

SADCAS ACCREDITATION AGREEMENT

1. **PARTIES**

This Agreement is made and entered between **THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY ACCREDITATION SERVICE** situated on Plot 50369, Unit 3A Second Floor, Tholo Office Park, Fairgrounds, Gaborone, Botswana.

Hereinafter referred to as **SADCAS** and herein represented by:

Mr/Mrs _____
(Print full names and surname)

In his/her duly authorized designation as Chief Executive Officer of SADCAS

AND

(Insert the full Name, Registration Number where appropriate and Physical Address of the Body)

Hereinafter referred to as the **“Body”** and herein represented by:

Mr/Mrs _____
(Print full names and surname of duly authorized person on behalf of the Body)

(Designation of duly authorized person)

2. SADCAS SERVICES AND OBLIGATIONS

- 2.1 SADCAS is a multi-economy accreditation body established in terms of Articles 15 (B) of the Technical Barriers to Trade (TBT) Annex to the SADC Protocol on Trade with the main purpose of ensuring that conformity assessment service providers operating in the SADC Member States which do not have national accreditation bodies are subject to oversight by an authoritative body. SADCAS is a non-profit limited company incorporated under the Botswana Companies Act Ch 42:01. SADCAS is a subsidiarity institution of SADC.
- 2.2 SADCAS mission is to provide credible, cost effective accreditation services for SADC member states aimed at supporting trade, enhance the protection of consumers and environment, and improve the competitiveness of SADC products and services in both the voluntary and regulatory areas.
- 2.3 SADCAS will carry out scheduled assessments of the Conformity Assessment Body (CAB) in order to determine its competence against the relevant international standards.
- 2.4 SADCAS undertakes to apply criteria for accreditation consistently and to utilize suitably qualified staff and assessors/technical experts to provide the said service as outlined in 2.3. The CAB will be advised in advance of the assessment team and any reasonable objections to individual members of the assessment team will whenever possible, be accommodated.
- 2.5 At any point in the application or initial assessment process, if there is evidence of fraudulent behaviour, if the CAB intentionally provides false information or if the CAB conceals information, SADCAS will reject the application or terminate the assessment process.
- 2.6 Once SADCAS is satisfied that the CAB is competent and meets all the requirements of the relevant standard(s), SADCAS will issue an Accreditation Certificate to the CAB with the scope(s) of the CAB's accreditation.
- 2.7 The Accreditation Certificate issued by SADCAS is valid for a defined period subject to, and on condition that the CAB complies with the terms set out in this Agreement.
- 2.8 SADCAS will allow the use of its accreditation symbol by the accredited CAB to confirm its accredited status.
- 2.9 Once accredited, SADCAS will indicate how continuing conformity with the relevant standard(s) will be monitored in order that the CAB may maintain accredited status. The frequency of periodic assessments will be determined by SADCAS, and depends on the scope and scale of the accredited activity of the CAB, previous experience and taking risk into consideration. A full reassessment shall be undertaken every fifth year. In addition to the planned periodic on-site visits, SADCAS reserves the right to carry out additional or unscheduled periodic on-site visits, as it may reasonably require.
- 2.11 If, in SADCAS' view, the CAB fails to comply with the terms of this Agreement (including any undertakings given to SADCAS), SADCAS may suspend or withdraw accreditation, reduce the scope of accreditation, impose a moratorium on the issue of accredited certificates or extensions to scope, require reassessment or impose such other sanctions as are appropriate and legal.
- 2.12 Accreditation by SADCAS does not in any way change the contractual responsibilities between the CAB and its clients. Whilst accreditation is an indication of competence of the CAB, it cannot be taken to constitute an undertaking by SADCAS that the CAB will maintain a particular level of performance.

3. CAB OBLIGATIONS

The Conformity Assessment Body undertakes:

- 3.1 To fulfil continually the requirements for accreditation for the scope for which accreditation is sought or granted and shall provide evidence of fulfilment.
- 3.2 To adapt to any changes in the requirements for accreditation as communicated by SADCAS.
- 3.3 To supply SADCAS with all information and facilities and to afford SADCAS such reasonable access and cooperation as, in each case is necessary to enable it to provide the service(s).
- 3.4 To use reasonable endeavours to provide access for SADCAS representatives to CAB personnel, locations, equipment, information, documents and records, relevant areas of its clients' premises as necessary to verify fulfilment or requirements for accreditation.
- 3.5 To keep all records as required by the relevant accreditation standard and any event for at least the duration of the current accreditation cycle plus the previous accreditation cycle, or as required by law.
- 3.6 At all times to comply with the terms of this Agreement and with the relevant standards.
- 3.7 To claim accreditation only with respect to the scope for which it has been granted, not to use its accreditation in such a manner as to bring accreditation into disrepute, and to take appropriate steps to correct any unauthorized statement used by itself and/or its clients which SADCAS considers to be misleading.
- 3.8 To make it clear in all contracts with its clients and in guidance documents that a certificate or report issued in no way implies that any product, process, service, management system or person certified is approved by SADCAS.
- 3.9 To comply at all times with the requirements set out in SADCAS documentation covering conditions for use of SADCAS accreditation symbols and to take all reasonable steps to ensure that compliance with these conditions is enforced amongst its clients and to make reference to SADCAS accreditation in the prescribed manner.
- 3.10 To inform SADCAS without delay of any significant changes which may bear upon the CAB's conformity with this Agreement and the relevant standard(s) or may otherwise affect, or potentially affect, the CAB's capability or scope of accreditation, including but not limited to the following changes:
 - a) Legal, commercial ownership or organizational status and contact details;
 - b) Organization, top management and key personnel;
 - c) Resources and location(s);
 - d) Scope(s) of accreditation; and
 - e) Other matters that can affect the ability of the CAB to fulfill requirements for accreditation.
- 3.11 Upon suspension or withdrawal of accreditation, however determined, to withdraw all material referring to its accreditation status.

3.12 For all conformity assessment bodies

- a) To undertake any reasonable check inspections, calibrations, or tests to enable SADCAS to verify the inspections, calibrations, or testing capability of the CAB or, where appropriate, to participate in such measurement audit and/or proficiency testing programmes as may be presented by SADCAS.
- b) To prepare, pack and dispatch inspection samples, test pieces or other items needed by SADCAS or by its client for verification purposes.
- c) To afford its clients or its representative reasonable cooperation to facilitate monitoring of the performance of the CAB in relation to the contract with the client, including affording access (subject to confidentiality of work for other clients) to relevant areas of the CAB's premises for witnessing of conformity assessment activities when requested by SADCAS.
- d) To have, where applicable, legally enforceable arrangements with their clients that commit the clients to provide, on request, access to SADCAS assessment personnel to assess the CAB's performance when carrying out conformity assessment activities at the client's site;

3.13 In addition to the above, if operating as an **inspection body**

- a) To ensure that all safety-related incidents related to the scope of accreditation are reported by clients or other parties such as enforcing authorities are recorded and investigated and appropriate corrective action taken.
- b) To provide SADCAS, promptly, with details of safety-related incidents within the scope of the Body's accredited activities where compliance with the relevant standards has not been maintained and the incident may lead to enforcement action against the Body.
- c) To notify SADCAS of the details of all enforcement actions taken by regulatory authorities against the Body which relate to the scope of its accreditation.
- d) To contractually require their client(s), to whenever so requested by SADCAS, to allow SADCAS to witness the Body perform an inspection.

3.14 In addition to the above, if operating as a **certification body**

- a) To make necessary arrangement for a given witnessing at the CB's client and to provide a justification in case of refusal which need to be reviewed by SADCAS. If the justification is not accepted by SADCAS and the CB insists not to accept the proposed witnessing, SADCAS can reduce the scope of coverage of the application or the accredited scopes.
- b) To contractually require their client(s) to allow, whenever so requested by SADCAS to witness the CAB perform a certification audit of such clients.
- c) Not to issue non- accredited certificates for scopes for which the certification body is already accredited.

3.15 To assist SADCAS in the investigation and resolution of any accreditation related complaints about the CAB referred to it by SADCAS.

- 3.16 To pay such fees and charges as are due to SADCAS within the prescribed timeframes in accordance with the fee schedule issued by SADCAS from time to time.

4. **CONFIDENTIALITY AND IMPARTIALITY**

- 4.1 SADCAS, its employees and assessors/ technical experts who are or were involved in the performance of any function in terms of the accreditation process or any of SADCAS activities agree to maintain as confidential and not to use or disclose to any third party, any information obtained or created in the performance of such function without written consent of the CAB, except:
- a) Any information which was in possession of SADCAS prior to its disclosure by the CAB;
 - b) Any information which is or shall lawfully become part of the public domain, or obtained by SADCAS from a source independent of the CAB; or
 - c) Any information which otherwise may be required to be made available to any court, fiscal or regulatory authority.
- 4.2 When SADCAS is required by law or authorized by contractual arrangements to release confidential information, SADCAS shall notify the CAB of the information to be released, unless it is prohibited by law.
- 4.3 Information about the CAB and obtained from other sources than the CAB (e.g. complainant, regulator) shall be kept confidential between a CAB and SADCAS. The provider (source) of this information shall be kept confidential to SADCAS and not shared with the CAB unless agreed by the source.
- 4.4 SADCAS shall reserve the right to make public the name, contact information and accreditation status of the CAB, including the scope of accreditation granted, reduced or withdrawn.
- 4.5 SADCAS adheres to the impartiality requirements as specified in ISO/IEC 17011. SADCAS shall ensure the impartiality of its accreditation activities. SADCAS shall not provide consultancy services, nor allow any commercial, financial or other pressures to compromise its impartiality.
- 4.6 SADCAS permanent staff, contracted assessors/technical experts sign a contract with SADCAS that specifies their agreement to impartiality and non-conflict of interest.

5. **HEALTH AND SAFETY**

The CAB shall ensure that SADCAS employees and assessors/technical experts, when attending the CAB's or its clients' sites for assessment purposes, are provided with such personnel protective equipment as maybe necessary to reduce risks to an acceptable level and meet any applicable legal requirements.

6. LIABILITY

- 6.1 SADCAS may do all that is necessary or expedient to perform its function, including insuring itself against any liability it may incur in the performance of its duties in terms hereof.
- 6.2 SADCAS does not accept liability for possible errors made by the CAB. Liability is limited to SADCAS assets and staff (both permanent and contract), assessors/technical experts, trainers and Board of Directors for which SADCAS has insurance policies including Directors and Officers liability and professional indemnity.

7. INDEMNITY

The CAB undertakes to indemnify SADCAS against any losses suffered by or claims made against SADCAS as a result of misuse by the CAB of any Certificate of Accreditation or license to use any accreditation symbol granted by SADCAS or as a result of any breach of the CAB, of the terms of the Agreement.

8. APPEALS

- 8.1 Appeals will be considered only against an accreditation decision made by SADCAS. An accreditation decision is a decision by SADCAS to grant, suspend, reduce or withdraw accreditation or when SADCAS grants or denies an extension of scope. Such a decision by SADCAS shall stand pending hearing of any appeal.
- 8.2 Appeals will be handled in accordance with the SADCAS Appeals Procedure which is available on the SADCAS website or upon request.

9. TERMINATION

- 9.1 This Agreement shall continue in force unless and until terminated by either party by giving 90 days' written notice to the other.
- 9.2 Where notice of termination is given by a certification body, the CAB shall state the arrangements made, on termination, for the protection of clients holding accredited certification.
- 9.3 At the date of termination of this Agreement any Certificate of Accreditation granted hereunder shall immediately cease to be valid.
- 9.4 Any termination of the Agreement however caused shall be without prejudice to any rights or liabilities of the parties which have been accrued on or before the date of termination, but neither party shall have any rights to require performance of or liabilities to perform this Agreement after such date. Upon termination of this Agreement for any reason:
 - a) Notwithstanding any other provisions of the Agreement, the terms of this clause (9) and clauses 4 (Confidentiality), 6 (Liability) and 7 (Indemnity) shall continue in force in accordance with their terms; and

- b) All fees and charges accrued (but unpaid) pursuant to this Agreement shall forthwith become due and payable.

10. **DISPUTE RESOLUTION AND ARBITRATION**

10.1 In the event of any dispute arising from this Agreement, the Parties shall make every effort to settle such disputes amicably.

10.2 Any dispute not settled amicably between the parties in regard to:

- a) The interpretation of;
- b) The effect of;
- c) The parties' respective rights and obligations under;
- d) A breach of; or
- e) Any matter arising out of;

this Agreement shall be decided by arbitration.

10.3 The arbitration shall be conducted under the rules based on the United Nations Commission on International Trade.

11. **FORCE MAJEURE**

No failure or omission by either Party to carry out or observe any of the obligations, stipulations, conditions or warranties to be performed as set out in this Agreement shall give rise to any claim against such Party or be deemed to be a breach of contract to the extent that such failure or omission arises from causes or events reasonably beyond the control of such Party(any such event hereinafter called "Force Majeure") The Party (the "Affected Party") prevented from carrying out its obligations hereunder shall give notice to the other Party of an Event of Force Majeure upon it being foreseen by, or becoming known to, the Affected Party.

12. **ASSIGNMENT**

Except as otherwise agreed by the parties in writing, this Agreement shall not be assigned in whole or part.

13. **THIRD PARTIES**

No person (other than SADCAS, its employees or assessors/technical experts) who is not a party to this Agreement has or should have any right to enforce any term of this Agreement and no consent of any person who is not a party shall be required to any cancellation or variation of this Agreement.

14. **LAWS AND JURISDICTION**

14.1 Notwithstanding the location of the CAB's principal place of business, registered office or where it carries out its business, this Accreditation Agreement shall be governed in accordance with the Laws of the Republic of Botswana, where SADCAS is registered.

15. FEES

- 15.1 SADCAS shall charge fees in accordance with *SADCAS AP 02 - SADCAS Services Fees*.
- 15.2 The CAB agrees to pay all Fees as determined by SADCAS within the prescribed time frames and in specified currency.
- 15.3 The CAB shall make full and final payment of all Fees payable prior to the commencement of the accreditation process. SADCAS may, under exceptional circumstances and in its sole and absolute discretion, waive this requirement.
- 15.4 The CAB shall remain liable for all fees whilst in suspension, as applicable.

This Agreement is signed at _____ on this _____
day of _____ 20__.

AS WITNESS

- 1. _____
_____ **Duly Authorized on behalf of the CAB**
- 2. _____

This Agreement is signed at _____ on this _____
day of _____ 20__.

AS WITNESS

- 1. _____
_____ **Duly Authorized on behalf of SADCAS**
- 2. _____