



REQUEST FOR EXPRESSION OF INTEREST
SELECTION OF INDIVIDUAL CONSULTANTS

REFERENCE NUMBER: SADC/TRF/2017/1/26
DEVELOPING AN EXPORT READINESS TRAINING

1. **Ministry of Commerce, Industry and Trade** is inviting Individual Consultants to submit their CV and Financial Proposal for the following services:

CONDUCTING EXPORT READINESS TRAINING FOR MSME'S

The Terms of Reference defining the minimum technical requirements for these services are attached as Annex 1 to this Request for Expression of Interest.

2. **Only Individual Consultants are eligible for this assignment provided that they fulfil the following eligibility criteria:**
 - a) *they are not bankrupt or being wound up, are having their affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are being subject of proceedings concerning those matters, or are being in any similar situations arising from similar procedures provided for in the national legislation or regulations of the SADC member states;*
 - b) *they have not been convicted of offences concerning their professional conduct by a judgment which has the force of res judicata; (i.e. against which no appeal is possible);*
 - c) *they have not been declared guilty of grave professional misconduct proven by any means which Ministry can justify;*
 - d) *they have fulfilled obligations related to the payments of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those countries where the contract is to be performed;*
 - e) *they have not been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Ministry's financial interests; or*
 - f) *they are not being currently subject to an administrative penalty.*

3. The maximum budget for this contract is **€9,375.00 (Nine Thousand Three Hundred and Seventy-Five Euros)** for expert service/consultants fees only. Proposals exceeding this budget will not be accepted.
4. Your Expression of Interest must be presented as per Standard Expression of Interest Forms attached as Annex 2 to this REOI, in the English language and be accompanied by copies of all the indicated supporting documents. If the supporting documents are not in English, these shall be accompanied by a certified translation into English.
5. Your proposal clearly marked “**REFERENCE NUMBER: SADC/TRF/2017/1/26 – CONDUCTING EXPORT READINESS TRAINING FOR MSME’s**” in a sealed envelope, should be submitted in our tender box located at the following address:

Secretary to the Tender Committee
Ministry of Commerce, Industry and Trade
International Trade Department
Between DPMs Office and Swazi Bank
P. O. Box 451
Mbabane, Eswatini
Tel: +268 2404 5794
Fax: +268 2404 3833
Attn: Mr. Muntu M. Almeida
Email: muntualmeida@gmail.com or muntua.itd@realnet.co.sz
Copy: Mrs. Nonhlanhla Ndlangamandla
Email: mnguni2014@gmail.com

6. The deadline for submission of your proposal, to the address indicated in Paragraph 5 above, is:

1st October, 2020 at 1600 hrs CAT

7. Proposals submitted by Fax or E-mail *are* acceptable.
8. Your CV will be evaluated against the following criteria.

	Criteria	Maximum points allocated
1	Education and Training	20
2	Specific Experience	70
3	General Experience	10
	Total	100

9. Your proposal should be submitted as per the following instructions and in accordance with the Terms and Conditions of the Standard Contract attached as Annex 3 to this REOI:

(i) **PRICES:**

The financial proposal shall be inclusive of all expenses deemed necessary by the Individual Consultant for the performance of the contract.

(ii) **EVALUATION AND AWARD OF THE CONTRACT:**

Expressions of Interest determined to be formally compliant to the requirements will be further evaluated technically.

An Expression of Interest is considered compliant to the requirements if:

- It fulfils the formal requirements (see Paragraphs 2,3,4,5,6 and 7 above),
- The financial proposal does not exceed the maximum available budget for the contract.

The award will be made to the applicant who obtained the highest technical score. Expressions of Interest not obtaining a minimum score of 70% will be rejected.

(iii) **VALIDITY OF THE EXPRESSION OF INTEREST:**

Your Expression of Interest should be valid for a period of 90 days from the date of deadline for submission indicated in Paragraph 6 above.

10. The assignment is expected to commence within two (2) weeks from the signature of the contract.
11. Additional requests for information and clarifications can be made until 10 working days prior to deadline indicated in the paragraph 6 above, from:

The Procuring entity: **Ministry of Commerce, Industry and Trade**

Contact person: **Mr. Muntu M. Almeida**

Telephone: **+268 2040 5794**

Fax: **+268 2404 3833**

E-mail: muntualmeida@gmail.com or muntua.itd@realnet.co.sz

Copy: mnguni2014@gmail.com; mnisisg@sipa.org.sz

The answer on the questions received will be sent to the Consultant and all questions received as well as the answer(s) to them will be posted on the SADC Secretariat's website, International Trade Department website, Eswatini Investment Promotion Authority website and the Eswatini Government website alongside the procurement notice at the latest 7 working days before the deadline for submission of the proposals.

ANNEXES:

ANNEX 1: Terms of Reference

ANNEX 2: Expression of Interest Forms

ANNEX 3: Standard Contract for Individual Consultants

Sincerely,

_____ (*signature*) _____

Name: Mr. Muntu M. Almeida

Title: TRF Project Manager

Date: 11th September, 2020

ANNEX I: TERMS OF REFERENCE

BACKGROUND INFORMATION

Procuring Entity

Ministry of Commerce, Industry and Trade

Name of End Beneficiary

Eswatini Investment Promotion Authority

Assignment Location

Kingdom of Eswatini

Background

Eswatini has a diverse business sector which mostly supplies the domestic market but is not able to venture in the export market due to complexities in exporting and lack of information on export readiness. The total number of existing and potential exporters profiled in the trade directory shows that only 136 companies are in the export business. This is despite that the Micro, Small Medium enterprise (MSME) survey report done in 2016 shows that Eswatini has over 59 000 MSMEs. Of this figure about 18% and 1% fall under the small and medium category respectively.

While acknowledging that these enterprises are generally different categories of trade including retail and trade-in-services, a sizeable amount of the MSMEs are trading in goods, most of which have the potential to penetrate the regional markets as a start and later target overseas markets.

The proposed training workshop on export readiness for MSMEs will lead to the internationalization of the many businesses that are currently trading in goods and targeting domestic markets. The main objective of the workshop is that it will facilitate the integration of Swati businesses especially indigenous ones, into the regional and international trade sphere which will subsequently lead into an increased export base, export earnings and job creation.

The content of this training workshop is based on the Eswatini Export Readiness Training Manual launched by the Minister of Commerce, Industry and Trade during the 2019 International Trade Fair. Two workshops of up to 25 companies per workshop will be conducted to train local businesses. Participants must be committed to participate for the entire duration of the course. The content will be delivered as follows;

- The training will be coordinated by experts with vast knowledge, expertise and experience in undertaking training of MSMEs with emphasis on export development and trade promotion.
- Plenary sessions will be used to present key concepts and for discussions including group activities, individual assignments and presentations.
- Key topics outlined in the timetable below will be presented, accompanied by examples and discussion of various issues on exporting including case studies.
- Participants will review export case studies of different export businesses and are expected to also share their experience to date on each of the topics under discussion relating to their own businesses

- Participants will take part in various questions and answer sessions and will be expected to make presentations as part of the teaching and learning activities.
- Field visits to selected exporting companies and key export stakeholders will be used to demonstrate key learning processes to expose participants to the practicalities of exporting,
- Reading material on exporting will also be prescribed for participants to read during their own spare time.
- At the end of the workshop participants will complete the Export Readiness Check List to identify areas of the check list and develop an action plan to implement when they return to their duty station. A copy of the completed check list and action plan will be retained by the trainer/EIPA and used to follow-up on participants after training. The action plan will encourage participants to implement at work what they have learnt during the workshop.

1.3 Target Group

It targets Eswatini Micro, Small and Medium Enterprises (MSMEs) that produces goods including manufacturing and sell into domestic market and have potential to export their products. It includes businesses such as distributors, agents and middlemen who act on behalf of local producers and manufacturers.

The training will not cover businesses that are into services such as retailers, large and existing exporters (those who have been exporting on regular basis for over 2 years)

OBJECTIVE, PURPOSE & EXPECTED RESULTS

Overall objective

The overall objective of the project is to contribute or deepen SADC intra-trade by training local SMMEs on export business Purpose.

Conduct 2 trainings for about 25-30 SMMEs at a venue to be confirmed to be achieved by the Contractor.

2.2 Purpose:

Supporting Eswatini traders to understand export business and internationalize their businesses.

2.3 Results to be achieved by the contractor

Result Area 1: Pre Training Activities

- All training materials such as presentations, assignments, reference text books, submitted
- A list of all speakers/facilitators for the training submitted

Result Area 2: In and out of class training activities

- 50 participants trained. 25 participants trained per session

Result Area 3: Post Training Activities

- One report on the training submitted

SCOPE OF THE WORK

The scope of work includes, but not limited to the following:

- Identify key stakeholders and source of information to facilitate the export business
- Demonstrate the need for business planning for your Export Business)
- Identify and explain relevant Export Trade Agreements and explain Rules of Origin
- Describe the need for product development and improvement through quality control and standardization
- Explain the concept of export procedures and list the supporting documentation
- Understand sources of export finance
- Explain export marketing and how to effectively participate in inward and outward trade missions including trade fairs
- Be able to undertake a self-assessment on export readiness

Specific work

The deliverables under this assignment will include the following:

Result Area 1: Pre Training activities (3 days)

- Prepare using the existing guidelines training presentations, case studies, exercises for participants,
- Identify other relevant materials such as reference text books, journals, cases studies for group work, reading assignments
- Identify and confirm guest speakers from industry and governments to share their experiences

Result Area 2: In and out of Class Training Activities (4 days)

- Conduct training from 0800 hours to 1600 hours with 15 minutes morning and afternoon tea breaks and 1hour lunch,
- Training covers at most 25 participants for 4 days' period including one half day for field visits,
- In-class training will entail presentations to participants, coaching, supervising individual and group exercises and assignment, and daily attendance registration
- Additional activities will include undertaking field visit with participants to gain practical experience of how other companies have succeeded in export business

Result Area 3: Post Training Services (2 days)

- Prepare and submit a comprehensive training report including challenges, opportunities, gaps and possible recommendations for future training

Project management

Responsible body

The Eswatini Investment Promotion Authority (EIPA) will be the lead agency responsible for the project. The lead agency is expected will coordinate the following activities

- Recruit consultant using platforms such as print social media to train 25 – 30 local SMMEs that have potential to export their products into regional markets such as SADC, SACU COMESA and overseas markets
- Develop registration forms for all candidates to register, prepare a list profiling all candidates for selection,
- Notify all selected candidates of venue and start date for the training,
- Secure venue to host event taking into consideration duration of training and size of participants. Ensure refreshment for participants are available,
- Secure training stationery, equipment including and where possible using online training such as Zoom, projectors, participants' packages,
- In collaboration with contracted consultant, develop a detailed training programme to cover 4 days including site visits to selected companies. Confirm appointments with all companies to be considered for field visits,
- In consultation with contracted consultant identify and secure all appointment with relevant trade support institutions that will provide support on selected topics such as quality, rules of origin, trade finance etc
- Design and print training certificates to be awarded to all participants. Coordinate the certificates award ceremony
- Develop a training evaluation form. Ensure all participants fill it on last day of training

Management structure

The SADC Trade Related Facility (TRF) Project Implementation Unit under the International Trade Department of the Ministry of Commerce, Industry and Trade will provide oversight management responsibilities which will include realising project funds and procurement

EIPA as the recipient agency will provide the day-to-day management together with the contracted consultant.

Facilities to be provided by the Contracting Authority and/or other parties

The contracting authority will procure venue for training and meals. EIPA will provide transport.

LOGISTICS AND TIMING

Location

The contracted consultant will be based at EIPA offices in Mbabane, but will mostly use the training venue at a place to be identified.

Start date & period of implementation

The start date of the contract is 12th of October, 2020 and end date is February 2021. The first session training is intended start is 1st November 2020 and the period of implementation of the contract is 4 months. The second session will be held between January and February 2021.

REQUIREMENTS

Candidates Profile

Education and Training (20 points)

The individual short term expert shall possess the following minimum qualifications and skills:

- Master's in Business Administration or related area
- A postgraduate certificate in economics, international trade will be an added advantage

Specific professional experience (70 points)

- Expertise and experience of at least 5 years training SMMEs or training tertiary institution on entrepreneurship, business administration, commerce.
- Experience and expertise in training related to export and market development, rules of origin, trade rules, multilateral trading systems will be an added advantage,
- Possess a good understanding of Eswatini export business landscape including working with relevant trade support institutions and traders
- At least five (5) years proven experience of working with or training SMMEs or training at tertiary level on entrepreneurship, business administration/management, economics or commerce
- Possess or have access to a pool of experts with IT skills and expertise in graphic design, web based applications to coordinate online training where necessary. This is to accommodate the new normal caused by COVID 19 outbreak
- Have access to pool of experts with relevant skills and experience trade market access, customs issues, standards/certification, packaging and marketing.
- Have an experience of working with micro, small and medium enterprises in Eswatini,

General experience (10 points)

- Fluency in written and spoken English
- Good communication and presentation skills

Facilities to be provided by the Contractor

The Contractor shall ensure that experts are adequately supported and equipped. Consultant should provide his/her own secretarial services and have his/her own laptops computer, projection equipment and mobile phone.

REPORTS

Reporting requirements

To summarise, in addition to any documents, reports and output specified under the duties and responsibilities of each key expert above, the Contractor shall provide the following reports:

Name of report	Content	Time of submission
Inception report	Analysis of existing situation, work plan for the project and present situational assessment	14 days before the start of training
Progress reports and training Programme	Short description of achievements including problems encountered and recommendations. Training itinerary, field visits, opening and closing ceremonies	Reports to be submitted 14 days after the completion of each activity and training programme to be submitted 14 days before the start of the activity.
Final report	Description of achievements, challenges and opportunities, including recommendations. The expert is also expected to gauge effectiveness of the training programme by summarising the evaluation questionnaire responses.	No later than 14 days after last day of training.

Submission & approval of reports

Copies of the reports referred to above must be submitted to the Project Manager at EIPA. The reports must be written in English. The Project Manager, who is Head of Trade Department together with office of CEO will be responsible for approving the reports.

BUDGET

The available budget for this contract is € 9 375.00 (Nine thousand three hundred and seventy-five Euros). This amount includes the remuneration for consultants (fees) and reimbursable expenses.

Evaluation Criteria

The following evaluation criteria will be used to assess the applications. An Application that scores above 70% will be considered technically responsive.

Category	Points
Qualification and skills	20
General skills	10
Specific professional experience	70
Total	100

Award criteria: Quality (i.e.: The award will be made to the applicant who obtained the highest technical score and is within budget. Expressions of Interest not obtaining a minimum score of 70% will be rejected.

ANNEX 2: Expression of Interest Forms

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A. COVER LETTER FOR THE EXPRESSION OF INTEREST FOR THE PROJECT

REFERENCE NUMBER: SADC/TRF/2017/1/26

REQUEST FOR SERVICES TITLE: CONDUCTING EXPORT READINESS TRAINING FOR MSME's

[Location, Date]

To: SADC Secretariat

Dear Sirs:

I, the undersigned, offer to provide the consulting services for the **conducting EXPORT READINESS TRAINING FOR MSME's** in accordance with your Request for Expression of Interests number [Reference number], dated [insert date] for the sum of [Insert amount(s) in words and figures¹¹]. This amount is inclusive of all expenses deemed necessary for the performance of the contract in accordance with the Terms of Reference requirements, and [“does” or “does not” delete as applicable] include any of the following taxes in Procuring Entity's country: value added tax and social charges or/and income taxes on fees and benefits.

I hereby declare that all the information and statements made in my CV are true and accept that any misinterpretation contained in it may lead to my disqualification.

I take note that under the provisions of the SADC Procurement Policy applicable to this Request for Expression of Interest, a contract cannot be awarded to applicants who are in any of the following situations:

- a) *they are being bankrupt or wound up, are having their affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are being subject of proceedings concerning those matters, or are being in any similar situations arising from a similar procedures provided for in the national legislation or regulations of the SADC member states;*
- b) *they have been convicted of offences concerning their professional conduct by a judgment which has the force of res judicata; (i.e. against which no appeal is possible);*
- c) *they have been declared guilty of grave professional misconduct proven by any means which SADC Secretariat can justify;*
- d) *they have not fulfilled obligations related to the payments of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those countries where the contract is to be performed;*
- e) *they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the SADC Secretariat' financial interests; or*
- f) *they are being currently subject to an administrative penalty.*

I confirm that I am not in any of the situations described above, and I hereby declare that at any point in time, at the Ministry of Trade's request, I will provide certified copies of documents to prove so.

I am aware that the penalties set out in the Procurement Policy may be applied in the case of a false declaration, should the contract be awarded to me.

¹ Amounts must coincide with the ones indicated under Total Cost of Financial proposal in Form FIN-2.

My proposal is binding upon me for the period indicated in Paragraph 9(iii) of this Request for Expression of Interest.

I undertake, if my Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph 10 of the Request for Expression of Interest, and to be available for the entire duration of the contract as specified in the Terms of Reference.

I understand you are not bound to accept any Proposal you receive.

Yours sincerely,

Signature [*In full and initials*]: _____

Name and Title of Signatory: _____

B. CURRICULUM VITAE
[insert full name]

- 1. Family name:** *[insert the name]*
- 2. First names:** *[insert the names in full]*
- 3. Date of birth:** *[insert the date]*
- 4. Nationality:** *[insert the country or countries of citizenship]*
- 5. Physical address:** *[insert the physical address]*
- 6. Postal address**
- 7. Phone:** *[Insert Postal Address]*
- 8. E-mail:** *[insert the phone and mobile no.]*
[Insert E-mail address(es)]
- 9. Education:**

Institution: [Date from – Date to]	Degree(s) or Diploma(s) obtained:
<i>[indicate the month and the year]</i>	<i>[insert the name of the diploma and the specialty/major]</i>
<i>[indicate the month and the year]</i>	<i>[insert the name of the diploma and the specialty/major]</i>

10. Language skills: (Indicate competence on a scale of 1 to 5) (1 – excellent; 5 – basic)

Language	Reading	Speaking	Writing
<i>[insert the language]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>
<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>	<i>[insert the no.]</i>

- 11. Membership of professional bodies:** *[indicate the name of the professional body]*
- 12. Other skills:** *[insert the skills]*
- 13. Present position:** *[insert the name]*
- 14. Years of experience:** *[insert the no.]*
- 15. Key qualifications:** (Relevant to the assignment)
[insert the key qualifications]

16. Specific experience in the region:

Country	Date from - Date to
<i>[insert the country]</i>	<i>[indicate the month and the year]</i>
.....
<i>[insert the country]</i>	<i>[indicate the month and the year]</i>

17. Professional experience:

Date from – Date to	Location of the assignment	Company & reference person (name & contact details)	Position	Description
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<i>Name of the Company: Address of the company: Phone: Fax: Email: Name and title of the reference person from the company:</i>	<i>[indicate the exact name and title and if it was a short term or a long term position]</i>	<i>Name of the Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:</i>
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	<i>Name of the Company: Address of the company: Phone: Fax: Email: Name and title of the reference person from the company:</i>	<i>[indicate the exact name and title and if it was a short term or a long term position]</i>	<i>Name of the Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:</i>
<i>[indicate the month]</i>	<i>[indicate the</i>	<i>Name of the Company:</i>	<i>[indicate the exact</i>	<i>Name of the Assignment: Beneficiary of the Assignment:</i>

Date from – Date to	Location of the assignment	Company & reference person (name & contact details)	Position	Description
<i>and the year]</i>	<i>country and the city]</i>	Address of the company: Phone: Fax: Email: Name and title of the reference person from the company:	<i>name and title and if it was a short term or a long term position]</i>	Brief description of the Assignment: Responsibilities:
.....
<i>[indicate the month and the year]</i>	<i>[indicate the country and the city]</i>	Name of the Company: Address of the company: Phone: Fax: Email: Name and title of the reference person from the company:	<i>[indicate the exact name and title and if it was a short term or a long term position]</i>	Name of the Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:

18. Other relevant information: (e.g. Publications)

[insert the details]

19. Statement:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

I hereby declare that at any point in time, at the SADC Secretariat's request, I will provide certified copies of all documents to prove that I have the qualifications and the professional experience as indicated in points 8 and 14 above¹, documents which are attached to this CV as photocopies.

By signing this statement, I also authorize the Ministry of Trade to contact my previous or current employers indicated at point 14 above, to obtain directly reference about my professional conduct and achievements.

_____ Date: _____

ATTACHMENTS: 1) *Proof of qualifications indicated at point 9*
2) *Proof of working experience indicated at point 15*

¹ *The proof of stated qualifications shall be in the form of the copies of the degrees and diploma obtained, while for the professional experience the proof shall be either acknowledgement letters from the previous employers or copies of the Purchase Order/ Contract signed with them.*

C. FINANCIAL PROPOSAL

REFERENCE NUMBER: SADC/TRF/2017/1/26

N°	Description ³	Unit ⁴	No. of Units	Unit Cost (in Euro)	Total (in Euro)
Fees		Day			
Reimbursable expenses, out of which		<i>Total</i>			
1	Per diem allowances	Day	N/A		
2	Flights ⁵	Trip	N/A		
3	Miscellaneous travel expenses ⁶	Trip			
4	Insurances cost, out of which:	Lump sum			
	i) Life insurance (including repatriation)	Lump sum	N/A		
	ii) Health insurance	Lump sum	N/A		
	iii) Third party liability insurance	Lump sum			
	iv) Professional liability insurance	Lump sum	N/A		
5	Drafting, reproduction of reports	Lump sum			
6	Office rent	Per month	N/A		
7	Others ⁴	TBD			
TOTAL FINANCIAL OFFER (Fees)					

Signature [*In full and initials*]: _____

Name and Title of Signatory: _____

³ Delete items that are not applicable or add other items as the case may be.

⁴ Indicate unit cost..

⁵ Indicate route of each flight, and if the trip is one- or two-ways

⁶ Provide clear description of what is their exact nature

ANNEX 3: STANDARD CONTRACT FOR INDIVIDUAL CONSULTANTS

SERVICE CONTRACT

Entered into by and Between

**THE GOVERNMENT OF THE KINGDOM OF ESWATINI
THROUGH THE MINISTRY OF COMMERCE, INDUSTRY AND TRADE**

(Duly represented by **SIBONISO NKAMBULE** in his capacity as the **Principal Secretary for the Ministry of Commerce Industry and Trade**) (Hereinafter referred to as the “**Contracting Authority**”)

And

(An Expert in conducting export readiness Training for MSME’s
(Hereinafter referred to as the “**Contractor**”)

For:

SADC TRF/2017/1/26

NOW THEREFORE the Parties agree as follows:

1. DEFINITIONS

1.1 In this Agreement, in the absence of the express provision or statement to the contrary:

“Contract” means the Agreement covered by these terms and all the Annexes and documents incorporated and/ or referred to therein and attachments thereto;

“Contracting Authority” means the Government of Eswatini;

“Contractor” ;

“Contract Value” means EURO 9,375.00;

“Days” means working days excluding weekends and holidays;

“Services” means the work to be performed by the Contractor pursuant to this Contract, as described in Annex 1 hereto;

“VAT” means as defined in the relevant legislation.

1.2 Words importing any one gender shall include the other.

2. COMMENCEMENT AND DURATION

This Agreement shall commence on the date of signature by both Parties and shall continue in force for a period of four months.

3. SERVICES

The Contractor will undertake the performance of the services in accordance with the provisions of Annex 1 of this Agreement and shall in the performance of the services,

exercise all reasonable skill, care and diligence to be expected of a Contractor carrying out such services.

4. PAYMENT

- 4.1 The Contractor shall be paid for the services at the rates and upon the terms set out in Annex 2.
- 4.2 Payment shall be made to the Contractor, in Euros, unless otherwise provided and where applicable VAT shall be payable on such sums at the applicable rate.
- 4.3 The Contractor must in all cases provide their VAT registration number on all invoices.
- 4.4 Invoices shall be delivered by the Contractor to the Contracting Authority and shall be paid within thirty (30) days of receipt by the Project Director, subject to the Contractor having complied with her obligations in full as stated in Annex 2 of the Agreement.
- 4.5 The Contracting Authority reserves the right to delay and/ or withhold, fully or partially, payments that have not been supported by full and appropriate supporting evidence that the services provided were delivered and accepted by the Contracting Authority.

5. ASSISTANCE WITH LOCAL REGULATIONS AND PAYMENT OF TAXES

- 5.1 The Contractor shall be responsible for paying any tax and social security contributions in his country of residence, for any activity deriving from this Agreement. Such costs shall be assumed to be included in the Contractor's fees.
- 5.2 The Contractor shall be responsible for paying any taxes resulting from the activities performed under this Agreement, imposed to the individual in the country or countries of the assignment with the exception of the ones set out in 4.2 above.

6. SUPERVISION OF SERVICES

- 6.1 The Contractor undertakes to deliver the services in compliance with a system of quality assurance acceptable to the Contracting Authority which shall include any steps to comply with the standards operated by the Contracting Authority.
- 6.2 The Contractor shall be informed of the specific requirements in relation to the above, and at the request of the Contracting Authority, he shall allow access to information, records and other materials during normal office hours as the Contracting Authority may require, confirming that the work in progress is in accordance with these quality procedures.

7. COMPLIANCE WITH THIS AGREEMENT

- 7.1 The Contracting Authority shall be entitled to seek confirmation from the Contractor at any time during the delivery of this Agreement, and for a period of one (1) year after the completion of the service, that the Contractor has complied with the terms of the Agreement.
- 7.2 The Contracting Authority may also request that the Contractor provides reasonable documentary evidence to support that the Contractor has complied with the terms of the Agreement.
- 7.3 The Contracting Authority may delay or withhold payments in the event of non-compliance as provided in the Payment Clause above.

8. ASSIGNMENT AND SUBCONTRACTING

- 8.1 The Contractor shall not sub- contract, sublet, assign or transfer or in any way dispose of any rights, interests or obligations under this Agreement.
- 8.2 Where the Contractor considers it necessary to use the services of a third Party, the Contractor shall inform the Contracting Authority's Project Director in writing, only once written approval is provided can the Contractor proceed to use a third party.
- 8.3 When the Project Director agrees that the Project under the Agreement can be performed by a third party, under the direct control of the Contractor.
- 8.4 The Contracting Authority will not be responsible for the third party's performance of duties or services assigned to it, and neither for ensuring that the conditions of

employment are met nor for any other employment obligations relating to that third party, including, but not restricted to taxation, and insurance, including professional indemnity insurance, employer's liability insurance and public liability insurance.

9. **BREACH**

Should any Party breach any term of this Agreement and fail to remedy such within thirty (30) days of receiving written notice requiring the Party in breach to remedy the breach, the aggrieved Party shall, without prejudice to any rights it may have in law, be entitled to terminate the Agreement in writing.

10. **LIABILITY OF THE CONTRACTOR**

10.1 The Contracting Authority will be relying on the Contractor's skills, expertise and experience in relation to the performance of the services in accordance with this Agreement and upon the accuracy of all representations and statements made and the advice given in connection with the provision of the services.

10.2 The Contractor shall at its own expense, indemnify, protect and defend the Contracting Authority, its agents and employees from and against all actions, claims, losses or damages arising out of the Contractor's performance of work and services under this Agreement, provided that:

- (a) The Contractor is notified of such actions, claims, losses or damages not later than thirty (30) days after the Contracting Authority becomes aware of them;
- (b) Compensation for damages or losses resulting from the Contractor's liability in respect of the Contracting Authority is capped to an amount equal to the contract value. However, compensation for losses or damages caused to third parties by the Contractor's wilful misconduct cannot be capped;
- (c) The Contractor's liability shall be limited to actions, claims losses or damages directly caused by such failure to perform its obligations under the Agreement and shall not include liability arising from unforeseeable occurrence's incidental or indirectly consequential to such failure.

- 10.3 The Contractor at its own expense, upon the request of the Contracting Authority, shall remedy any defect in the performance of her obligations under the Agreement.
- 10.4 The Contractor shall not be liable for actions, claims, losses or damages occasioned by the Contracting Authority's omission to act on any recommendation; or overriding any act or decision of the Contractor; or requiring the Contractor to implement a decision or recommendation with which the Contractor disagrees or on which she expresses a serious reservation.

11. **INSURANCE**

- 11.1 The Contractor must ensure that full and appropriate professional indemnity insurance and third party liability insurance, is in place for all services provided.
- 11.1.1 The cost of such insurance will be covered from reimbursable expenses of the Agreement.
- 11.2 Where national requirements or practices provide for different regulations concerning insurance, the Contractor may provide written confirmation of all insurances held and signed declaration that these are in line with the regulations or practices in their country of operation.
- 11.2.1 Only if such confirmation has been provided and written confirmation of its acceptance provided to the Contractor by the Contracting Authority, will this remove the obligation to meet the requirements of sub –clause 11.1 above, in full.
- 11.3 The Contractor shall take insurance with an insurer of good repute and the Contractor shall maintain such insurance for a period of one (1) year from completion of the services under this Agreement, so long as the insurance continues to be available upon reasonable terms at reasonable commercial rates, failing which the Contracting Authority shall be entitled to take out insurance itself to cover any potential liability in relation to the performance of the services under this Agreement. The cost of such insurance shall be a debt immediately due from the Contractor.

11.4 The provisions of this Clause shall remain in full force and effect notwithstanding the completion of the performance of the services hereunder and the satisfaction of all other provisions of this Agreement.

12. **COPYRIGHT**

12.1 Unless otherwise specified, the title of the copyright and any of the intellectual property arising out of the performance of this Agreement shall be vested in the Contracting Authority, which shall have the unfettered right to assign and grant sub licenses in respect of same.

12.2 The said materials shall not be reproduced or disseminated without proper compensation and written permission from the Contracting Authority.

12.3 This provision shall apply to the title to rights arising from the performance under this Agreement but shall not apply to the internal systems or rights in relation to the Contractor's own systems not created specifically for this purpose and where the same are an important part of the services.

12.3.1 The Contractor shall grant a free and irrevocable license/ to the Contracting Authority and its assignees for the use of same in that connection.

12.4 The Contractor warrants that it is free of any duties or obligations from third parties which may conflict with this Agreement and, without prejudice to the generality of the Liability Clause 10 above, agrees to indemnify the Contracting Authority against any and all actions, costs, damages, direct, indirect or consequential, and other expenses of any nature whatsoever which the Contracting Authority may incur or suffer as a result of the breach by the Contractor of this warranty.

13. **NON- DISCLOSURE AND CONFIDENTIALITY**

13.1 The Contractor shall keep in confidence all information received from and all work carried out for the Contracting Authority during the implementation of this

Agreement and shall not use, publish or divulge to third parties without the prior written consent of the Contracting Authority.

13.2 The Contractor shall not make any communication to the press or any broadcast, including, but not limited to, the inclusion of information on a website, about the services without the prior written consent of the Project Director.

13.3 In the event the Contractor violates the above Clause 13.2, then he will automatically and legally be held liable to pay the amount estimated as the minimum reasonable damages resulting from breach of confidentiality. This is without prejudice to the right of the Contracting Authority to demonstrate that a higher amount of loss has or may be incurred as a result of liabilities held by the Contractor in relation to the Contracting Authority.

14. **SUSPENSION AND TERMINATION**

14.1 The Contracting Authority may at any time, by giving thirty (30) days written notice to the Contractor, terminate in whole or in part or suspend the performance of the services, due to factors beyond the control of the Contracting Authority or by reason of some breach or default of the Contractor.

14.2 If the suspension continues for a period in excess of twelve (12) months, then either Party may terminate the Agreement by written notice to the other Party.

14.3 The Contractor may, after giving thirty (30) days written notice to the Project Director, terminate the Agreement unilaterally without providing any reasons for such decision.

14.4 In the event of early termination of the Agreement, termination not due to any breach on the part of the Contractor, the Contractor shall be entitled to a fair and reasonable proportion of the fees payable for the part of the services carried out up to the date of such termination or suspension, but this shall not include any loss of profit or contracts or any other expenses, losses or claims arising out of such termination or suspension or consequential thereupon.

15. **WAIVER**

No failure, delay, relaxation or indulgence on the part of The Contracting Authority in exercising any power or right conferred upon such Party in terms of this Agreement, shall operate as a waiver of such power or right, nor shall any single or partial exercise of any such power or right preclude any other or further exercise thereof, or the exercise of any other power or right under this Agreement.

16. **VARIATIONS**

No variation, addition or cancellation of any part of this Agreement shall be of any force or effect unless reduced to written as an Addendum and signed by the Parties.

17. **DISPUTE RESOLUTION**

17.1 The Parties shall endeavour to settle any dispute or claim arising out of the interpretation, application or implementation of this Agreement or the breach thereof, amicably through consultation and negotiation between the Parties.

17.2 If after 7 days from commencement of such negotiations, the Parties have failed to negotiate an amicable settlement; either Party may refer the matter to arbitration for determination.

18. **DOMICILE**

18.1 The Parties elect the following addresses as their respective *domicilia citandi et executandi* at which all notices and other communications must be delivered for purposes of this Agreement:

(a) **CONTRACTING AUTHORITY**

The Principal Secretary
Ministry of Commerce Industry and Trade
Inter- Ministerial Building

Block 8 and Level 1
Mhlambanyatsi Road
P. O. Box 451
Mbabane, Eswatini

Tel: +268 2404 3201

Telefax: +268 2404 4711

Email: ps_commerce@gov.sz/nkambulesib@gmail.com

(b) **CONTRACTOR**

Tel:

Email

- 18.2 Any notice or other communication sent by one Party to the other shall be in writing and deemed to have been received by the other Party to whom the notice was addressed if it is hand delivered during ordinary business hours at the domicilium citandi et executandi address of such Party and signed for by the person receiving the notice, or if sent by post, within seven (7) days of postage thereof by registered mail.
- 18.3 Any Notice sent by telefax to either Party at its telefax number shall be deemed, unless the contrary is proved to have been received within two (2) hours if it is transmitted during ordinary business hours excluding Saturdays and Sundays.
- 18.4 Notice of not less than fourteen (14) days, of change of address shall be given to the Parties hereto in writing, provided that none of the Parties shall be entitled to select a post box or an address outside Eswatini.

19. **GOVERNING LAW**

19.1 This Agreement shall be governed and construed in accordance with the laws of the Kingdom of Eswatini.

19.2 The Parties agree to submit to the exclusive jurisdiction of the courts of the Kingdom of Eswatini.

Signed at Eswatini on this..... day of2020.

WITNESSES:

1.

.....

For and behalf of the Contracting Authority

2.

Signed at Eswatini on this day of 2020

WITNESSES:

1.

.....

For and behalf of the Contractor

2.

Annex 1: Terms of Reference

Annex 2: Payment Schedule and Requirements

Signed today *[insert the date]* in four (4) originals in the English language by:

For the Procuring Entity		For the Individual Consultant	
Name :		Name :	
Position :			
Place :		Place :	
Date:		Date :	
Signature:		Signature :	

Annex 1: Terms of Reference

Annex 2: Payment Schedule and Requirements

1. For Services rendered pursuant to Annex 1, the Procuring Entity shall pay the Individual Consultant an amount not to exceed the ceiling of Euros *[insert ceiling amount]*, which shall be considered the contract value. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Individual Consultant in his/her country of residence.
2. The breakdown of prices is:

N°	Description ⁷	Unit	No. of Units	Unit Cost ⁸ (in EURO)	Total (in EURO)
Fees		Day			
Reimbursable expenses, out of which		<i>Total</i>			
1	Per diem allowances	Day			
2	Flights ⁹	Trip			
3	Miscellaneous travel expenses ¹⁰	Trip			
4	Insurances cost, out of which:	Lump sum			
	i) Life insurance (including repatriation)	Lump sum			
	ii) Health insurance	Lump sum			
	iii) Third party liability insurance	Lump sum			
	iv) Professional liability insurance	Lump sum			
5	Drafting, reproduction of reports	Lump sum			
6	Office rent	Per month			
7	Others ⁴	TBD			

⁷ Delete items that are not applicable or add other items as the case may be.

⁸ Indicate route of each flight, and if the trip is one- or two-ways.

⁹ Indicate unit cost.

¹⁰ Provide clear description of what is their exact nature

TOTAL FINANCIAL OFFER (Fees)	
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3. The payment shall be made in accordance with the following schedule:

30% upon the Procuring Entity's inception report

70% upon the Procuring Entity's receipt of Final report.

4. **Payment Conditions:** Payment shall be made in Euros not later than 30 days following submission of original invoice by the Individual Consultant, in duplicate, accompanied by the requested supporting documents. All payments under the contract shall be made by bank transfer into the bank account indicated by the Individual Consultant in her/his invoices.