarding the processing of personal data concerning them by the contracting authority and/or his subsequent subcontractor(s), the following conditions apply:
  - The contractor will immediately inform the contracting authority of any request made by a data subject concerned relating to personal data that the contractor and/or his subsequent subcontractor(s) are processing on behalf of the contracting authority;

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<sup>12</sup> To be adapted in accordance with Tender Specifications.

- The contractor will comply promptly and require his subsequent subcontractor(s) to promptly comply with any request from the contracting authority to comply with a request by the data subject concerned to exercise one of their rights;
  - The contractor will ensure that he and his subsequent subcontractor(s) have the technical and organisational capabilities to block access to personal data and to physically destroy the data without the possibility of recovery if and when such a request is made by the contracting authority. Without prejudice to the above, the contractor retains the opportunity to consider whether the request of the contracting authority does not constitute a violation of the Regulation.
- 8.3. The contractor must, at the request of the contracting authority, provide all necessary assistance and provide all necessary information for the contracting authority to defend its interests in any proceeding - judicial, arbitral or otherwise - brought against the contracting authority or its staff for any violation of the fundamental rights to privacy and the protection of the personal data of the data subjects concerned.

### **Article 9: Security measures**

- 9.1. Throughout the duration of this Agreement, the contractor must have appropriate technical and organisational measures in place to ensure that the processing meets the requirements of the Regulation and ensures the protection of the rights of the data subject concerned.
- 9.2. The contractor undertakes to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, in accordance with Article 32 of the Regulation.
- 9.3. In assessing the appropriate level of security account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.
- 9.4. The parties recognise that security requirements are continually evolving and that effective security requires frequent assessment and regular improvement of outdated security measures. The contractor will therefore have to continually assess and strengthen, complete or improve the measures implemented with a view to the continued compliance of his obligations.
- 9.5. The contractor provides the contracting authority with a complete and clear description, in a transparent and understandable manner, of how he handles its personal data (Annex 3).
- 9.6. In the event that the contractor changes the security measures applied, the contractor undertakes to notify so immediately to the contracting authority.
- 9.7. The contracting authority reserves the right to suspend and/or terminate the public contract, where the contractor can no longer provide appropriate technical and organisational measures regarding processing risks.

### **Article 10: Audit**

- 10.1. The contractor acknowledges that the contracting authority falls under the supervision of one or several Supervisory Authorities. The contractor acknowledges that the contracting authority and any Supervisory Authority concerned will have the right to conduct an audit at any time, and at least during the contractor's regular office hours, during the term of this Agreement in order to assess whether the contractor complies with the Regulation and the provisions of this Agreement. The contractor provides the necessary cooperation.

- 10.2. This auditing right may not be used more than once in a calendar year, unless the contracting authority and/or the Supervisory Authority has reasonable grounds to assume that the contractor is acting in conflict with this Agreement and/or the provisions of the Regulation. The restriction of the right of control does not apply to the Supervisory Authority.
- 10.3. At the written request of the contracting authority, the contractor will provide the contracting authority or the relevant Supervisory Authority with access to the relevant parts of the contractor's administration and to all places and information of interest to the contractor (as well as, applicable to those of its agents, subsidiaries and subsequent subcontractors) to determine whether the contractor complies with the Regulation and provisions of this Agreement. At the request of the contractor, the parties concerned agree to a confidentiality agreement.
- 10.4. The contracting authority must take all appropriate measures to minimise any obstruction caused by the audit on the day-to-day functioning of the contractor or the services performed by the contractor.
- 10.5. If there is agreement between the contractor and the contracting authority on a significant breach in compliance with the Regulation and/or the Agreement, as reported in the audit, the contractor will remedy this breach as soon as possible. Parties may agree to put in place a plan, including a timetable for implementing the plan, to address the gaps revealed by the audit.
- 10.6. The contracting authority will cover the costs of any audit carried out within the meaning of this article. Without prejudice to the above, the contractor will bear the costs of his employees. However, where the audit has revealed that the contractor is clearly not in compliance with the Regulation and/or provisions of this Agreement, the contractor bears the costs of said audit. The costs of re-compliance with the Regulation and/or the provisions of this Agreement are borne by the contractor.

#### **Article 11: Transfers to third parties**

- 11.1. The transmission of personal data to third parties in any way is in principle prohibited, unless required by law or if the contractor has obtained explicit authorisation from the contracting authority to do so.
- 11.2. In the event that a legal obligation applies to the transfer of personal data, which is the subject of this Agreement, to third parties, the contractor shall inform the contracting authority before the transfer.

#### **Article 12: Transfer outside the EEA**

- 12.1. The contractor will process personal data from the contracting authority only in a location in the EEA.
- 12.2. The contractor shall not process or transfer the personal data of the contracting authority, or process them himself or through third parties, outside the European Union, unless after express and explicit prior authorisation from the contracting authority.

The contractor will have to ensure that no access to the personal data of the contracting authority by a third party in any way leads to the transfer of these data outside the European Union.

#### **Article 13: Behaviour towards national government and judicial authorities**

- 13.1. The contractor will immediately notify the contracting authority of any request, injunction, investigation or subpoena of a competent national government or judicial authority addressed to the contractor or its subsequent subcontractor(s) that involves the disclosure of personal data processed by the contractor or a subsequent



subcontractor for and on behalf of the contracting authority or any data and/or information relating to that processing.

#### **Article 14: Intellectual property rights**

14.1. All intellectual property rights relating to personal data and databases containing such personal data are reserved for the contracting authority, unless otherwise agreed between the Parties.

#### **Article 15: Confidentiality**

- 15.1. The contractor undertakes to guarantee the confidentiality of personal data and of their processing.
- 15.2. The contractor ensures that employees or subsequent subcontractors authorised to process personal data have committed to conducting the processing confidentially and are also bound by a contractual obligation of confidentiality.

#### **Article 16: Liability**

- 16.1. Without prejudice to the public contract, the contractor is only liable for the damage caused by the processing if he has not complied with the obligations of the Regulation specifically for subcontractors or if he acted outside or contrary to the legal instructions of the contracting authority.
- 16.2. The contractor is liable for the payment of administrative fines resulting from a violation of the Regulation.
- 16.3. The contractor will be exempt from liability only if he can prove that he is not responsible for the event that caused a violation of the Regulation.
- 16.4. If it appears that the contracting authority and the contractor are responsible for the damage caused by the processing of personal data, both Parties will be liable and will pay damages, in accordance with their individual share of liability for the damage caused by the processing.

#### **Article 17: End of contract**

- 17.1. This Agreement applies as long as the contractor processes personal data in the name and on behalf of the contracting authority under this public contract. If the public contract ends, this Agreement will also end.
- 17.2. In the event of a serious breach of this Agreement or the applicable provisions of the Regulation, the contracting authority may order the contractor to terminate the processing of personal data with immediate effect.
- 17.3. In the event of termination of the Agreement, or if the personal data are no longer relevant to the provision of services, the contractor will, by decision of the contracting authority, remove all personal data or return them to the contracting authority and delete personal data and other copies. The contractor will provide proof in writing, unless applicable legislation requires the storage of personal data. Personal data will be returned to the contracting authority free of charge, unless otherwise agreed upon.

#### **Article 18: Mediation and competence**

- 18.1. The contractor agrees that if the data subject concerned alleges claims for damages under this Agreement, the contractor will accept the decision of the data subject concerned:
  - To refer the dispute to mediation with an independent person;
  - To refer the dispute to the courts of the place of establishment of the contracting authority.

- 18.2. The Parties agree that the choice made by the data subject concerned will not infringe on the substantial or procedural rights of the data subject concerned to seek redress in accordance with other provisions of applicable national or international law.
- 19.1. Any dispute between the Parties over the terms of this Agreement must be brought before the appropriate courts, as determined in the main agreement.

Thus, agreed on the [.....] and established in two copies of which each Party acknowledges having received a signed copy.

FOR THE CONTRACTING AUTHORITY

FOR THE CONTRACTOR

\_\_\_\_\_  
\_\_\_\_\_

Name: [.....]

Name: [.....]

Function: [.....]

Function: [.....]



## **Annex 1: Description of personal data processing activities by the contractor<sup>13</sup>**

### **1. Processing activities carried out by the subcontractor**

Subject matter of processing:

Nature of processing: *[For instance, organisation, consultation, storage and collection, etc.]*

Duration of the processing:

Purpose of the processing:

### **2. The categories of personal data that the subcontractor will process on behalf of the controller (\*indicate as appropriate).**

- ☐ Personal identification data (e.g. name, address and telephone)
- ☐ Electronic identification data (e.g. e-mail address, ID Facebook, ID Twitter, user names, passwords or other connection data, etc.)
- ☐ Electronic location data (e.g. IP addresses, mobile phone, GPS, connection points, etc.)
- ☐ Biometric identification data (e.g. fingerprints, iris scan, etc.)
- ☐ Copies of identity documents
- ☐ Financial identification data (e.g. account numbers (bank), credit card numbers, salary and payment information, etc.)
- ☐ Personal characteristics (e.g. gender, age, date of birth, marital status, nationality, etc.)
- ☐ Physical data (e.g. height, weight, etc.)
- ☐ Habits of life
- ☐ Psychological data (e.g. personality, character, etc.)
- ☐ Family composition
- ☐ Leisure and interests
- ☐ Memberships
- ☐ Consumption habits
- ☐ Education and training
- ☐ Career and occupation (e.g. function, title, etc.)

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<sup>13</sup> To be filled out by the contracting authority and the contractor.

- ☐ Images/photos
- ☐ Sound recordings
- ☐ National Social Security Register Number/Identification Number
- ☐ Details of the contract (e.g. contractual relationship, order history, order numbers, invoicing and payment, etc.)
- ☐ Other categories of data, <Describe>

**3. The special categories of personal data that the subcontractor will process on behalf of the controller (where applicable) (indicate as appropriate)**

- ☐ Special categories of personal data (Art. 9 GDPR)
  - Data revealing racial or ethnic origin
  - Data concerning sexual orientation
  - Political opinions
  - Trade union membership
  - Religious or philosophical beliefs
- ☐ Data concerning health (Art. 9 GDPR)
  - Physical health
  - Mental health
  - Risk situations and risk behaviours
  - Genetic data
  - Healthcare data
- ☐ Judicial data (Article 10 of the general data protection law)
  - Suspicions and indictments
  - Convictions and sentences
  - Judicial measures
  - Administrative sanctions
  - DNA data

**4. The categories of data subjects concerned (\*indicate as appropriate)**

- ☐ (Potential)/(former) clients

If yes, <describe>

- ☐ Applicants and (former) employees, interns, etc.

If yes, <describe>

- ☐ (Potential)/(former) suppliers

If yes, <describe>

- ☐ (Potential)/(former) (business) partners

If yes, <describe>

- ☐ Other category

If yes, <describe>

**5. Extent of processing (number of records/number of data subject concerned)**

<Describe>

**6. Period of use and period for which the (various categories of) personal data are stored:**

<Describe>

**7. Processing place**

<Describe>

If processing is outside the EEA, please specify the appropriate guarantees that are put in place

<Describe>

**8. Use of following subsequent subcontractors/processors:**

<Describe>

**9. Contact details of the responsible contact person at the controller's**

Name:	
Title:	
Telephone number:	
E-mail:	
Name: <sup>14</sup>	
Title:	
Telephone number:	
E-mail:	

**10. Contact details of the responsible contact person at the subcontractor's:**

Name:	
Title:	
Telephone number:	
E-mail:	
Name:	
Title:	
Telephone number:	
E-mail:	

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<sup>14</sup> Identify the person responsible of the project/department/other as appropriate

## **Annex 2: Security of processing<sup>15</sup>**

The controller should use only processors providing sufficient guarantees, in particular in terms of expert knowledge, reliability and resources, to implement technical and organisational measures which will meet the requirements of this Regulation (in particular Article 32 of the GDPR), including for the security of processing.<sup>16</sup>

In order to ensure a level of security adapted to the risk, given the state of knowledge and the nature, scope, context and purposes of the processing, as well as the risks, of varying degree of probability and severity, of processing for the rights and freedoms of natural persons, the contractor implements appropriate technical and organisational measures.

These security measures comprise the following, among others:

- [Describe]

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<sup>15</sup> To be filled out by supplier

<sup>16</sup> Consideration 81 of the GDPR