



REQUEST FOR EXPRESSION OF INTEREST

SELECTION OF INDIVIDUAL CONSULTANTS

REFERENCE NUMBER: SADC/TRF/2017/1/22

DEVELOPING A DOCUMENTARY OF QUALITY INFRASTRUCTURE INSTITUTIONS IN ESWATINI

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

DEVELOPING A DOCUMENTARY OF QUALITY INFRASTRUCTURE INSTITUTIONS IN ESWATINI

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 **€20,000.00 (Twenty Thousand,)** 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/2017/1/22 –DEVELOPING A DOCUMENTARY OF QUALITY INFRASTRUCTURE INSTITUTIONS IN ESWATINI**” 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:

29th June, 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: mnquni2014@gmail.com;

dlamini.phindile39@gmail.com; sybilsthembisso2000@gmail.com

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 and the Eswatini Government website alongside the procurement notice at the latest 7 working days before the deadline for submission of the proposals.

The following Annexes are integral part of this Contract:

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: 9th June, 2020

ANNEX 1: Terms of Reference

FOR CONSULTANCY IN DEVELOPING A DOCUMENTARY OF QUALITY INFRASTRUCTURE INSTITUTIONS IN ESWATINI

1. BACKGROUND INFORMATION

1.1. BACKGROUND

The kingdom of Eswatini is a small, landlocked, open economy, with close trade and financial ties with South Africa. Around 70 percent of Eswatini's 1.1 million people are based in rural areas, with livelihoods predominantly dependent on subsistence agriculture. The Eswatini economy is mainly driven by its membership of the South African Customs Union (SACU) and the common monetary area (CMA). SACU revenues make up almost 60 percent of government revenue through the country's membership to the CMA. The Eswatini Lilangeni exchanges at parity with the rand, this also is legal tender in the country to support rapid economic development underpinned by strong growth of manufacturing, the delivery of quality and standardized products and services to local and international markets which is critical.

In 2010, the Government of Eswatini developed the National Regulatory and Quality (NRQ) Policy and its implementation plan in 2013. This policy aims at giving direction and guidelines for the establishment of institutions, structures and systems for the preparation, adoption and application of standards, technical regulations and carrying out conformity assessment activities.

By developing this policy, the government of the kingdom of Eswatini desires to achieve sound economic development in the areas of regulatory and quality infrastructure that will improve the standard of living of its people. At the current rate of globalization, observations and research reveal that a quality infrastructure that meets international best practices has a crucial role to play in technology transfer resulting in improved productivity, trade and overall national advancement.

Core Policy Statement number 3 of the NRQ Policy states that the Government of the Kingdom of Eswatini will promote quality in the society by initiating a National Quality Movement which will raise awareness of the general public. It is in this view that the Regulatory and Quality Infrastructure Development Department seeks to develop a promotional and educational documentary that will ensure that all significant information is shared to the relevant audiences.

. Having all people on board on the QI is essential because it will help the public understand and embrace the Quality Institutions which leads to a society that is well versed on requirements and regulations regarding quality.

1.2 Current Situation in the Sector

Since the establishment of the Regulatory and Quality Infrastructure Development Department little has been achieved in terms of informing the stakeholders and the general public of the different Quality Institutions and their roles in Eswatini. The documentary will assist to reach out to all target audiences thus creating more and well-informed knowledge on the different QI Institutions in Eswatini.

2.0 OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1. Overall objective

The overall objective of the assignment is to produce mass communication messages on the Eswatini Quality Infrastructure (QI) Institutions and their respective activities.

2.2 Specific tasks are:

- Interview selected participants for the documentary who will include QI Institution Heads, Staff Members, etc.
- Visit selected QI offices and interact with the officers during working hours.
- Develop the script and storyboard to be used in a video documentary, print, social networking, radio and internet media
- Perform appropriate video filming and short interviews with the QI stakeholders.
- Present a draft documentary to the QI Institutions for comments on contents.
- Produce one final documentary in DVD of 20 – 30min long.

2.3 Purpose

The purpose of this contract is to develop an electronic documentary on the QI Institutions in Eswatini.

2.4 Results to be achieved by the Contractor

The following must be achieved by the contractor;

1. A 20-30-minute documentary film of the QI Institutions in Eswatini.
2. Scripts and storyboards for video documentary, print, social networking, radio and internet media developed.

3.0 SCOPE OF THE WORK

3.1. Specific work

3. Understand the Quality Infrastructure Institutions i.e roles and functions;
4. Submit storyboards and scripts for the documentary, print, social networking, internet media to RQID for approval;
5. Develop a web site for the messages;
6. Present draft documentary to QI Institutions staff members at the end of the field mission and incorporation of comments;
7. Produce an edited Video Recording of the scenarios captured, and the footage of the recorded stories.
8. Present a complete 20-30-minute electronic documentary.

4.0 Project Management

4.1 Responsible Body

The Regulatory and Quality Infrastructure Development (RQID) Department in the Ministry of Commerce, Industry and Trade is responsible for the management of the contract.

4.2 Management structure

Project Management Unit in the International Trade Department (ITD) for oversight and coordination of the project. The consultant will work with and report to RQID on ensuring proper implementation given that the department is the main beneficiary from the contract. In addition, the consultant will submit all deliverables to ITD who will in turn authorize the issuance of payments for the contract.

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

The Expert is advised that the Regulatory and Quality Infrastructure Development (RQID) Department will provide the following:

9. A working space for the Expert during the project.

5.0 LOGISTICS AND TIMING

5.1 Location

The consultancy will take place in Eswatini.

5.2 Start date & period of implementation

The intended start date is **March, 2020** and the period of implementation of the contract will be **90 Working Days** from this date.

6.0 REQUIREMENTS

6.1 Candidate Profile

Education and training (20 points)

The individual consultant shall possess the following minimum qualifications and skills:

- Degree in Graphic Design, Communication and media studies, Film studies/filmmaking/film production, Information technology, Media production and broadcast production, Copy-writing, Animation, Multimedia, Photography, television production/Film and television production.
- An Advanced Diploma/Degree will be an added advantage.

General skills (10 points)

10. Excellent command of English both written and oral.
11. Technical Competency
12. Computer literacy and familiarity with standard office packages, email and internet;
13. Good communication and presentation skills;

Specific professional experience (70 points)

- More than 5 years' proven track-record and experience working in a similar field.
- Extensive experience in producing development work related documents for publication and documentaries for international organisations with the aim of reaching both local and international audiences.
- Excellent technical capacities (state of the art filming equipment preferably Ultra High Definition or 4K and 44.1 kHz Wave Audio format) to ensure smooth and high-quality production.

7.0 Support staff & backstopping

The Regulatory and Quality Infrastructure Development (RQID) Department will provide support to the expert (back-stopping) during the implementation of the contract.

7.1 Office accommodation

Office accommodation of a reasonable standard and of approximately 10 square metres for the expert working on the contract is to be provided by the Regulatory and Quality Infrastructure Development (RQID) Department:

The costs of the office accommodation are to be covered by the provision for incidental expenditure. The cost per square metre must be in line with the prevailing local market rate for office accommodation of a reasonable standard.

8.0 REPORTS

8.1 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:

Name of report	Content	Time of submission
Draft storyboard and script for the documentary, print, social networking and internet media	Understanding of the QI institutions; RQID, SWASA, Metrology, Regulatory Departments/Agencies, Conformity Assessment Bodies (CABs), Work plan	1 month after start of assignment
Final storyboards and scripts for the documentary, print, social networking and internet media	Activities undertaken A complete electronic video recording	2 weeks after completion of work

8.2 Submission & approval of reports

Copies of the reports referred to above must be first submitted to the Chief Quality Systems Administrator before handing over to the Project Manager identified in the contract. The storyboard and documentary must be produced in English. The Project Manager is responsible for approving the reports.

8.3 Budget

The available budget for this contract is **EUR 20 000 (Twenty Thousand Euros Only)**. This amount includes the remuneration for consultants (fees) and reimbursable expenses. The maximum budget for reimbursable expenses is **€ 1 000 (One Thousand Euros Only)**. This provision must be included in the budget table to cover reimbursable expenses. This amount shall be included without modification in the Bidder's Financial Proposal. These are expenses associated with the assignment already costed by the

contracting authority and will only be reimbursed against required supporting documentation.

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
Education and Training	20
Specific Experience	70
General Skills	10
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/2017/1/22

TO DEVELOP A DOCUMENTARY OF QUALITY INFRASTRUCTURE INSTITUTIONS IN ESWATINI

[Location, Date]

To: SADC Secretariat

Dear Sirs:

I, the undersigned, offer to provide the consulting services for DEVELOPING A DOCUMENTARY OF QUALITY INFRASTRUCTURE INSTITUTIONS IN ESWATINI in accordance with your Request for Expression of Interests number [SADC/TRF/2017/1/22], 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
[indicate the month and the year]	[indicate the country and the city]	Name of the Company: Address of the company: Phone: Fax: Email: Name and title of the reference person from the company:	[indicate the exact name and title and if it was a short term or a long term position]	Name of the Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:
[indicate the month and the year]	[indicate the country and the city]	Name of the Company: Address of the company: Phone: Fax: Email: Name and title of the reference person from the company:	[indicate the exact name and title and if it was a short term or a long term position]	Name of the Assignment: Beneficiary of the Assignment: Brief description of the Assignment: Responsibilities:
[indicate the	[indicate the	Name of the Company:	[indicate the exact	Name of the Assignment: Beneficiary of the Assignment:

Date from – Date to	Location of the assignment	Company & reference person (name & contact details)	Position	Description
<i>month 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/2017/1/22

N°	Description ³	Unit ⁴	No. of Units	Unit Cost (in Euro)	Total (in Euro)
Fees		Day			
Reimbursable expenses, out of which		Total			
1	Per diem allowances	Day	N/A		
2	Flights ⁵	Trip	N/A		
3	Miscellaneous travel expenses ⁶	Trip	N/A		
4	Insurances cost, out of which:	Lump sum	N/A		
	i) Life insurance (including repatriation)	Lump sum	N/A		
	ii) Health insurance	Lump sum	N/A		
	iii) Third party liability insurance	Lump sum	N/A		
	iv) Professional liability insurance	Lump sum	N/A		
5	Drafting, reproduction of reports	Lump sum	N/A		
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 Developing a Documentary of Quality Infrastructure Institutions in Eswatini)
(Hereinafter referred to as the **"Contractor"**)

For:

SADC TRF/2017/1/22

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 20,000.00;

"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 three 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		Total			
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% inception report

70% 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.