



**Namibia Diamond Trading
Company (Pty) Limited**

EXPRESSION OF INTEREST

NDTC 2021 – 2023 ROUGH DIAMOND DISTRIBUTION APPLICATION PROCESS

The first step is to review the Applicant Letter of Acceptance and Compliance Criteria Declarations which includes nominating up to two individuals to manage the application process on behalf of your Compliance Group.

One nominated individual must be a Key Individual (as per the definition within the current Supply Agreement) with the authority to apply for and submit information on behalf of the Applicant and verify that the information is complete, accurate and up to date.

On the assumption you would like to apply for an NDTC supply contract, please confirm your interest by returning a signed copy of the Applicant Letter of Acceptance and Compliance Criteria Declarations via email to applicant.support@debeersgroup.com at your earliest convenience, and no later than **23:59 (CAT) on Monday, 15 June 2020**. Unfortunately, submissions received after this date will not be eligible for consideration.

Once we have received your confirmation of interest, including the completion of the Compliance Criteria Declarations, the nominated person(s) will receive information on how to complete and submit an application via an online portal. The deadline for the submission of applications is **23:59 (CAT) on Friday, 26 June 2020**. Following the completion of the application process, NDTC will undertake its assessment of the applications received. Further information on the outcome of the selection process, including timelines will be communicated to all Applicants shortly.





NAMIBIA DIAMOND TRADING COMPANY

NDTC 2021 – 2023 ROUGH DIAMOND DISTRIBUTION APPLICATION PROCESS

APPLICANT LETTER OF ACCEPTANCE AND COMPLIANCE CRITERIA DECLARATIONS

This Applicant Letter of Acceptance (“Letter”), together with its component Applicant Compliance Criteria Declarations (“Declarations”) should be completed in conjunction with the document entitled ‘Applicant Guidance Notes to the GSS 2021 Rough Diamond Distribution Application Process’ (the “Applicant Notes”)¹. It is imperative that an Applicant fully understands both the process and its requirements as described in the Applicant Notes prior to completing this Letter and the Declarations.

The Letter must be signed by a Key Individual² of the Applicant. In addition, the Applicant is required to nominate up to two individuals to be responsible for the submission of your application i.e. to receive access to the application portal, referenced as the ‘Applicant Nominated Person’ of your Applicant Compliance Group³ for the purpose of this Letter. On completion in full, the Letter and the Declarations must be uploaded (in PDF format) and submitted as part of the Applicant submission for supply from NDTC no later than 23:59 (CAT) on Monday 15, June 2020 (the “Submission Date”). Failure to make your submission, including this Letter and the Declarations, by the Submission Date will result in NDTC not being able to accept your application for supply contract for the 2021-2023 Supply Period⁴.

In signing the Letter and completing the Declarations, you confirm on behalf of the Applicant Compliance Group, that you have:

- read and understood the document entitled ‘Applicant Guidance Notes to the GSS 2021 Rough Diamond Distribution Application Process’; and
- completed the enclosed Applicant Compliance Criteria Declarations in good faith, providing as fair and accurate a representation of the Applicant Compliance Group including with respect to the appropriate timescales; and
- read, understood and will abide by the terms of, and comply with the statements made (as appropriate), in each of the following enclosed annexes at the Submission Date and at all times during the 2021 -2023 Supply Period:
Annex 1 - Confidentiality Undertaking; and
Annex 2 - Compliance Statements - Applicant Compliance Group and Key Individual; and
Annex 3 - Dispute Resolution Procedures.

1 The Applicant Guidance Notes to the GSS 2021 Rough Diamond Distribution Application Process apply to applications for all supply locations including supply from NDTC.
2 Applicant Nominated Person must be a Key Individual of the Applicant as that expression is defined in Annex 2 to this Letter.
3 As that expression is defined in Annex 2 to this Letter.
4 The term of a supply contract is subject to review and may differ by contract type for the 2021-2023 Supply Period.



Please complete the following information for your application submission to NDTC:

APPLICANT COMPLIANCE GROUP NAME: _____

APPLICANT NOMINATED PERSON NAME: _____ (KEY INDIVIDUAL)

APPLICANT NOMINATED EMAIL: _____ (KEY INDIVIDUAL)

APPLICANT NOMINATED PERSON NAME: _____ (REPRESENTATIVE)

APPLICANT NOMINATED EMAIL: _____ (REPRESENTATIVE)

Signed for and on behalf of the Applicant

Date:2020

Name:





APPLICANT CONTRACT REQUEST

An Applicant is requested to confirm it would like to apply to NDTC for supply over the duration of the 2021-2023 Supply Period. You are required to list the full legal name of the proposed contracting entity which, for example, could be a locally incorporated entity e.g. Wundergems Namibia (Pty) Ltd. To be eligible to apply for a supply contract, an Applicant must also satisfy the Applicant Compliance Criteria Requirements.

NDTC ⁵ SUPPLY CONTRACT:

NDTC Sightholder – Beneficiation Manufacturer Contract.

Contracting Entity for NDTC:

5 NDTC means Namibia Diamond Trading Company for the sale of rough diamonds to Sightholders by NDTC for beneficiation in Namibia.





APPLICANT COMPLIANCE CRITERIA REQUIREMENTS

An Applicant must comply with the following criteria as at 15 June 2020 (unless otherwise stated), and as applicable, throughout the duration of the 2021-2023 Supply Period.

Minimum Threshold Application Criteria⁶:

SUPPLY CONTRACT LOCATION	CRITERION	CRITERION DESCRIPTION	APPLICABLE NDTC GROUP DEFINITION
NDTC Sightholder Supply Contract	Turnover	The Applicant confirms that its Consolidation Group has generated annual average turnover of at least US \$20m over the years 2017 to 2019 (inclusive).	Consolidation Group
NDTC Sightholder Supply Contract	Rough Utilisation	The Applicant confirms that its Consolidation Group has purchased rough diamonds (from any source) at an annual average of at least US \$15m over the years 2017 to 2019 (inclusive).	Consolidation Group

6 The Minimum Threshold Application Criteria is only applied in respect of an application for Sightholder status and is not re-assessed on an annual basis over the term of the 2021-2023 Supply Period.





Ethical Compliance Criteria:

SUPPLY CONTRACT LOCATION	CRITERION	CRITERION DESCRIPTION	APPLICABLE NDTC GROUP DEFINITION
NDTC Sightholder Supply Contract	Best Practice Principles	<p>The Applicant confirms that it:</p> <ul style="list-style-type: none"> I. will have full, unqualified compliance at all times with the Best Practice Principles and participate in the associated Best Practice Principles Assurance Programme; and II. will submit and comply at all times with the Compliance Group Declaration of Integrity; and III. will submit and oversee compliance of Key Individual Declarations of Integrity for each Key Individual within its Compliance Group. 	Consolidation Group

Financial Compliance Criteria⁷:

SUPPLY CONTRACT LOCATION	CRITERION	CRITERION DESCRIPTION	APPLICABLE NDTC GROUP DEFINITION
NDTC Sightholder Supply Contract	IFRS Compliance	An Applicant must declare a corporate group structure in accordance with IFRS, US GAAP or IND-AS ⁸ , and the provision of group financial data (using the GSS pro forma Financial Workbook template consolidated according to IFRS, US GAAP or IND-AS).	Consolidation Group
	Unqualified Audit	An Applicant must provide an unqualified audit sign-off of its financial data by means of the Financial Workbook by a GSS Approved Auditor.	Consolidation Group
	Maximum Leverage	An Applicant must have a maximum debt to equity ratio of at least 70 to 30 (i.e. gearing of 233%).	Consolidation Group

7 An Applicant is required to comply with the Financial Compliance Criteria as at 8 April 2020, and thereafter annually in respect of each respective financial year end over the duration of the 2021-2023 Supply Period.

8 IND-AS means IFRS Converged Indian Standards.





Beneficiation Compliance Criteria:

SUPPLY CONTRACT LOCATION	CRITERION	CRITERION DESCRIPTION
NDTC Sightholder Supply Contract	Licence	The Applicant confirms it has a valid Namibian Cutting and Polishing Licence issued by the Ministry of Mines and Energy in Namibia.
NDTC Sightholder Supply Contract	Operational Facility	The Applicant confirms that its Consolidation Group has purchased rough diamonds (from any source) at an annual average of at least US \$15m over the years 2017 to 2019 (inclusive).





ANNEX 1

CONFIDENTIALITY UNDERTAKING

Information provided to you by NDTC⁹

As part of the NDTC 2021 Rough Diamond Distribution Application Process, NDTC will provide you with certain information and documentation relating to the NDTC 2021 Rough Diamond Distribution Application Process and, in turn, you will be asked to provide certain information to NDTC to enable it to assess your eligibility for a supply contract in the 2021-2023 Supply Period.

The information provided by or on behalf of NDTC means all information relating to (a) the NDTC 2021 Rough Diamond Distribution Application Process, (b) your application for admission as a Sightholder (including any discussions and/or correspondence concerning such application), and (c) NDTC or any member of the De Beers Group, in each case which is made available in writing, orally or in any other form to you (or any member of your group) (as applicable) and includes any information, notes or other documents derived from, containing or reflecting such information, but excludes information which is publicly available or becomes publicly available (other than as a result of disclosure by you or any other person contrary to the terms of this letter). In this letter, this information is defined as "**Confidential Information**".

Your obligations in relation to Confidential Information

In consideration of NDTC agreeing to make available such Confidential Information to you, you must (and shall ensure that members of your group must):

- i. not make any disclosure or announcement concerning, or otherwise publicise, your application to be a Sightholder;
- ii. keep the Confidential Information and any copies thereof secure and in such a way so as to prevent unauthorised access by any third party;
- iii. not make any copies of Confidential Information or reproduce it in any form, except for the purpose of supplying the same to those to whom disclosure is permitted in accordance with this letter;
- iv. inform NDTC immediately if you become aware that Confidential Information has been disclosed to an unauthorised third party; and
- v. at your expense, on receipt of a written demand from NDTC, (a) return to NDTC all written Confidential Information provided to you without keeping any copies thereof⁹, (b) destroy all analyses, notes, memoranda or other documents prepared by you or on your behalf to the extent that the same contain, reflect or derive from Confidential Information, and (c) so far as reasonably practicable, expunge any Confidential Information from any computer, word processor or other device.

Please note that:

- i. the Confidential Information may be disclosed in accordance with the provisions of paragraphs (ii) and (iii) below only (a) if required by mandatory provision of law, governmental or other authority or regulatory body; or (b) to your consultants, professional advisers and/or brokers in connection with your application for admission as a Sightholder;
- ii. if any person or entity other than NDTC or a person assisting you with your application for admission as a Sightholder requests or demands, by discovery request, subpoena or otherwise, Confidential Information, you will immediately notify De Beers, assert all applicable defences to such request, and, to the maximum extent permitted by law, permit NDTC a reasonable opportunity to intervene and be heard and otherwise cooperate fully in any proceeding relating to the disclosure of Confidential Information;
- iii. the Confidential Information may be shared with consultants and professional advisers only for the purposes of assisting you with your application for admission as a Sightholder, provided that before such disclosure an undertaking is obtained from such persons on terms no less restrictive than those set out in this letter;

9 Please note that information provided by NDTC includes information provided by or on behalf of any of De Beers Global Sightholder Sales (GSS (International and/or Botswana)), De Beers Sightholder Sales South Africa and/or De Beers Canada.

10 Please note that one copy of such Confidential Information may be retained for archival purposes only and will be held subject to the strict terms of this Letter.



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- iv. the Confidential Information shall remain the property of NDTC (or relevant member of its group) and its disclosure shall not confer on you any rights (including any intellectual property rights) over the Confidential Information whatsoever beyond those contained in this letter; and
- v. neither the Confidential Information nor anything else in this Confidentiality Undertaking will constitute an offer by or on behalf of NDTC and NDTC will be under no obligation to accept any application for admission which may be made by you or on your behalf.

NDTC's obligations to you

Likewise and in turn, NDTC agrees to keep confidential all information disclosed to it by you for the purposes of your application, save as permitted to be disclosed as referred to above.





ANNEX 2

COMPLIANCE STATEMENTS

Applicant Compliance Group Declaration of Integrity:

A signed Compliance Declaration on behalf of the Applicant Group will be required in the event an Applicant qualifies for Sight-holder status. The Applicant shall be responsible for submitting to NDTC (at a time notified by NDTC) an Applicant Compliance Group Declaration of Integrity¹¹ in respect of its Compliance Group (see the Applicant Notes for further information).

Failure of an Applicant to be able to confirm the terms of this declaration and/or if an incorrect or misleading declaration is made will mean that NDTC will be unable to proceed with your application.

A signed Compliance Declaration on behalf of the Applicant Group will be required in the event an Applicant qualifies for Sightholder status. The Applicant shall be responsible for submitting to NDTC (at a time notified by NDTC) an Applicant Compliance Group Declaration of Integrity in respect of its Compliance Group (see the Applicant Notes for further information).

1. The Compliance Group complies with the Best Practice Principles and the associated Best Practice Principles Assurance Programme.
2. The Compliance Group uses its best endeavours to ensure that third parties, with whom our Compliance Group has legal or commercial association, are conforming to the Best Practice Principles.
3. The Compliance Group is not involved in or associated with conflict diamonds and participants in our supply chain have the ability to evidence compliance with the Best Practice Principles and that this is being evidenced by a chain of warranties or an alternative system such as that implemented by the Kimberley Process or the World Diamond Council.
4. The Compliance Group complies with the Statement of Principles for Laboratory-Grown Diamond Business Activities
5. All treatments to natural diamonds, as defined in the Best Practice Principles are fully disclosed and that simulants and/or synthetics are not misrepresented as natural diamonds.
6. The Compliance Group has not been expelled from a diamond bourse, or similar such industry organisation, whether pursuant to a judgement of the Bestuur or otherwise.
7. The Compliance Group complies at all times and acts in a manner consistent with all applicable sanctions, regulations, statutes, prohibitions and official embargo measures imposed by a sanctioning authority including (but not limited to) the European Union, Her Majesty's Treasury in the United Kingdom, the United States Department of Treasury's Office of Foreign Assets Control and/or the United States State Department and further confirms that the Compliance Group itself has not been the subject of any sanctions, regulations, statutes, prohibitions or official embargo measures.
8. The Compliance Group complies at all times, and acts in a manner consistent with, all applicable Anti-corruption laws.
9. The Compliance Group since the inception of the Kimberley Process Certification Scheme ("KPCS") in January 2003, has not purchased, sold, exported, imported or otherwise traded in rough diamonds without the full authority of, and in compliance with, the KPCS. For the avoidance of doubt, rough diamonds sourced from the Marange region of Zimbabwe - without the approval of the Kimberley Process-appointed monitor (acting under the direction of the relevant KPCS working group) - do not have the full authority of, and are not in compliance with, the KPCS.

¹¹ The Compliance Group Declaration of Integrity template included in the Applicant Letter of Acceptance is subject to review and amendment for the 2021-2023 Supply Period.



10. Since 1 January 2014:-

- 10.1 The Compliance Group has not failed to comply with trading obligations to third parties on a regular basis;
- 10.2 The Compliance Group has not been the subject of any of the following matters:
- bankruptcy;
 - an encumbrancer having taken possession, or a receiver or administrative receiver having been appointed over all or any of its property or assets;
 - any voluntary arrangement with its creditors or an administration order having been made (including, for the avoidance of doubt, Chapter 11 arrangements in the US or any equivalent arrangements in any other jurisdiction);
 - liquidation or an order having been made or resolution passed for its winding-up or it having been wound-up (except for the purposes of solvent reconstruction);
 - a scheme of arrangement (except for the purposes of amalgamation or merger) having been made;
 - inability to pay its debts as they fell due; and/or
 - anything analogous to the above which has occurred in any jurisdiction or where any proceedings or other action has been commenced in respect of the above.
- 10.3 The Compliance Group has never been charged with, reached a settlement in relation to, or been convicted of in any jurisdiction in relation to any illegal activity, including, but not limited to, any offence of fraud (including for the avoidance of any doubt, money laundering), theft, dishonesty or for causing any damage to the health or welfare of any individual or individuals;
- 10.4 The Compliance Group has not been charged with, reached a settlement in relation to, or been convicted/ received a judgement against it, in any jurisdiction arising from a formal investigation and/or review from a judicial and/or regulatory authority, including, but not limited to, a tax/revenue authority and/or tax/revenue regulatory authority;
- 10.5 The Compliance Group has not been turned away or had our status as a client terminated by any supplier of diamonds on the basis of a failure to comply with any code of conduct or ethical code operated by such a supplier;
- 10.6 The Compliance Group has not been turned away or had our status as a supplier of diamonds terminated by any purchaser in the diamond pipeline on the basis of a failure to comply with any code of conduct or ethical code operated by such a supplier;
- 10.7 The Compliance Group has not been turned away or had its status as a member of any diamond industry body or trade association terminated or suspended on the basis of a failure to comply with any code of conduct or ethical code operated by such diamond industry body or trade association;
- 10.8 The Compliance Group has not been turned away or had its status as a member of any diamond industry body or trade association terminated or suspended on the basis of a failure to comply with any code of conduct or ethical code operated by such diamond industry body or trade association;
11. The Compliance Group takes corporate responsibility for the veracity, truthfulness and completeness of the information provided in both this declaration and all material submitted as part of its application to be a Sightholder, (including, but not limited to the Compliance Criteria Declaration) and it accepts that should any such submission contain a material inaccuracy or fail to include information which may have a material impact on whether such application will prove to be successful or not, the consequences of this will include the right to terminate its contact, wherever supply may be taking place.
12. The Compliance Group does not employ and/or is not associated with a Politically Exposed Person or Persons¹². If, however, we do employ and/or are associated with a Politically Exposed Person or Persons, such person or persons would be able to complete (assuming for these purposes they are a Key Individual), without qualification, the Key Individual Declaration of Integrity and Probity.

12 As that expression is defined in EU Commission Directive 2006/70/EC of 1 August 2006.

13 As that expression is defined in the 2015-2018 Rough Diamond Supply Documentation.



Key Individual Compliance Declaration of Integrity:

Signature of the Key Individual Compliance Declaration by each and every one of the Applicant's Key Individuals is a mandatory compliance requirement in the event an Applicant qualifies for Sightholder status. The Applicant shall be responsible for submitting to NDTC (at a time notified by NDTC) a Key Individual Compliance Declaration¹⁴ for each Key Individual within its Compliance Group (see the Applicant Notes for further information).

Failure of any Key Individual to be able to confirm the terms of this declaration and/or if an incorrect or misleading declaration is made will mean that NDTC will be unable to proceed with your application.

1. The Compliance Group entity or individual entities (as applicable) for which I am the Key Individual complies with the Best Practice Principles and the associated Best Practice Principles Assurance Programme.
2. The Compliance Group entity or individual entities (as applicable) for which I am the Key Individual, since the inception of the Kimberley Process Certification Scheme ("KPCS") in January 2003, has not purchased, sold, exported, imported or otherwise traded in rough diamonds without the full authority of, and in compliance with, the KPCS. For the avoidance of doubt, rough diamonds sourced from the Marange region of Zimbabwe - without the approval of the Kimberley Process-appointed monitor (acting under the direction of the relevant KPCS working group) - do not have the full authority of, and are not in compliance with, the KPCS.
3. Since 1 January 2014:-
 - 3.1 I have not been disqualified as a Director;
 - 3.2 I have not been convicted in any jurisdiction in relation to any illegal activity, including, but not limited to, any offence of fraud, money laundering, theft, dishonesty, or for causing any damage to the health or welfare of any individual or individuals;
 - 3.3 I have not been expelled from a diamond bourse or any similar such industry organisation;
 - 3.4 I have complied at all times and acted in a manner consistent with all applicable sanctions, regulations, statutes, prohibitions and official embargo measures imposed by a Sanctions Authority, including (but not limited to) the European Union, Her Majesty's Treasury in the United Kingdom, the United States Department of Treasury's Office of Foreign Assets Control and/or the United States State Department and further confirm that I myself have not been the subject of any sanctions, regulations, statutes, prohibitions or official embargo measures; and
 - 3.5 I have complied at all times, and acted in a manner consistent with, all applicable Anti-Corruption laws.

In addition:-

4. My past conduct in no way casts doubt upon my personal probity or integrity, including in respect of failing to comply with any code of conduct or ethical code of a supplier of diamonds and/or a diamond industry body or trade association.
5. I take personal responsibility for the veracity and completeness of the information provided in this Declaration and all materials submitted or to be submitted by the application for admission to become a Sightholder, (including, but not limited to the Compliance Declaration and account planning materials).

¹⁴ The Key Individual Declaration of Probity template included in the Applicant Letter of Acceptance is subject to review and amendment for the 2021-2023 Supply Period.



ANNEX 3

DISPUTE RESOLUTION PROCEDURES

1. This NDTC 2021 Rough Diamond Distribution Application Process (and any arrangements entered into under it) will be governed exclusively by and construed exclusively in accordance with the laws of the relevant supply jurisdiction. For the avoidance of doubt, the choice of such laws shall not exclude the application of those rules of any other law which, under the laws of the relevant supply jurisdiction, have mandatory application to the dispute.
2. The following provisions relate to the resolution of any dispute arising out of or connected with this NDTC 2021 Rough Diamond Distribution Application Process (and arrangements entered into under it) and all references to 'dispute' shall mean a dispute of that kind.
3. Any dispute shall be resolved in accordance with one of the procedures set out in paragraphs 4 to 5. Neither the Applicant, nor NDTC may bring any substantive proceedings in relation to a dispute in any other forum. This is without prejudice to the relevant party's right to bring ancillary applications in any court in support of substantive proceedings in the relevant jurisdiction or an arbitration.
4. The dispute may be resolved by arbitration subject to English law and pursuant to the rules of the London Court of International Arbitration ("**LCIA**"). The arbitration shall be conducted in London in the English language by a single arbitrator. The arbitrator shall be familiar with, and have experience of, the diamond industry.
5. The dispute may be resolved by litigation in the courts of the relevant supply jurisdiction.
6. No party will initiate any of the procedures set forth above unless NDTC and the Applicant have first discussed the subject matter of the dispute in good faith with a view to finding an amicable resolution of the dispute. Such discussions may include a reference by either NDTC, or the Applicant, to a senior representative of each of NDTC and the Applicant, for resolution in accordance with such procedures as the senior representatives may agree.
7. No party will initiate any of the procedures set forth above unless in the case of arbitration or litigation, no resolution has been reached within 25 business days of the commencement of the good faith discussions referred to in paragraph 6.
8. In the absence of a resolution to the dispute as provided in paragraph 6, the claimant shall be entitled to elect any of the dispute resolution procedures set forth above that is applicable to the dispute. This election shall be binding on the other party subject to paragraphs 9 to 13.
9. If NDTC is the claimant and elects to proceed by way of arbitration, it shall serve a notice to that effect on the Applicant, ("**the Arbitration Notice**"). Arbitration shall become the dispute resolution procedure unless the Applicant informs NDTC in writing within 30 days of the date of the Arbitration Notice that it requires the dispute to be resolved by litigation.
10. If the dispute is to be resolved by litigation:
 - 10.1 the parties shall, jointly or individually, apply to the court for an order that no Business Secrets be referred to in open court or in any resulting judgment or order.
 - 10.2 "**Business Secrets**" includes (without limitation);
 - 10.2.1 the inputs to, workings of and outputs from assessments, allocations and/or the computer models developed or used by NDTC to assist in determining admission decisions and supply decisions;
 - 10.2.2 the ITO of any Sightholder other than the Sightholder making the complaint; and
 - 10.2.3 the actual value and nature of goods supplied at any sight to any Sightholder other than the Sightholder making the complaint.
11. If arbitration proceedings are already pending between NDTC and the Sightholder, the arbitrator may determine, where in his opinion it is expedient so to do, that any further disputes shall be resolved in the same arbitral proceedings. If he so determines, the parties shall be treated as having consented to such disputes being resolved accordingly and no party shall commence or continue any other proceeding (whether by way of arbitration or litigation) with respect to that dispute.



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12. If court proceedings are already pending between NDTC and the Sightholder which arise under or in connection with the arrangements constituted by the 2019-2020 NDTC Supply Agreement Documentation, any further such disputes must be resolved by way of litigation.
13. The Applicant will irrevocably appoint a person in England as its agent for the service of process, and it will promptly provide to NDTC such details of the person so appointed as NDTC may request.

