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Statutory Instrument No. of 2011

COMPETITION ACT
(Act No. 17 of 2009)

COMPETITION REGULATIONS, 2011
(Published on ,2011)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Trade and Industry by section 80 of the Competition Act, the following Regulations are hereby made -

PART I - *Preliminary*

Citation

1. These Regulations may be cited as the Competition Regulations, 2011.

*Exemption from fees
Cap 43:01*

2. An enterprise classified as small, micro and medium enterprises under the Industrial Development Act shall be exempted from paying any fee under these Regulations.

PART II - *Horizontal and Vertical Agreements*

*Threshold for
determining
prohibition*

3. The Authority may carry out an investigation to determine whether a horizontal or vertical agreement referred to under section 27 of the Act may be prohibited if the Authority is satisfied that the parties to the agreement -

- (a) in the case of a horizontal agreement, together supply or acquire 10 per cent or more of goods or services in any market in Botswana; or
- (b) in the case of a vertical agreement, individually supply or acquire, at either one of the two levels of the market that are linked by the agreement, 10 per cent or more of goods or services in a market in Botswana.

Threshold for determining dominant position

4. The Authority may consider an enterprise or enterprises to be in a dominant position if it is satisfied that -

- (a) the enterprise supplies or acquires at least 25 per cent of the goods or services in the market; or
- (b) three or fewer enterprises supply or acquire at least 50 per cent of the goods or services in the market.

Investigation on Authority's initiative

5. Notwithstanding the threshold under regulation 3 and 4, the Authority may initiate an investigation into the conduct of any enterprise where the Authority has reasonable grounds to suspect that -

- (a) the conduct or practice of one or more enterprises has caused or is likely to cause serious or irreparable harm to the market or consumer; or
- (b) one or more enterprises possess such economic strength in a market as to allow the enterprise or enterprises to adjust prices or output without effective constraint from competitors or potential competitors.

PART III - Exemptions

Application for exemption

6. (1) An enterprise may apply to the Authority in terms of section 32 of the Act in Form A set out in the Schedule to these Regulations.

(2) An application made under subregulation (1) shall be accompanied by an application fee of 0.01 per cent of the applicant's latest turnover and any document, affidavit, statement or other relevant information in respect of the applicant's turnover as may be required by the Authority.

Consultation by Authority on exemption

7. (1) The Authority shall, by notice in the *Gazette*, invite interested parties to make representations before granting or revoking an exemption.

(2) The Authority shall, in the notice made under subregulation (1), notify interested parties of -

(a) where it intends to grant an exemption,

(i) the name of the applicant,

(ii) the nature of the agreement to be exempted,

(iii) the provisions of the Act likely to be contravened by the agreement,

(iv) the proposed period of exemption, and

(v) the period within which interested parties may submit any information relevant to the determination of the application; or

(b) the date it intends to revoke the exemption and the reasons for the revocation.

(3) The Authority shall make and publish the notice 14 days before consulting with interested parties.

Issue of exemption

8. Where an applicant enterprise meets the requirements of section 32 of the Act and regulation 7, the Authority may grant an exemption as set out in Form B of the Schedule.

Exemption fess

9. An enterprise shall pay an annual fee of 0.01 per cent of the enterprise's latest turnover for the duration of the exemption.

PART IV - Investigations by the Authority

Complaints to Authority

10. (1) A person may make a complaint to the Authority or request the Authority to investigate a practice under section 35 by telephone, electronic mail, in person or through any other legal means of communication and may choose to be anonymous.

(2) After receipt of the complaint or information, the Authority shall record such information or complaint in Form C set out in the Schedule and make a decision whether to conduct an investigation.

(3) If the Authority decides not to conduct an investigation, the Authority shall, within 30 days from the date the complaint or request is made, inform the person of its decision and reasons for the decision.

Investigation by Authority

11. (1) Where the Authority decides to conduct an investigation, it shall give notice of its intention to investigate as set out in Form D of the Schedule to every enterprise which is suspected to be a party to the practice being investigated or any person considered by the Authority to be relevant to the investigation seven days before starting the investigation.

(2) Notwithstanding subregulation (1), the Authority may carry out an investigation without giving notice of its intention to investigate where it considers that to give notice would materially prejudice its investigation.

(3) Where the Authority carries out an investigation without giving notice, it may issue an *ex post* notice of investigation as set out in Form E as set out in the Schedule.

Issue of inspector's identification card

12. (1) The Authority shall issue an inspector appointed under section 8 and section 36 of the Act with an identification card in Form F set out in the Schedule.

(2) When entering and searching the enterprise's premises or any other premises, the inspector shall present his or her identification card to -

(a) the owner of the premises;

(b) any person in control of the premises;

(c) any person who has control of a document or article that may have a bearing on the investigation; or

(d) any other person who may have information relevant to the investigation.

(3) For purposes of this regulation, a person in control of the premises includes any staff member of the enterprise.

Claim for legal professional privilege

13. Where a person or enterprise refuses to disclose or produce information or a document on the grounds of legal professional privilege in terms of section 37 of the Act, the person or enterprise shall submit to the Authority a claim for legal professional privilege as set out in Form G of the Schedule, within seven days, indicating -

- (a) the name of the document that contains the confidential information;
- (b) the page and line number at which the confidential information begins and ends;
- (c) the name of the enterprise that owns the confidential information;
- (d) the economic value, where possible, of the confidential information; and
- (e) the reasons for the existing restrictions on access to the information.

Referral to Commission

14. (1) Where a party under investigation requests the Authority under section 39 (1) of the Act to refer a matter to the Commission for a hearing, the Authority shall within 30 days after receiving the request, make a decision whether the matter should be referred to the Commission for hearing.

(2) After the Authority makes its decision under subregulation (1), the Executive Secretary shall -

- (a) where the Authority determines that a prohibited practice has been established, refer the matter to the Commission within 14 days from the date the decision is made; or
- (b) in any other case, issue to the complainant a notice of non-referral in Form H set out in the Schedule.

(3) Where a notice of non-referral is issued in response to the request, the complainant may refer the matter directly to the Commission subject to its rules of procedure.

(4) A referral to the Commission, whether by the Authority or by a complainant, shall be made in Form I set in the Schedule.

Interim relief

15. The Commission shall give written notice to the concerned enterprise to whom it proposes to give a direction before giving a direction under section 46 of the Act -

- (a) indicating the specific prohibited practice which is being investigated or likely to be investigated;
- (b) showing evidence of the irreparable damage suffered or likely to be suffered as a result of the practice; and
- (c) inviting the enterprise or each of the enterprises to make written or oral representations they may wish to make to the Commission within 14 days from the date of receipt of the notice.

PART V - Control of Mergers

Notification of merger

16. (1) Where enterprises propose to merge under section 56 (1) of the Act, each of the enterprises involved shall notify the Authority of the proposed merger through a merger notice in Form J set out in the Schedule.

(2) A merger notice shall be accompanied by a merger fee of 0.01 per cent of the merging enterprises' combined turnover or assets in Botswana, whichever is higher.

(3) The merger fee shall not apply to the turnover or assets of an enterprise which is a party to the merger, if -

- (a) the enterprise has been bankrupt for at least three consecutive financial years; or

(b) the assets of the enterprise are being disposed of following a liquidation process.

(4) Where an enterprise is bankrupt or liquidated as stated under subregulation (3), the merger fee shall apply to the turnover or assets of the other merging enterprise or enterprises.

(5) If the merger is hostile, an acquiring enterprise shall pay the merger fee.

(6) A merger notice shall be submitted in a single file and shall include a merger control statement and declaration for each merging enterprise.

Request for further information in merger

17. (1) If, after receipt of a merger notice made under regulation 16, the Authority is of the opinion that it requires further information, it may within 30 days from the date of receipt of the notice, request for further information from the merging enterprises or relevant stakeholders that may be identified by Authority.

(2) A request for further information shall be made in Form K set out in the Schedule.

Extension of merger assessment period

18. Where the Authority extends the assessment period for a merger, the Authority shall give notice to the merging enterprises in Form L set out in the Schedule, not later than seven days before expiry of 30 days from the date of receipt of the notice.

Information by third party on merger

19. Where a third party, not being a party to a proposed merger voluntarily wishes to submit to an inspector or the Authority any document, affidavit, statement or other relevant information in respect of a proposed merger, the third party may by any legal means of communication, oral or written, disclose or submit such information to the inspector or Authority.

Threshold for merger control

20. A proposed merger is subject to control in terms of the Act if -

(a) the combined annual turnover in Botswana of the merging enterprises exceeds P10 000 000;

- (b) the combined assets in Botswana of the merging enterprises exceeds P10 000 000; or
- (c) the enterprises concerned would, following implementation of the merger, supply or acquire at least 20 per cent of a particular description of goods or services in Botswana.

Abandonment of merger

21. (1) Where a merger notice is made under regulation 16 and the parties abandon the proposed merger, notice of the abandonment of the merger shall be given to the Authority in Form M set out in the Schedule by the parties previously proposing to merge.

(2) The notice of abandonment of merger under subregulation (1) shall be accompanied by a certificate of consent in Form N set out in the Schedule signed by all parties confirming that the merger is abandoned.

(3) A merger fee paid under regulation 16 shall not be refundable if the merger is abandoned after 14 days from the date the merger notice is received by the Authority.

Revocation of approved merger

22. Where the Authority proposes to revoke a decision approving the implementation of a merger under section 62 (1) of the Act, the Authority shall, within 14 days from the date the proposal is made, give notice in Form O set out in the Schedule to every enterprise involved in the merger and to any other person it may deem likely to have an interest in the matter -

- (a) that it proposes to revoke its decision approving the implementation of the merger; and
- (b) call upon such persons or enterprises to submit to the Authority representations, if any, they may wish to make regarding the proposed action, within 30 days of the receipt of the notice.

SCHEDULE

FORM A

(Regulation 6 (1))

COMPETITION AUTHORITY BOTSWANA

APPLICATION FOR EXEMPTION

To: The Competition Authority

From:

(Name of Applicant)

We apply in terms of section 32 of the Competition Act for an exemption.

A single agreement A category of agreements

A single practice A category of practices

We seek an exemption for a period of ----- years.

In respect of this matter, has a previous exemption been:

Granted? Yes No

Refused? Yes No

If you answered “yes” to either question above, please provide the case number for the previous exemption application. -----.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

**For Office
Use only**

Authority file number:

Date filed:

About this Form

This form is issued in terms of section 32 of the Competition Act.

This application must be accompanied by a typed statement of particulars listed in points 1-6 listed below, and a certified copy of the agreement if applicable, and must be signed by a person authorized by applicant.

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

COMPETITION AUTHORITY BOTSWANA

The following information must be included in your description of the agreement or practice for which you seek an exemption

1. Your address in Botswana for service of documents
2. A short description of your business
3. A brief description of the agreement or practice which you seek to be exempted from and if an agreement has already been made, its date.
4. The names and addresses of other parties to that agreement or practice.
5. The facts and contentions on which you rely
6. The sections of the Act that you believe may be contravened by the agreement, practice, or category of agreements or practices you have described, and a motivation for the belief.

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

FORM B

(Regulation 8)

COMPETITION AUTHORITY BOTSWANA

EXEMPTION CERTIFICATE IN RESPECT OF RESTRICTIVE PRACTICES

To: _____

From:

(Name and file number of applicant)

1. In-terms of your application for exemption on: (Date) _____ in accordance with section 32 of the Act; and
2. Because the agreement, decision or practice concerned contributes to the objective set out in section 32 (1) _____* of the Act, the Authority grants an exemption in terms of section 32 (1) of the Act for a period of _____ years, ending on _____, for:

A single agreement

a category of agreements

A single practice

a category of practices,

as described in your application. This exemption is subject to:

No conditions

The conditions listed on the attached sheet.

3. The Authority has the authority in terms of section 33 (1) of the Act to revoke the exemption if -
 - (a) the exemption was granted on materially incorrect or misleading information;
 - (b) there is a material change of circumstances since the exemption was granted;or
 - (c) a condition, upon which the exemption was granted, has not been complied with.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

**For Office
Use only**

Authority file number:

Date filed:

*** Please insert the appropriate paragraph of section 32 (1)**

FORM C

(Regulation 10 (2))

COMPETITION AUTHORITY BOTSWANA

COMPLAINT FORM

(Name of person submitting a complaint)

(Name of person whose conduct is the subject of this complaint)

(Provide a concise statement of the conduct that is the subject of this complaint)

(Name of recording officer, date and signature)

(Endorsement by Head of Department):

Date Signed/Endorsed:

Name and Title of person authorized to sign:

Authorized Signature:

Date:

**For Office
Use only**

Authority's file number:

Date filed:

About this form

This form is issued in terms of section 35 of the Competition Act.

If this complaint is lodged by a person other than an individual, please provide contact details of the person authorized to discuss the complaint.

FORM D

(Regulation 11(1))

COMPETITION AUTHORITY BOTSWANA

NOTICE OF INTENTION TO INVESTIGATE

To: _____

Concerning:

(Name and file number of complaint)

1. The Authority has received a complaint against the above named respondent on: _____, in relation to the following subject matter:

_____.

2. The Authority gives notice that it has decided to conduct an investigation into the alleged infringement(s) concerned.

3. The purpose of the investigation is as follows:

_____.

4. You are hereby invited to submit to the Authority within 30 days as from the date of this notice, any written representations which you may wish to make to the Authority in connection with any matter to be investigated.

5. The Authority requires you to appear at _____ and give evidence before the Authority on _____ at _____ o' clock, in the morning/ afternoon.*

6. You are also required to produce to the Authority:
- (a) The documents or article specified in the notice; and
 - (b) Any other documents or articles in your possession or under your control that relate to this matter.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

FORM E

(Regulation 11 (3))

COMPETITION AUTHORITY BOTSWANA

EXPOST NOTICE OF INVESTIGATION

TO:

DATE:

Pursuant to Section 35 of the Competition Act, the Authority has reason to believe that (Defendant Name)..... has or may be engaged in (Describe Conduct).....

.....

.....

The purpose of the investigation is to ascertain the facts and assist the Authority in its next course of action.

IN RELATION TO THE AFORE CONDUCT, (State Name)..... are hereby directed to

APPEAR before the Authority to assist accordingly by..... (Date)..... (Time)..... (Place).....

SUBMIT TO THE AUTHORITY the following documents or any relevant information in a sealed envelope by..... (Date)..... (Time)..... (Place).....

GIVE evidence or provide any relevant information by..... (Date)..... (Time)..... (Place).....

Signature:


Executive Secretary

FORM F

(Regulation 12 (1))

INSPECTORS'S IDENTITY CARD

FRONT SIDE

PASSPORT PHOTO	COMPETITION AUTHORITY BOTSWANA	 REPUBLIC OF BOTSWANA
	IDENTIFICATION CARD	
	NAME OF OFFICER:	
	SIGNATURE OF OFFICER:	

REVERSE SIDE

This officer is engaged by the Government of Botswana under the powers granted by the Competition Act and has been authorized to exercise the powers vested in him/her under the Act.	
DATE OF ISSUE	SIGNATURE OF EXECUTIVE SECRETARY:
<p>Property of the Government of Botswana. If found, hand it to an officer of the Competition Authority or to any Police Officer or mail it to the Executive Secretary, Competition Authority, Private Bag 00101, Gaborone, Botswana</p>	

FORM G

(Regulation 13)

COMPETITION AUTHORITY BOTSWANA

CLAIM FOR LEGAL PROFESSIONAL PRIVILEGE

To: The Competition Authority

Concerning:

(Name and file number)

On a separate sheet of paper, list the following information, and set out the facts and contention supporting your claim that the identified information is confidential.

Column 1- name of the document that contains the confidential information

Column 2- the page and line number at which the confidential information begins and ends

Column 3- the name of the Enterprise that owns the particular information

Column 4- the economic value of the information

Column 5- the existing restrictions on access to the information

Statement of Confidentiality:

I ----- Compiled, or supervised the persons who compiled, the attached list. I believe that the information identified in that list is confidential information as defined in section 37 of the Competition Act.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

**For Office
Use only**

Authority's file number:

Date filed:

About this Form

This form is issued in terms of section 37 of the Competition Act

The Authority must treat confidentially any information identified by you in this form.

Confidential information means trade, business or industrial information that belongs to an Enterprise, has a particular economic value, and is not generally available to or known by others.

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

FORM H

(Regulation 14 (2) (b))

COMPETITION AUTHORITY BOTSWANA

NOTICE OF NON-REFERRAL OF CASE TO THE COMMISSION

To: _____
(the complainant details)

Concerning:
(Name and file number of complaint)

1. Take notice that in the matter of the afore-mentioned which has been under investigation for _____ day (s)/month(s), the Authority shall not refer the case to the Commission on the following grounds;
 - a) _____
 - b) _____
 - c) _____etc.

2. The Authority has henceforth decided to: (tick as appropriate)
 - Discontinue with the investigation
 - Extend the period of the investigation as provided for under section 39(4)(a) of the Act

 - As per section 39(3)(d) of the Act, not refer to the Commission the following particulars of the complaint:
 - 1) _____
 - 2) _____
 - 3) _____etc.

3. The indicated particulars shall not be referred to the Commission on the following grounds:
 - a) _____
 - b) _____
 - c) _____

etc.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

From: The Executive Secretary
Botswana Competition Authority
Gaborone

FORM I

(Regulation 14 (4))

COMPETITION AUTHORITY BOTSWANA

REFERRAL OF CASE TO THE COMPETITION COMMISSION

[BY AUTHORITY OR COMPLAINANT]

To: COMPETITION COMMISSION

Cc: THE AUTHORITY

THE COMPLAINANT

Concerning:

(Name and file number of complaint)

1. TAKE NOTICE THAT I/We have referred the case to the Commission for the following reasons:

- (a) _____
- (b) _____
- (c) _____

2. I/We have enclosed the following attachments:

- (a) _____
- (b) _____
- (c) _____

3. THUS DONE AND SIGNED this _____ day of _____ year _____.

AUTHORISED OFFICER/COMPLAINANT

WITNESS

FORM J

(Regulation 16 (1))

COMPETITION AUTHORITY BOTSWANA

MERGER NOTICE

Part I - Notice

To: The Competition Authority

From:

(Name, address and contact numbers of the Enterprise reporting the merger).

The acquiring Enterprise

the target Enterprise

And involving ----- as

The acquiring Enterprise

the target Enterprise

Schedule 1

The names and address of all other acquiring or target Enterprises as defined in the Competition Act, and of all trade unions, or employee representative of the acquiring and target Enterprises, are listed on this Notice.

Schedule 2

Particulars of the merger are set out, in the attached statement of merger information, which forms part of this Notice.

Notices and other documents concerning this merger may be served on the following person at the address and contact number shown:

About this form

Complete and sign the declaration form on page 2.

Parties to the merger must not implement that merger until they have received a certificate of approval, or conditional approval, in terms of the Competition Act.

(Instructions continued on page 2).

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

Part II - Declaration Form

(Name and File number of merger)

Declaration:

I -----
Have prepared, or supervised those who prepared this Statement of Merger Information.

To the best of my knowledge, the information contained in this document, and the attachments to it, is true, correct and completed in terms of the Competition Act and Competition Regulations, except to the extent that I have indicated -

- (a) that requested data is not available in books or records, and reasonable estimates have been used instead: or
- (b) Complete information has not been provided because it is unavailable, in which case I have attached an affidavit sworn by me, explaining why the information is unavailable.

I understand –

- (a) that it is an offence in terms of the Competition Act to provide false information to the Competition Authority in any manner, including in these documents: and
- (b) That section 76 of the Competition Act provides for a penalty of a fine, or imprisonment, or both, if I am found guilty of knowingly providing false information to the Competition Authority.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

**For Office
Use only**

Authority's file number:

Date filed:

Page 2

Instructions continued

If any required information is not available, you must attach a sworn affidavit explaining why that information is unavailable.

A party to a merger who does not file a notice of that merger as required by the Competition Act may be fined an administrative penalty or made subject to an order of divestiture.

Approval or conditional approval of a merger may be revoked if it is subsequently discovered that this Notice does not provide correct and complete information.

The application should be sent the addressed to be determined by the Authority.

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

Part III- Merger Control Statement

To: The Competition Authority

From:

(Name of Enterprise filing this Statement)

The Enterprise filing this statement is:

The Acquiring Enterprise

The Target Enterprise

On a separate document, provide the following information in the order listed in items 1-7.

1. State the name and principal business address of the party filing this Notice.
2. State the name and principal business address of all firms directly or indirectly controlling you.
3. List the name and principal business of each firm directly or indirectly controlled by each firm referred to in item 2.
4. List the name and principal business address of each firm you directly or indirectly control.

5. State your annual turnover in Botswana for your preceding financial year and the range of months covered by your financial year.
6. State the value of your assets in Botswana as of the end of your preceding financial year, and as of the date of the Merger Notice.
7. State your annual turnover in Botswana as of the date of the Merger Notice.

Authorized Signature:

Date:

**For Office
Use only**

Authority's file number:

Date filed:

About this form

Attach to this form the following items:

The most recent version of all documents constituting the merger agreement

Each report or other documents assessing the transaction with respect to competitive conditions.

Any document including minutes, reports presentations and summaries, prepared for the Board of Directors regarding the transaction,

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

COMPETITION AUTHORITY BOTSWANA

Transaction Information

On a separate document provide the following information in the order listed in items 8-12.

8. Indicate whether the party filing this Notice is

- (a) Acquiring assets, shares, or other interests.
- (b) Selling assets, shares, or other interests
- (c) Acquiring and selling assets, shares or other interests

9. Indicate whether the transaction involves:

- (a) Foreign Direct Investment
- (b) A management Buy-out
- (c) A Buy-back of shares

10. Describe the merger, including: the parties to the transaction; the assets shares, or other interests being required; whether the assts, shares, or other interests are being purchased, leased, combined or otherwise transferred; the consideration, the contemplated timing for any major events required to bring about the completion of the

transaction, and the intended structure of ownership and control of the completion of the merger.

11. Unless you have submitted a report addressing the issues listed below, provide the following details:

- (a) The estimated market shares of the merging parties and other competitions.
- (b) Information concerning barriers to entry, such as regulatory requirements, capital requirements and sunk costs, the time it will take for potential entrants to enter the market, the names and contact details of entrants to the market during the past three years.
- (c) Information concerning import competition, such as existing import duties.
- (d) Countervailing power (customers of suppliers).

12. If you are relying on a “failing enterprise defence”, please include the following information:

- a. Financial information demonstrating that the enterprise will be unable to meet its financial obligations in future.
- b. Information concerning efforts taken to elicit reasonable alternative offers.
- c. Information indicating that the failing enterprise would reasonably be expected to exit the market unless the merger is implemented.

Authorized Signature:

Date:

**For Office
Use only**

Authority’s file number:

Date filed:

Until the Authority has reached a decision concerning the merger, you must submit any revised or final version of each document referred to in the instructions on Page 1 of this form, as it becomes available.

You may include any other relevant information that you want the Executive Secretary to consider.

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

COMPETITION AUTHORITY BOTSWANA

Products and Services

On a separate document provide the following information in the order listed in items 13-17.

13. Identify each product that you or another acquiring enterprise (or target enterprise, if applicable), sell, and each service you or that other enterprise provide in, into or from Botswana. In addition, identify any products or services that you believe are considered by buyers as reasonably interchangeable with, or a substitute for, a product or service provided in, into or from Botswana by another party to the merger.

14. For each identified product or service, state the geographic areas (s) in Botswana in which you sell or provide service.

15. For each identified product or service, identify, and provide contact details for, the five producers or providers in each identified geographic area with the largest estimated turnover in value, and their estimated share of the total turnover during the last full 12 months.

16. For each identified product or service, state your turnover in each of identified geographic areas during the last full 12 months.

17. For each identified product or service identify and provide contact details for your five customers in each of identified geographic area with the largest aggregate purchases in value during the last full 12 months.

Business Relationships among parties:

On a separate document provide the following information set out in item 18.

18. State the name of any other Acquiring Enterprise (or Target Enterprise, if applicable) that sells to you, identify each product or service sold, and for each such product or service, show the value of that product or service sold during your preceeding financial year.

Office Use only	Authority's file number: -----	Date filed: -----
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Approval or conditional approval of a merger may be revoked if it is subsequently discovered that this statement of information is not accurate. Generally, information relating to this merger is not part of the public record while the Competition Authority is considering the merger.

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

FORM K

(Regulation 17 (2))

COMPETITION AUTHORITY BOTSWANA

REQUEST FOR ADDITIONAL MERGER INFORMATION

Date: -----

To:

(Name of enterprise)

(Name and file number of merger)

On -----, you filed documents in connection with the above named merger, as required by the Competition Act and Competition Regulations.

Following a preliminary review of your notice, and the information you have provided to date, the Competition Authority has concluded that your notification is incomplete.

Please be advised that the Competition Authority has reason to believe that a document filed by you in respect of this merger -

- (a) contains false or misleading information, or
- (b) does not have complete information

as noted on the attached sheet. ***please tick (appropriate)**

In terms of section 56 (3) of the Competition Act, the Competition Authority requires you to file the following additional information in respect of your merger, as listed on the attached sheet, within ----- business days after you received this notice.

Please note that you will not have completed your notification requirements until you have filed corrected information to the satisfaction of the Authority.

Name and Title of person authorized to sign on behalf of the Competition Authority.

Authorized Signature:

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

FORM L

(Regulation 18)

COMPETITION AUTHORITY
(BOTSWANA)

NOTICE OF EXTENSION OF MERGER ASSESSMENT & DETERMINATION

To:..... **Date:**

Pursuant to Section 56(4) and (5) of the Competition Act, the Authority is extending the period of assessment before determination of the merger for..... days (not exceeding 60 days).

The extension of the period has been necessitated by the following factors:

- (i)
 - (ii)
 - (iii).....
- etc

SIGNATURE :

Executive Secretary

FORM M

(Regulation 21 (1))

COMPETITION AUTHORITY BOTSWANA

NOTICE OF ABANDONED MERGER

To: The Competition Authority

From:

(Name of acquiring enterprise)

(Name and file number of merger :)

Take notice that the above named enterprise -:

- (a) Has abandoned the intended merger previously notified under the file number shown above ; and
- (b) Has no intention of taking any further steps to implement that intended merger.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

**For Office
Use only**

Authority's file number:

Date filed:

NB: The form should be sent to the Competition Authority at the address to be published by the Authority.

FORM N

(Regulation 21 (2))

COMPETITION AUTHORITY BOTSWANA

CERTIFICATE OF CONSENT TO ABANDONMENT OF MERGER

To: Executive Secretary
Botswana Competition Authority
Gaborone

TAKE NOTICE THAT by consent and/or following abandonment of the merger that was notified to the Authority in the manner and style of (*state the merger parties*) -

_____, we, the undersigned, confirm that the merger shall not proceed.

WE UNDERSTAND that should we resolve to proceed with the merger in future with the withdrawal parties or any other parties, we shall have to comply with the requirements under PART X of the Competition Act and/or any amendments thereto as at that time may be in force.

Name and Title of person authorized to sign:

Authorized Signature:

Date:

