



Malkerns Town Council

Invitation To Tender (ITT) Document

for the

Procurement of Works

Procurement Method:	Open Tender
Subject of Procurement:	Invitation to tender (ITT) – Solar Street Lights
Procurement Reference Number:	Tender No.4 of 2026/27
Date of Issue:	27 July 2026
Participation:	National – Category ESc



PREFACE

This Tender Document has been prepared by the Eswatini Public Procurement Regulatory Agency to be used for the procurement of Works.

The document is customized to be consistent with the Public Procurement Act No. 07 of 2011, the Public Procurement Regulations, 2020, other of the Laws of Eswatini, and international best practices”.

The sale of this tender document to potential Contractor(s) is discouraged.

Those wishing to submit comments or questions on this Tender Document or to obtain additional information are encouraged to contact:

The Chief Executive Officer
Eswatini Public Procurement Regulatory Agency
RHUS Office Park, P.O. Box 9665
Karl Grant Street, Mbabane
ESWATINI
<https://esppra.co.sz>
info@esppra.co.sz



LIST OF ACRONYMS

TDS	Tender Data Sheet
TS	Tender Security
TSD	Tender Securing Declaration
ESHS	Environmental, Social, Health and Safety
GCC	General Conditions of the Contract
ITT	Instruction to Contractors.
JV	Joint Venture
PE	Procuring Entity
STD	Standard Tender Document
SCC	Special Conditions of the Contract
SOR	Statement of Requirements.
TCS	Technical Compliance Selection



<u>PART 1 - Tender Procedures</u>	7
<u>Section 1: Instructions to Contractors</u>	9
<u>Section 2: Tender Data Sheet</u>	26
<u>Section 3: Evaluation Methodology and Criteria</u>	28
<u>Section 4: Tendering Forms</u>	42
<u>PART 2 - Statement of Requirements</u>	76
<u>Section 6: Statement of Requirements</u>	76
<u>PART 3 - Contract</u>	84
<u>Section 7: General Conditions of Contract</u>	84
<u>Section 8: Special Conditions of Contract</u>	85
<u>Section 9: Contract Forms</u>	88





20 July 2026

To: ***All CIC Registered Electrical Contractors (ESc)***

Dear Sirs/Madams,

Invitation to Tender for Installation of Solar Street Lights Malkerns Town – Tender No.4 of 2026/2027

1. The *Malkerns Town Council* has allocated funds to be used for the *Installation of Solar Street Lights in Malkerns Town*
2. The Entity invites sealed Tenders from eligible Contractors for the provision of the above works.
3. Tendering shall be conducted in accordance with the procedures contained in the Public Procurement Act of 2011 and the Regulations of 2020.
4. Interested eligible Contractors may obtain further information about the tender document at the address given below at 8(a) from 8:00am to 4:45pm, Monday – Thursday and 8:00 am to 4:40 on Fridays.
5. The Tender document which has been prepared in the *English language* may be obtained by interested Contractors at 8(b) upon payment of a ***non-refundable fee of E500.00 (Five Hundred Emalangeni Only)***. The method of payment will be through Electronic Funds Transfer EFT, Council banking details are as below:

Account Name: Malkerns Town Board
Bank Name: Standard Bank (Mbabane Branch)
New Account Number: 9110004054620
Branch code: 663164
Ref: T04_ 2026/27

Or cash payment at Malkerns Town Council offices with effect from 27 July 2026. The reference to be used when making payment is: T04_ 2026/27

6. Tenders must be delivered to the address indicated below at 8(c) at or before ***12:00 noon on 31st August 2026***. All Tenders must be accompanied by a Tender securing of ***E50,000.00 (Fifty Thousand Emalangeni Only)***. Tender securities must be valid until ***19th November 2026***. Late Tenders shall be rejected. Tenders will be opened in the presence of the Contractors' representatives who choose to attend at the address below at 8(d) at ***31st August 2026 at 12:05hrs***.
7. There shall be a pre-Tender meeting/site visit at *Malkerns Town Council* on the dates indicated in the proposed schedule in this notice.

8. Address and Contact Details:

Table 1: Address and Contact Details:

(a)	Information about the tender may be accessed from:	works@malkerns.co.sz
(b)	Documents will be issued from:	www.esppra.co.sz ; www.malkerns.co.sz
(c)	Tenders must be delivered to:	<i>Malkerns Town Council, Portion 59 of Farm 65, Along MR 27 (Mahlanya – Luyengo Road), Opposite Malkerns Square</i>
(d)	Address of Tender opening:	<i>Malkerns Town Council, Portion 59 of Farm 65, Along MR 27 (Mahlanya – Luyengo Road), Opposite Malkerns Square</i>

9. The Planned Procurement Schedule (subject to changes) is as follows:

Table 2: Procurement schedule

Activity	Date
(a) Issue of invitation to tender letter	<i>27th July 2026</i>
(b) Pre-Tender meeting/Site visits	<i>4th August 2026</i>
(c) Tender closing date	<i>31st August 2026</i>
(d) Tender opening date	<i>31st August 2026</i>
(e) Evaluation process	<i>4th September 2026</i>
(f) Notification and Publication of Notice of Intention to Award	<i>11th September 2026</i>
(g) Contract Award	<i>28th September 2026</i>

Signature:

Name: Cinisela Dlamini

Position of Authorised Official:



PART 1 - Tender Procedures

Table of Contents

A. General	09
1. Scope of Tender	09
2. Source of Funds	09
3. Corrupt and Fraudulent Practices	09
4. Eligible Contractors	10
5. Qualification of the Contractor	11
6. Joint Ventures, Consortia and Associations	12
7. One Tender per Contractor	12
8. Cost of Tendering	12
9. Site Visit and Pre-Tender Meeting	12
10. Preference Schemes	13
B. Tendering Document	13
11. Content of Tendering Document	13
12. Clarification of Tendering Document	13
13. Amendment of Tendering Document	14
C. Preparation of Tenders	14
14. Language of the Tender	14
15. Documents Comprising the Tender	14
16. Technical Documentation	15
17. Tender Prices and Discounts	15
18. Currencies of Tender and Payment	15
19. Tender Validity	16
20. Tender Security or Tender Securing Declaration	16
21. Alternative Tenders	17
22. Format and Signing of Tender	17
D. Submission and Opening of Tenders	18
23. Sealing and Marking of Tenders	18
24. Deadline for Submission of Tenders	18
25. Late Tenders	18
26. Withdrawal and Replacement of Tenders	19
27. Tender Opening	19
E. Evaluation of Tenders	19
28. Confidentiality	19
29. Evaluation of Tenders	20
30. Clarification and Changes to Tenders	20
31. Compliance and Responsiveness of Tenders	20
32. Nonconformities, Errors, and Omissions	21
33. Stages of Evaluation: Using the Technical Compliance Selection Evaluation Method	21
34. Preliminary Examination of Tenders – Eligibility and Administrative Compliance	21
35. Detailed Evaluation	



Part 1: Section 1 Instructions to Tenderers

<u>36.</u>	<u>Currency and Exchange Rate</u>	22
<u>37.</u>	<u>Financial Comparison of Tenders</u>	22
<u>38.</u>	<u>Margin of Preference</u>	23
<u>39.</u>	<u>Determination of Best Evaluated Tender</u>	23
<u>F.</u>	<u>Award of Contract</u>	23
<u>40.</u>	<u>Award Procedure and Notice of Tender</u>	23
<u>41.</u>	<u>PE's Right to Accept Any Tender And to Reject Any or all Tenders</u>	24
<u>42.</u>	<u>Confirmation of Award</u>	24
<u>43.</u>	<u>Signing and Effectiveness of Contract</u>	24
<u>44.</u>	<u>Debriefing of Contractors</u>	25
<u>45.</u>	<u>Performance Security</u>	25
<u>46.</u>	<u>Procurement Related Complaints and Administrative Review</u>	25



Section 1: Instructions to Tenderers

General

Scope of Tender

- 1.1 The Procuring Entity (PE), as defined in the Tender Data Sheet (TDS), invites Tenders for the construction of works, as described in the TDS. The name and procurement reference number of the Contract and number of lots in this Tender Document are provided in the TDS. The Instructions to Tenderers (ITT) should be read in conjunction with the TDS.
- 1.2 The successful Contractor will be expected to complete the works by the Intended Completion Date specified in the Special Conditions of Contract (SCC).
- 1.3 Throughout this Tender document:
 - (a) the “Contractor” means the service provider.
 - (b) “day” means calendar day unless specified as working day.
 - (c) “day works” means varied work inputs subject to payment on a time basis for the Contractor’s employees and Equipment, in addition to payments for associated Materials and Plant.
 - (d) the “Employer” means the Procuring Entity.
 - (e) “ESHS” means environmental, social (including sexual exploitation and abuse (SEA) and gender -based violence (GBV)), health and safety.
 - (f) “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

Source of Funds

- 2.1 The PE has an approved budget Malkerns Town Council CIP budget allocation for 2026/2027 financial year and arruals from 2025/26 financial year towards the cost of the procurement named in the TDS. The PE intends to use these funds to place a contract for which this Tender Document is issued.
- 2.2 Payments will be made directly by the PE and shall be subject to the terms and conditions of the resulting contract placed by the PE.

Corrupt and Fraudulent Practices

- 3.1 It is the policy of the Government of The Kingdom of Eswatini through ESPPRA to require that PEs, as well as Contractors Sub- observe the highest standards of ethics during procurement and the execution of contracts.
 - (a) In pursuit of this policy, the Government of Eswatini defines for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution;



Part 1: Section 1 Instructions to Tenderers

- (ii) “fraudulent practice” means as any such practices under the code of ethics of the providers and not limited to misrepresentation of facts in order to influence a procurement or process or the execution of a contract to the detriment of the procuring or disposing entity, and includes collusive practices among Contractors prior to or after Tender submission designed to establish Tender prices at artificial non-competitive levels and to deprive the PE of the benefits of free and competitive competition;
 - (b) The PE shall reject a recommendation for award if the Contractor recommended for award has engaged in corrupt or fraudulent practices; and
 - (c) The Agency shall suspend a contractor from engaging in any public procurement proceedings for a stated period of time in accordance with the Procurement Act and the Regulations made under the Act, if the provider has engaged in corrupt or fraudulent practices.
- 3.2 In pursuit of the policy defined in ITT Sub-Clause 3.1, the PE may terminate a contract for works, if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the PE or of a Contractor or sub-Contractor during the procurement or the execution of a contract.
- 3.3 In further pursuit of the policy defined in ITT Sub-Clause 3.1, the Agency requires representatives of both the PE and of Contractors and sub-Contractors to adhere to the relevant codes of ethical conduct. The Code of Ethical Conduct for Contractors and Providers as provided in the Tender forms shall be signed by the Contractor and submitted together with the other Tender forms.
- 3.4 Any communications between a Contractor and the PE related to matters of alleged fraud or corruption must be made in writing and addressed to the Controlling Officer of the PE.

Eligible Contractors

- 4.1 A Contractor, and all parties constituting the Contractor, shall meet the following criteria to be eligible to participate in public procurement:
- (a) The Contractor has the legal capacity to enter into a contract with the PE;
 - (b) The Contractor is not:
 - (i) Insolvent;
 - (ii) In receivership;
 - (iii) Bankrupt; or
 - (iv) Being wound up
 - (c) The Contractor’s business activities have not been suspended;
 - (d) The Contractor is not the subject of legal proceedings for any of the circumstances in (b); and
 - (e) The Contractor has fulfilled his or her obligations to pay taxes and social security contributions.
 - (f) The Contractor is not a member of the Entity Tender Board or an employee of the Procuring Entity.
- 4.2 A Contractor may be a physical person or artificial person, such as an entity. A combination of persons can Tender if they have an agreement to form a Joint Venture (JV), Consortium or Association. Such a Tender shall include a Power of Attorney from each party authorizing a representative to conduct all business for and on behalf of the party during the Tender process, contract signature and contract execution. Each party to the JV, Consortium or



Part 1: Section 1 Instructions to Tenderers

Association shall be a signatory to the contract with the PE and shall be jointly and severally liable.

- 4.3 A Contractor, and all parties constituting the Contractor including sub-contractors, shall have the nationality of an eligible country, in accordance with Section 5, Eligible Countries. A Contractor shall be deemed to have the nationality of a country if the Contractor is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors for any part of the Contract including related services.
- 4.4 A Contractor shall not have a conflict of interest. Any Contractor found to have a conflict of interest shall be disqualified. A Contractor may be considered to have a conflict of interest with one or more parties in this Tendering process, if the Contractor:
- (a) Has controlling shareholding with another Contractor; or
 - (b) Receives or has received any direct or indirect subsidy from another Contractor; or
 - (c) Has the same authorized representative for purposes of this tendering process as another Contractor; or
 - (d) Has a relationship with another Contractor, directly or through common third parties, that puts the Contractor in a position to have access to information about or influence the Tender of another Contractor, or influence the decisions of the PE regarding this tendering process; or
 - (e) Submits more than one Tender in this Tendering process, except for alternative Tenders permitted under ITT 19. However, this does not limit the participation of subcontractors in more than one Tender, or as Contractors and subcontractors simultaneously; or
 - (f) Is associated, or has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or is being proposed as Project Manager for the Contract. A Contractor that has been engaged by the PE to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to Tender.
- 4.5 A Contractor that is suspended by the Agency shall not be eligible to participate in the Tendering process.
- 4.6 Government-owned enterprises shall be eligible only if they can establish that they are legally and operate under commercial law.
- 4.7 Contractors shall provide such evidence of their continued eligibility satisfactory to the PE, as the PE shall reasonably request.
- 4.8 To establish eligibility in accordance with ITT 4, a Contractor shall complete the eligibility declarations in the Tender Submission Sheet, included in Section 4, Tender Forms and submit the documents required in Section 3, Evaluation Methodology and Criteria.
- 4.9 A Contractor whose circumstances in relation to eligibility change during a procurement process or during the implementation of a contract, shall immediately inform the PE.
- 4.10 All materials, equipment and services to be used in the performance of the contract shall have as their country of origin an eligible country in accordance with Section 5, Eligible Countries.

Qualification of the Contractor

- 5.1 To establish its qualifications to perform the Contract, the Contractor shall complete and submit:
- (a) The Qualification Form provided in Section 4, Tendering Forms; and



Part 1: Section 1 Instructions to Tenderers

- (b) The information and documents stated in Section 3, Evaluation Methodology and Criteria.
- 5.2 The qualifications of the best evaluated Contractor will be assessed as part of a post-qualification in accordance with ITT 40.

Joint Ventures, Consortia and Associations

- 6.1 Tenders submitted by a JV, Consortium or Association shall include a copy of the Joint Venture, Consortium or Association Agreement signed by all parties to the Joint Venture, Consortium or Association Agreement.
- 6.2 In addition to the requirements under ITT 15.1, Tenders submitted by a joint venture, consortium or association of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the TDS:
 - (a) The Tender shall include all the information listed in Section 3, Evaluation Methodology and Criteria for each partner;
 - (b) The Tender shall be signed to be legally binding on all partners;
 - (c) All partners shall be jointly and severally liable for the implementation of the Contract in accordance with the Contract terms;
 - (d) One of the partners will be nominated as being in charge and receive instructions for and on behalf of any and all partners; and
 - (e) The implementation of the entire Contract shall be by the Joint Venture, consortium or association.

One Tender per Contractor

Each Contractor shall submit only one Tender, either individually or as a partner in a joint venture, consortium or association. A Contractor who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) shall cause all the Tenders with the Contractor's participation to be rejected.

Cost of Tendering

The Contractor shall bear all costs associated with the preparation and submission of his Tender, and the PE shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

Site Visit and Pre-Tender Meeting

- 9.1 The Contractor, at the Contractor's own responsibility and risk, is encouraged to visit and examine the site of works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for construction of the works. The costs of visiting the site shall be at the Contractor's own expense.
- 9.2 The Contractor and any of its authorized personnel or agents shall be granted permission by the PE to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Contractor, its personnel, and agents will release and indemnify the PE and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.



Part 1: Section 1 Instructions to Tenderers

- 9.3 If so indicated in the TDS, the PE will hold a pre-tender meeting or site visit at the time, date and location specified in the TDS to clarify issues and to answer questions on any matter that may be raised at that stage.
- 9.4 Contractors may submit any questions in writing to the Entity prior to the date of the meeting and may also orally raise questions at the meeting.
- 9.5 Minutes of the pre-tender meeting, if any was held, including the text of the questions asked by Contractors, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Contractors who have acquired the Tendering Documents. Any modification to the Tendering Documents that may become necessary as a result of the pre-Tender meeting shall be made by the PE exclusively through the issue of an Addendum pursuant to ITT 12 and not through the minutes of the pre-Tender meeting. Unless otherwise indicated in the TDS, non-attendance at the site visit shall not cause disqualification of a Contractor.

Margin of Preference

- 10.1 Unless otherwise specified in the TDS, a margin of preference shall apply. Where the margin of preference applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.

Tendering Document

Content of Tendering Document

- 11.1 The Tendering Document consists of Parts 1, 2, and 3, which includes all the Sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITT Clause 13.

PART 1 Tendering Procedures

- Section 1. Instructions to Contractors (ITT)
- Section 2. Tender Data Sheet (TDS)
- Section 3. Evaluation Methodology and Criteria
- Section 4. Tendering Forms
- Section 5. Eligible Countries

PART 2 Statement of Requirements

- Section 6. Statement of Requirements

PART 3 Contract

- Section 7. General Conditions of Contract (GCC)
- Section 8. Special Conditions of Contract (SCC)
- Section 9. Contract Forms

- 11.2 Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the Tendering Documents, responses to requests for clarification, the minutes of the pre-Tender meeting (if any), or Addenda to the Tendering Documents.
- 11.3 The Contractor is expected to examine all instructions, forms, terms and specifications in the Tendering Document and to furnish with its Tender all information and documentation required by the Tendering Documents.

Clarification of Tendering Document



Part 1: Section 1 Instructions to Tenderers

A Contractor requiring any clarification of the Tendering Document shall contact the PE in writing at the PE's address indicated in the TDS. The PE will respond in writing to any request for clarification, provided that such a request is received no later than the date indicated in the TDS. The PE shall forward copies of its response to all Contractors who have acquired the Tendering Document, including a description of the inquiry but without identifying its source. Should the PE deem it necessary to amend the Tendering Document as a result of a clarification, it shall do so following the procedure under ITT 13 and ITT 24.2.

Amendment of Tendering Document

- 13.1 Prior to the deadline for submission of Tenders, the PE may amend the Tendering Document by issuing an addendum.
- 13.2 Any addendum issued shall be part of the Tendering Document and shall be communicated in writing to all who have obtained the Tendering Document directly from the PE.
- 13.3 To give Contractors reasonable time in which to take an addendum into account in preparing their Tenders, the PE shall extend the deadline for submission of Tenders by a reasonable period in the event that less than one third of the Tendering period remains after the issue date of the addendum. The PE may, at its discretion, extend the deadline for the submission of Tenders, where more than one third of the Tendering period remains after the date of issue of the addendum.

Preparation of Tenders

Language of the Tender and Communications

- 14.1 The Tender shall be in writing.
- 14.2 The Tender, as well as all correspondence and documents relating to the Tender exchanged between the Contractor and the PE, shall be written in English or unless otherwise specified in the TDS.
- 14.3 Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation by a competent institution of the relevant passages to the language stated in the ITT Sub-clause 14.2. In which case, for purposes of interpretation of the Tender, such translation shall govern.

Documents Comprising the Tender

- 15.1 The Tender submitted by the Contractor shall comprise the following:
 - (a) The Tender Submission Sheet, in accordance with ITT 15.2;
 - (b) A Tender Security or a Tender Securing Declaration in accordance with ITT 20;
 - (c) Written confirmation authorising the signatory of the Tender to commit the Contractor, in accordance with ITT 22;
 - (d) Documentary evidence in accordance with ITT 4.8 establishing the Contractor's eligibility to Tender;
 - (e) A priced Activity Schedule or Bill of Quantities in accordance with ITT 16 and 17;
 - (f) The Qualification Form and Documents in accordance with ITT 5;
 - (g) Technical documentation (description of the proposed work method and schedule, including drawings and charts, as necessary) in accordance with ITT 16;
 - (h) The duly signed Code of Ethical Conduct for Contractors and Providers in accordance with ITT 3.3; and



Part 1: Section 1 Instructions to Tenderers

- (i) Any other document(s) required in the TDS.
- 15.2 The Contractor shall submit the Tender Submission Sheet using the form provided in Section 4, Tendering Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled with the information requested.

Technical Documentation

- 16 The Contractor shall furnish technical documentation including a statement of work, equipment, personnel, schedule and any other information as stipulated in Section 4, Tendering Forms, in sufficient detail to demonstrate the adequacy of the Contractor's proposal to meet the work's requirements and the completion time.

Tender Prices and Discounts

- 17.1 The prices and discounts quoted by the Contractor in the Tender Submission Sheet and in the Priced Activity Schedules or Bills of Quantities submitted by the Contractor shall conform to the requirements specified below.
- 17.2 The Contractor shall fill in rates and prices for all items of the works described in the Bill of Quantities. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedule shall be assumed not to be included in the Tender, and provided that the Tender is substantially responsive, the corresponding adjustment shall be applied in accordance with ITT 32.3.
- 17.3 The price to be quoted in the Tender Submission Sheet shall be the total price of the Tender, excluding any discounts offered. In the event that taxes are not exempt, the price must include any applicable taxes.
- 17.4 The Contractor shall quote any unconditional and conditional discounts in the Tender Submission Sheet.
- 17.5 The total Tender price shall be for the whole works based on the priced Activity Schedule or Bill of Quantities submitted by the Contractor.
- 17.6 The contract price or tender price quoted by the Contractor shall be subject to adjustment during the performance of the Contract if provided for in the SCC and the provisions of Clause 47 of the GCC.

Currencies of Tender and Payment

- 18.1 Tender prices for works and related services originating in and outside Eswatini shall be quoted in Eswatini Lilangeni unless authorised by a competent authority.
- 18.2 If authorised by the competent authority the Contractor shall utilise the rate of exchange specified in the TDS to express its offer. The source, date and type of exchange rate shall be indicated in ITT 36.
- 18.3 If authorised by the competent authority, Contractors shall indicate details of their expected foreign currency requirements in the Tender. Foreign currency requirements shall be indicated as a percentage of the Tender price (excluding provisional sums) and shall be payable at the option of the Contractor in up to two foreign currencies, unless otherwise stated in the TDS.
- 18.4 If authorised by the competent authority, Contractors may be required by the PE to clarify their foreign currency requirements and to substantiate that the amounts included in the lump sum and in the SCC are reasonable and responsive to ITT 18.3.



Part 1: Section 1 Instructions to Tenderers

Tender Validity

- 19.1 Tenders shall remain valid until the date specified in the TDS. A Tender valid for a shorter period shall be rejected by the PE as non-compliant while a Tender valid for a longer period than the date specified in the TDS shall not be rejected but shall only be valid until the date in the TDS.
- 19.2 The PE shall make its best effort to complete the procurement process within the duration of the validity period specified in the TDS. A PE must ensure the validity of Tenders, Tender securities and Tender securing declarations throughout the procurement process until contract signature.
- 19.3 In exceptional circumstances, prior to the expiration of the Tender validity period, the PE may request Contractors to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security or a Tender Securing Declaration is requested in accordance with ITT Clause 20, it shall also be extended for a period corresponding to the extension of the Tender validity. A Contractor may refuse to extend its Tender validity period without forfeiting its Tender Security or Tender Securing Declaration. A Contractor who extends the validity periods of its Tender and Tender security or Tender securing declaration shall not be required or permitted to modify its Tender.

Tender Security or Tender Securing Declaration

- 20.1 The Contractor shall furnish as part of its Tender either a Tender Security or a Tender Securing Declaration as specified in the TDS in original form and, in the case of a Tender Security, in the amount and currency specified in the TDS.
- 20.2 If a Tender security is specified pursuant to ITT 20,1, the Tender security shall be a demand guarantee in the amount specified in the TDS and denominated in Eswatini Lilangeni or a freely convertible currency, and shall:
 - (a) Be issued by a reputable financial institution selected by the Contractor from an eligible country. If the institution issuing the security is located outside Eswatini, it shall be enforceable through a financial institution located in Eswatini.
 - (b) Be in the form of the Tender security included in section 4, Tendering forms;
 - (c) Be discharged by the financial institution immediately upon written demand by the PE in case the conditions stated in the Tender security are invoked;
 - (d) Be included in the Tender and submitted in its original form - copies shall not be accepted.
- 20.3 The Tender Security or Tender Securing Declaration shall be submitted using the appropriate form included in Section 4, Tendering Forms and shall be valid until the date specified in the TDS.
- 20.4 Any Tender not accompanied by appropriate Tender Security or Tender Securing Declaration, shall be rejected by the PE as non-compliant.
- 20.5 The Tender Security of all Contractors shall be returned as promptly as possible once the successful Contractor has signed the contract and provided the required Performance Security and ESHS Performance Security where applicable.
- 20.6 The Tender Security or Tender Securing Declaration of a JV, Consortium or Association must be issued in the names of all their members or partners.



Part 1: Section 1 Instructions to Tenderers

20.7 The Tender Security may be forfeited, or the conditions of the Tender Securing Declaration executed in the following circumstances:

- (a) If a Contractor withdraws its Tender during the period of Tender validity specified by the Contractor in the Tender Submission Sheet, or during any extension thereto;
- (b) If a Contractor fails to accept the correction of its Tender price pursuant to ITT Sub-Clause 32.5; or
- (c) If the successful Contractor fails to:
 - (i) Sign the Contract in accordance with ITT 45;
 - (ii) Furnish a Performance Security and if required in the TDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITT 46.2.

Alternative Tenders

21.1 Contractors shall submit offers that comply with the requirements of the Tendering documents, including the basic technical design as indicated in the drawings and specifications. Alternative Tenders shall not be permitted.

Format and Signing of Tender

- 22.1 The Contractor shall prepare one original of the documents comprising the Tender as described in ITT Clause 14 and clearly mark it “ORIGINAL.” In addition, the Contractor shall submit copies of the Tender, in the number specified in the TDS, and clearly mark each of them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the Tender shall be signed by the Contractor in the event that he or she is a physical person personally submitting the Tender and in any other event by a person duly authorised to sign on behalf of the Contractor. This authorisation shall consist of a Power of Attorney which if signed in Eswatini shall be registered with the competent authority and if signed outside Eswatini, shall be notarized. The Power of Attorney shall be submitted in the Tender. The name and position held by each person signing the authorisation must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be signed or initialed by the person authorized to sign the Tender.
- 22.3 The Tender shall contain no alterations or additions, except those to comply with instructions issued by the PE, or as necessary to correct errors made by the Contractor, in which case such corrections shall be initialed by the person(s) signing the Tender.
- 22.4 In the case of Tenders submitted by a JV, Consortium or Association, each member or partner shall nominate a representative through the power of attorney to conduct all business on its behalf during the Tender preparation, Tendering process and contract execution in case of award of the contract. Each representative duly nominated through the power of attorney shall commit each respective member or partner by executing a JV, Consortium or Association agreement providing; that the parties shall jointly submit a Tender, naming the lead member or partner and authorizing the representative of the lead member or partner who was granted power of attorney to sign the Tender.
- 22.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

Submission and Opening of Tenders

Sealing and Marking of Tenders



Part 1: Section 1 Instructions to Tenderers

- 23.1 The Contractor shall enclose the original and each copy of the Tender, in separate sealed envelopes or packages, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes or packages containing the original and the copies shall then be enclosed in one single plain envelope or package securely sealed in such a manner that opening and resealing cannot be achieved undetected and shall be submitted as specified in the TDS.
- 23.2 The inner and outer envelopes shall:
- (a) Bear the name and address of the Contractor;
 - (b) Be addressed to the PE in accordance with ITT 23.1;
 - (c) Bear the Procurement Reference number of this Tendering process; and
 - (d) Bear a warning not to open before the time and date for Tender opening, in accordance with ITT 23.1.
- 23.3 If all envelopes are not sealed and marked as required, the PE will assume no responsibility for the misplacement or premature opening of the Tender.

Deadline for Submission of Tenders

- 24.1 Tenders must be received by the PE at the address and no later than the date and time indicated in the TDS. When so specified in the TDS, Contractors shall have the option of submitting their Tenders electronically. Contractors submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the TDS.
- 24.2 The PE may, at its discretion, extend the deadline for the submission of Tenders by amending the Tendering Documents in accordance with ITT 13, in which case all rights and obligations of the PE and Contractors previously subject to the deadline shall thereafter be subject to the deadline as extended.

Late Tenders

The PE shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 24. Any Tender received by the PE after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Contractor.

Withdrawal and Replacement of Tenders

- 26.1 A Contractor may withdraw or replace its Tender after it has been submitted at any time before the deadline for submission of Tenders by sending a written notice, duly signed by an authorised representative, which shall include a copy of the authorisation in accordance with ITT 24.2. Any corresponding replacement of the Tender must accompany the respective written notice. All notices must be:
- (a) Submitted in accordance with ITT 23 and 24 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” or “REPLACEMENT,” and
 - (b) Received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT Clause 24.
- 26.2 Tenders requested to be withdrawn in accordance with ITT Sub-Clause 24.1 shall be returned unopened to the Contractor.
- 26.3 No Tender may be withdrawn or replaced in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Contractor in the Tender Submission Sheet or any extension thereof.



Part 1: Section 1 Instructions to Tenderers

- 26.4 Tenders may only be modified by withdrawal of the original Tender and submission of a replacement Tender in accordance with ITT Sub-Clause 26.1. Modifications submitted in any other way shall not be taken into account in the evaluation of Tenders.
- 26.5 Contractors may only offer discounts to, or otherwise modify the prices of their Tenders, by withdrawing and replacing their Tender in accordance with this clause, or by including the discount in the original Tender submission in accordance with ITT 17.

Tender Opening

- 27.1 The PE shall conduct the Tender opening in the presence of Contractors' designated representatives who choose to attend, and at the address, date and time specified in the TDS. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 24.1 shall be as specified in the TDS.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened but returned to the Contractor. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at the Tender opening.
- 27.3 All other envelopes including those marked "REPLACEMENT" shall be opened and the relevant details read out. Replacement Tenders shall be recorded as such on the record of the Tender opening. The corresponding tender that is being replaced shall be returned unopened to the contractor.
- 27.4 Only envelopes or packages that are opened and read out at the Tender opening shall be evaluated.
- 27.5 All other envelopes shall be opened one at a time, reading out: the name of the Contractor; the Tender price, per lot where applicable, including any discounts; the presence of a Tender Security or Tender Securing Declaration; and any other details as the Procuring Entity may consider appropriate. No Tender shall be rejected at the Tender opening except for late Tenders, in accordance with ITT 25
- 27.6 The PE shall prepare a record of the Tender opening that shall include, as a minimum: the name of the Contractor and whether there is a withdrawal and/or replacement; the total Tender price or the Tender price per lot if applicable, including any discounts; the presence or absence of a Tender Security or Tender Securing Declaration, and whether a Power of Attorney was submitted. The Contractors' representatives who are present shall be requested to sign the record. The omission of a Contractor's signature on the record shall not invalidate the contents and effect of the record. 27.7 The opened tenders shall immediately be taken to a secure location, where they shall be kept until the evaluation begins.

Evaluation of Tenders

Confidentiality

- 28.1 Information relating to the examination, evaluation, comparison, and post-qualification of Tenders, and recommendation of contract award, shall not be disclosed to Contractors or any other persons not officially concerned with such process until information detailing the Best Evaluated Contractor is communicated to all Contractors.



Part 1: Section 1 Instructions to Tenderers

- 28.2 Any attempt by a Contractor to influence the PE in the examination, evaluation, comparison, and post-qualification of the Tenders or contract award decisions may result in the rejection of its Tender.
- 28.3 Notwithstanding ITT 28.2, from the time of Tender opening to the time of Contract award, if any Contractor wishes to contact the PE on any matter related to the Tendering process, it should do so in writing.

Evaluation of Tenders

- 29.1 The PE shall use the criteria and methodologies listed in Section_ (3, Evaluation Methodology and Criteria. No other evaluation criteria or methodology shall be permitted. By applying the set criteria and methodology, the PE shall determine the Best Evaluated Tender.
- 29.2 If this Tendering document allows Contractors to quote separate prices for different lots, the methodology to determine the Best Evaluated Tender for a lot shall be as specified in Section 3, Evaluation Methodology and Criteria.

Clarification and Changes to Tenders

- 30.1 To assist in the examination, evaluation, comparison and post-qualification of the Tenders, the Procuring Entity may, at its discretion, ask any Contractor for a clarification of its Tender, including breakdowns of unit rates or prices. Any clarification submitted by a Contractor that is not in response to a request by the PE shall not be considered. The PE's request for clarification and the Contractor's response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the PE in the evaluation of the Tenders, in accordance with ITT 32.
- 30.2 If a Contractor does not provide clarifications of its Tender by the date and time set in the PE's request for clarification, its Tender may be rejected.

Compliance and Responsiveness of Tenders

- 31.1 The PE's determination of a Tender's compliance and responsiveness is to be based only on the contents of the Tender itself with the exception of findings recorded in the Evaluation Report after a due diligence or post qualification.
- 31.2 A substantially compliant and responsive Tender is one that conforms to all the terms, conditions, and specifications of the Tendering Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) Affects in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (b) Limits in any substantial way, inconsistent with the Tendering Document, the PE's rights or the Contractor's obligations under the Contract; or
 - (c) If rectified would unfairly affect the competitive position of other Contractors presenting substantially compliant and responsive Tenders.
 - (d) Impacts the key factors of a procurement including cost, risk, time and quality and causes -
 - (i) Unacceptable time schedules, where it is stated in the Tendering document that time is of the essence;
 - (ii) Unacceptable alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies; or unacceptable counter-Tenders with



Part 1: Section 1 Instructions to Tenderers

respect to key contract terms and conditions, such as payment terms, price adjustment, liquidated damages, sub-contracting or warranty.

- 31.3 If a Tender is not substantially compliant and responsive to the Tendering Document, it shall be rejected by the PE and may not subsequently be made compliant and responsive by the Contractor by correction of the material deviation, reservation, or omission.

Nonconformities, Errors, and Omissions

- 32.1 Provided that a Tender is substantially compliant and responsive, the PE may waive any non-conformity or omission in the Tender that does not constitute a material deviation.
- 32.2 Provided that a Tender is substantially compliant and responsive, the PE may request that the Contractor submit the necessary information or documentation, within a reasonable period of time, to rectify non-material nonconformities or omissions in the Tender related to documentation requirements. Such an omission shall not be related to any aspect of the price of the Tender. Failure of the tender to comply with the request may result in the rejection of its Tender.
- 32.3 Provided that a Tender is substantially compliant and responsive, the PE shall rectify nonmaterial nonconformities or omissions. To this effect, the Tender price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The cost of any missing items will be added to the Tender price using the highest price from other Tenders submitted.
- 32.4 Provided that the Tender is substantially compliant and responsive, the PE shall correct arithmetic errors on the following basis:
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the PE there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected; and
 - (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 32.5 If a Contractor does not accept the correction of errors, the Tender shall be rejected, and the Tender Security may be forfeited or conditions in the Tender Securing Declaration executed.

Stages of Evaluation: Using the Technical Compliance Selection Evaluation Method

The evaluation of a Tender for the procurement of works using the technical compliance evaluation method shall be conducted under the following stages:

Preliminary Examination of Tenders – Eligibility and Administrative Compliance

- 34.1 The PE shall examine the legal documentation to establish the eligibility of the Contractors and to verify the validity and authenticity of the documents submitted by the Contractor.
- 34.2 If after the examination of eligibility, the PE determines that the Tender is not compliant, it shall reject the Tender with the exception of rectification of omissions in accordance with ITT 32.2.



Part 1: Section 1 Instructions to Tenderers

- 34.3 The PE shall confirm that the following administrative compliance documents and information have been provided in the Tender. If any of these documents or information is missing or contrary to the requirements in the Tendering document, the Tender shall be rejected.
- (a) The Tender Submission Sheet duly signed by the authorized representative of the Contractor, including:
 - (i) A brief description of the works and related services offered;
 - (ii) The total price of the Tender; and
 - (iii) The appropriate duration of the Tender validity;
 - (b) The Price Schedule;
 - (c) A Power of Attorney in accordance with ITT 22.2; and
 - (d) An authentic Tender Security or Tender Securing Declaration, whichever is applicable, in the appropriate form and amount.
- 34.4 Eligibility and administrative compliance shall be determined on a pass or fail basis and a Tender which is not eligible or administratively compliant shall be rejected at the preliminary stage of evaluation.

Technical Evaluation

- 35.1 The PE shall examine the technical aspects of the Tender submitted in accordance with ITT 16, in particular, to confirm that all requirements of Section 6, Statement of Requirements (SoRs) have been met without any material deviation, reservation or omission.
- 35.2 The determination shall be based upon an examination of the documentary evidence of the Contractor's qualifications submitted by the Contractor, pursuant to ITT Clause 5, to clarifications in accordance with ITT Clause 30 and the qualification criteria indicated in Section 3, Evaluation Methodology and Criteria.
- 35.3 If, after the examination of the terms, conditions and requirements, the PE determines that the Tender is not substantially responsive in accordance with ITT 31, it shall reject the Tender.

Currency and Exchange Rate

- 36.1 The currency that shall be used for evaluation purposes for all Tenders shall be Eswatini Lilangeni unless otherwise authorized by a competent authority.
- 36.2 The exchange rate shall be the prevailing Central Bank of Eswatini exchange rate and shall not precede the tender submission deadline by less than 21 days. Should this date be a non-working day, the selling exchange rate on the date prior to this non-working day shall be used for currency conversion or as otherwise specified in the TDS.

Financial Comparison of Tenders

- 37.1 The PE will evaluate and compare only the Tenders determined to be substantially responsive following Technical Evaluation in accordance with ITT 37.3.
- 37.2 To financially evaluate a Tender, the PE shall only use the criteria and methodologies defined in this clause and in Section 3, Evaluation Methodology and Criteria. No other criteria or methodology shall be permitted.
- 37.3 To financially compare Tenders, the PE shall:
- (a) Correct any arithmetic errors in accordance with ITT 30.1;
 - (b) Apply any discounts offered in accordance with ITT 17;



Part 1: Section 1 Instructions to Tenderers

- (c) Make adjustments for any deviation that is not a material deviation in accordance with ITT 32;
 - (d) Convert all Tenders to a single currency in accordance with ITT 18;
 - (e) Apply any margin of preference, in accordance with ITT 38;
 - (f) Determine the total evaluated price of each Tender.
- 37.4 The PE shall consider prices that appear to:
- (a) Be unbalanced;
 - (b) Show a misunderstanding of the requirements; or
 - (c) Be intended to front load earnings.
- 37.5 The PE reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the PE will not be taken into account in Tender evaluation, unless otherwise specified in Section 3, Evaluation Methodology and Criteria.
- 37.6 The estimated effect of any price adjustment conditions under Clause 47 of the GCC, during the period of implementation of the Contract, will not be taken into account in Tender evaluation, unless otherwise indicated in Section 3, Evaluation Methodology and Criteria.

Margin of Preference

- 38.1 Unless otherwise specified in the TDS, a margin of preference shall apply. Where a Margin of Preference applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.
- 38.2 For the purpose of granting a margin of domestic preference, Tenders will be classified in two groups, as follows:
- (a) Group A: Swati Company participating alone in the tender [*In accordance with Regulation 12(2) of the Procurement Regulations, 2020*]
 - (b) Group B: Foreign Company sub-contracting or partnering with a Swati company [*In accordance with Regulation 12(5) of the Procurement Regulations, 2020*]

Determination of Best Evaluated Tender

The best evaluated Tender shall be the lowest priced Tender which is eligible, administratively and technically compliant to the requirements specified in the Tendering document.

Award of Contract

Award Procedure and Notice of Intention to Award

- 40.1 An award decision by the relevant approvals authority is not a contract. The Contractor with the best evaluated Tender shall be awarded the contract following an adjudication by the relevant approvals authority.
- 40.2 The PE shall issue a Notice of Intention to Award within five (5) working days after the decision of the relevant approvals authority to all Contractors who participated in the Tendering process and the Agency for publication on its website
- 40.3 No contract shall be awarded within the period of ten (10) working days after the date of issuance of the Notice of Intention to Award.



Part 1: Section 1 Instructions to Tenderers

- 40.4 Negotiations will only be held in exceptional circumstances as provided for under the Procurement Act.

PE's Right to Accept any Tender and to Reject any or all Tenders

The PE reserves the right to accept or reject any Tender and to cancel the Tendering process at any time prior to contract award, without thereby incurring any liability, subject to adherence to Regulation 26 and 27. of the Public Procurement Regulations of 2020.

Confirmation of Award

An award shall be confirmed by acceptance of a Letter of Award by the contractor.

Signing and Effectiveness of Contract

- 43.1 On expiry of the ten (10) working day period after issuance of the letter of appointment to the best evaluated Contractor, the PE shall promptly sign a contract with the successful Contractor.
- 43.2 Failure by the successful Contractor to promptly sign the contract shall constitute sufficient ground for annulment of the contract award decision and forfeiture of the Tender Security or execution of the Tender Securing Declaration. In that event, the PE may award the Contract to the next best ranked Contractor whose Tender was evaluated at the financial comparison stage.
- 43.3 Effectiveness of the contract shall be subject to submission of a satisfactory performance security where applicable and any other conditions specified in the Contract.
- 43.4 A contract shall not be entered into by the Controlling Officer with a Contractor during the period of administrative review.

Debriefing of Contractors

- 44.1 The Contractor shall be provided with information on the reasons for the failure of its Tender after the notice of Intention to Award has been issued. The Procuring Entity shall give the Contractor a written debrief.

Performance Security

- 45.1 Within twenty-one (21) calendar days after signing of the contract, the successful Contractor shall where applicable, furnish to the PE a Performance Security and the Environmental, Social, Health and Safety (ESHS) Performance Security if required in the TDS, in the amount stipulated in the SCC and in the form of an on demand Bank Guarantee as stipulated in Section 9, denominated in the type and proportions of the currencies of the Contract. The Performance Security shall be issued by a Bank located in Eswatini or a foreign Bank through correspondence with a Bank located in Eswatini. Notwithstanding the foregoing and unless the acceptance of a performance security by the procuring entity would be in violation of the laws of Eswatini, a procuring entity shall not reject a performance security on the grounds that the performance security was not issued by the issuer in Eswatini, if the performance security and the issuer otherwise conform to the requirements prescribed in the invitation document.
- 45.2 Failure of the successful Contractor to submit the above-mentioned Performance Security and the Environmental, Social, Health and Safety (ESHS) Performance Security, if required in the TDS, shall constitute sufficient ground for annulment of the contract award decision. In this case, or where the successful Contractor fails to sign the contract as stated in ITT Clause 43.2, the successful Contractor's Tender Security shall be forfeited, or the conditions of the Tender Securing Declaration shall be executed. In that event, the PE may award the contract



Part 1: Section 1 Instructions to Tenderers

to the next best ranked Contractor whose Tender was evaluated at the financial comparison stage.

Procurement Related Complaints and Administrative Review

46.1 The procedures for making a Procurement-related Complaint are as specified in the TDS

Abnormally Low and Abnormally High Prices

47.1 Abnormally Low Prices

47.1.1 An Abnormally Low Price is one where the financial price, in combination with other constituent elements of the Tender, appears unreasonably low to the extent that the price raises material concerns with the Procuring Entity as to the capability of the Contractor to perform the Contract for the offered price.

47.1.2 In the event of identification of a potentially Abnormally Low Price by the evaluation committee, the Procuring Entity shall seek written clarification from the firm, including a detailed price analysis of its price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the Tendering document.

47.1.3 After evaluation of the price analyses, if the Procuring Entity determines that the firm has failed to demonstrate its capability to perform the contract for the offered price, the Procuring Entity shall reject the firm's Tender.

47.2 Abnormally High Prices

47.2.1 An abnormally high price is one where the proposal price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between the Contractors is compromised.

47.2.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tendering Document to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high proposals. The Procuring Entity may also seek written clarification from the Contractor on the reason or the high Tender price. The Procuring Entity shall proceed as follows:

- i) If the Tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the proposal depending on the Procuring Entity's budget considerations.
- ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high proposal prices, the Procuring Entity shall reject all Tenders and may re-invite for Tenders for the contract based on revised estimates, specifications, scope of work and conditions of contract.

47.2.3 If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between Contractors is compromised (often due to collusion, corruption or other manipulations), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise and copy ESPPRA, before re-inviting tenders.



Section 2: Tender Data Sheet

ITC Reference	Data relevant to the ITT										
ITT 1.1	The Procuring Entity is: Malkerns Town Council										
ITT 1.1	The works consist of: 1. Site mobilization 2. Excavation for 55 x streetlight pad footings 3. Delivery of 55 x 8m galvanized steel streetlights 4. Delivery and installation of 55 x 60W solar streetlight luminaries 5. Testing & commissioning of 55 x solar streetlights										
ITT 1.1	The Procurement Reference Number of the Contract is: Tender No.4 of 2026/27										
ITT 1.1	The number and identification of lots comprising this Tendering Document is: One										
ITT 9.3	The PE <i>shall</i> be holding a compulsory pre-Tender meeting or site visit. It shall take place at: Location: Malkerns Town Council Date: 17th August 2026 Time: 10:00am										
ITT 9.5	Site visit <i>shall</i> be a mandatory requirement.										
ITT 12	For clarification purposes only, the Procuring Entity's address is: <table border="1"> <tr> <td>Attention:</td><td>Inspector of Works</td></tr> <tr> <td>Physical address:</td><td>Portion 59 of Farm 65, Along MR27 Road, Malkerns Town</td></tr> <tr> <td>Telephone:</td><td>25283298/3398</td></tr> <tr> <td>Cellular</td><td>7802 9061</td></tr> <tr> <td>E –mail address</td><td>works@malkerns.co.sz;procurement@malkerns.co.sz</td></tr> </table>	Attention:	Inspector of Works	Physical address:	Portion 59 of Farm 65, Along MR27 Road, Malkerns Town	Telephone:	25283298/3398	Cellular	7802 9061	E –mail address	works@malkerns.co.sz;procurement@malkerns.co.sz
Attention:	Inspector of Works										
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Telephone:	25283298/3398										
Cellular	7802 9061										
E –mail address	works@malkerns.co.sz;procurement@malkerns.co.sz										
ITT 12	The Procuring Entity will respond to any request for clarification provided that such request is received no later than 24th August 2026 .										
ITT 14.2	The language of the Tender shall be English										
ITT 18.2	The Authority for specifying rates of exchange shall be the Central Bank of Eswatini.										



Part 1: Section 2 Tender Data Sheet

ITC Reference	Data relevant to the ITT
ITT 19.1	Tenders must be valid until 27 November 2026.
ITT 20.1	A Tender Security <i>shall</i> be required.
ITT 20.3	The Tender Security shall be valid until 27 November 2026 .
ITT 22.1	In addition to the original of the Tender, the number of copies required is: <i>One (1) original and three (3) copies.</i>
ITT 23.1	For Tender submission purposes only, the Procuring Entity's address is: Attention: <i>Town Clerk, Mr. Cinisela Dlamini</i> Physical Address: <i>Malkerns Town Council, Portion 59 of Farm 65, Along MR27 Road, Malkerns</i>
ITT 24.1	The deadline for Tender submission is: Date: <i>Monday, 31 August 2026</i> Time (SAST): <i>12:00 noon</i>
ITT 27.1	The Tender opening shall take place at: Physical Address: <i>Malkerns Town Council, Portion 59 of Farm 65, Along MR27 Road, Malkerns</i> Date: <i>31 August 2026</i> Time (SAST): <i>12:01 noon</i>
ITT 38.1	A margin of preference <i>shall not</i> apply.
ITT 46.1	The procedures for making a Procurement-related Complaint are detailed in the ESPPRA website https://esppra.co.sz If a Contractor wishes to make a procurement-related complaint, the Contractor shall submit its complaint following these procedures, in writing (by the quickest means available, that is by email), to: Title/position: <i>Town Clerk</i> Procuring Entity: <i>Malkerns Town Council</i> Email address: townclerk@malkerns.co.sz In summary, a procurement-related complaint may challenge any of the following: 1. the terms of the Tendering Documents; and 2. the Procuring Entity's decision to award the contract.



Section 3: Evaluation Methodology and Criteria

Procurement Reference Number: *Tender No 4 of 2026/2027*

A. Evaluation Methodology

1. Methodology Used

The evaluation methodology to be used for the evaluation of Tenders received shall be the Technical Compliance Selection (TCS) methodology.

2. Summary of Methodology

2.1 The evaluation shall be conducted in four sequential stages –

- (a) A Preliminary Examination to determine the eligibility of Contractors and the administrative compliance of Tenders received;
- (b) A Technical Evaluation to determine the technical responsiveness of the eligible and compliant Tenders;
- (c) A Financial Comparison to compare costs of the eligible, compliant, responsive Tenders received and determine the best evaluated Tender; and
- (d) Post qualification to confirm whether the best evaluated Contractor has the capacity and resources to effectively execute the procurement.

2.2 Failure of a Tender at any stage of the evaluation shall prevent further consideration at the next stage of evaluation. Substantial responsiveness shall be considered a pass at the Technical Evaluation stage.

B. Preliminary Examination Criteria

3. Eligibility Criteria

3.1 The eligibility requirements shall be determined in accordance with ITT Clause 4; and

3.2 The documentation required to provide evidence of eligibility shall be: -

	Eligibility Requirement	Documentary Evidence to be Provided by the Contractor
(a)	The Contractor has legal capacity to enter into the contract	(i) Valid Certificate of Incorporation or Registration (ii) Valid Trading License for the current year (iii) Any other sufficient evidence
(b)	The Contractor is not insolvent, in receivership, bankrupt or being wound up, its affairs are not being administered by a court or a judicial officer, its business activities have not been suspended, and it is not the subject of legal proceedings for any of the foregoing	A written declaration signed by the authorised representative of the Contractor.



Part 1: Section 3 Evaluation Methodology and Criteria

(c)	The Contractor has fulfilled its obligations to pay taxes	Original Tax Compliance Certificate issued by Eswatini Revenue Authority.
(d)	The Contractor has fulfilled its obligations to social security contributions	Valid Eswatini National Provident Fund Compliance Certificate.
(e)	The Contractor adheres to basic labour legislation	Valid Labour Compliance Certificate
(f)	The Contractor does not have a conflict of interest in relation to the procurement requirement	A written declaration signed by the authorised representative of the Contractor (<i>Tender submission sheet (m)</i>).
(g)	The Contractor, or any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of five years preceding the commencement of procurement proceedings	Police clearance or Affidavit -Not older than 3 months from submission date
(f)	The Contractor is not subject to suspension in accordance with section 55 [of the Public Procurement Act, 2011] ¹ , and none of its directors or officers have been involved in a Contractor or supplier currently subject to suspension	A written declaration signed by the authorised representative of the Contractor (<i>Tender submission sheet (n)</i>).
(g)	Affiliation of contractor at a local statutory body (CIC)	Valid and certified CIC certificate ESc – Tenders without a valid CIC registration in category ESc shall be disqualified.
(h)	The Contractor has fulfilled its obligations to pay taxes	Valid & certified VAT registration certificate

Note:

- 1. All eligibility documents are to be Valid at submission date***
- 2. The Tax Clearance Certificate should be original***
- 3. The Tender Submission Sheet should be signed to be responsive to requirement above***



¹ Refers to suspension by the Eswatini Public Procurement Regulatory Agency

Part 1: Section 3 Evaluation Methodology and Criteria

- 3.3 A Power of Attorney which if signed in Eswatini shall be registered; or if signed outside Eswatini shall be notarized authorising signature of the Tender on behalf of the Tenderer.
- 3.4 For a Joint Venture, the documentation in Section 3.2 shall be required for each member of the Joint Venture and the following additional documentation shall be required:
- (a) a certified copy of the Joint Venture Agreement or letter of intent to enter into such an agreement, which is legally binding on all partners, showing that:
 - (i) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (ii) one of the partners will be nominated as being in charge, and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (iii) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
 - (b) a Power of Attorney from each member of the JV nominating a Representative in the JV and a Power of Attorney from the JV nominating a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution.

Table: Evidence of eligibility			
No.	DESCRIPTION	YES	N0
		✓	
1.	Certified Copy* of a valid Trading License.		
2.	Original and valid Tax Compliance Certificate		
3.	Certified valid copy of Form J or owner(s) in the case of unincorporated persons.		
4.	Certified valid copy of Form C or equivalent for incorporated persons		
5.	Certified valid copy of Certificate of incorporation		
6.	Certified valid copy of ENPF Compliance certificate		
7.	Certified valid copy of Labour Compliance certificate		
8.	Certified valid copy of VAT registration certificate		
9.	Valid* Police Clearance or Affidavit of Non-Conviction for Company Directors (Shareholders)		
10.	Tender Submission sheet Form duly signed		
12.	CIC Certificate (ESc)		

* issued within three months from bid submission date



4. Administrative Compliance Criteria

3.3 For Joint Venture or Consortiums or Associations;

- a) A registered Power of Attorney from each member or partner if drawn and signed in Eswatini; or a notarised Power of Attorney if drawn and signed outside Eswatini, nominating a representative to conduct all business on its behalf during the Tender preparation, Tendering process and contract execution in case of award of the contract.
- b) The documentation in Section 3.2 for each member or partner and a copy of the Joint Venture / Consortium / Association Agreement which is legally binding on all partners or members stating that:
 - (i) The partners or members shall jointly submit a Tender;
 - (ii) One of the parties will be nominated as lead member or partner to act for and on behalf of all members or partners;
 - (iii) The authorized representative of the lead member or partner who was granted power of attorney shall sign the Tender;
 - (iv) In the event that the Tender is successful, the contract shall be executed in the name of the Joint Venture (JV), Consortium or Association and each member or partner shall sign the contract agreement; and
 - (v) All partners shall be jointly and severally liable for the implementation of the contract in accordance with the contract terms.

4. Administrative Compliance Criteria

The evaluation of Administrative Compliance criteria shall be conducted in accordance with ITT Clause 34.3.

Part 1: Section 3 Evaluation Methodology and Criteria

<i>Liquidity of contractor (assets should exceed liabilities & contractor's bank statement should demonstrate the current soundness of their financial position)</i>	10
<i>Existing contract commitments – contractors may attach Purchase orders or similar documents.</i>	5
	100

Notes: Required Key Personnel Profiles

1. Project Manager/Site Agent

Minimum Requirements:

- Degree/B-Tech Construction Industry Related
- Minimum 7 years general work experience and 4 years managing similar projects
- Registration with a recognised professional body (ECSA, EIE, or local equivalent) is an added advantage.

2. Electrical foreman/Technician

Minimum Requirements:

- Diploma in Electrical Engineering
- Minimum 5 years general work experience and 3 years experience in proposed position.
- Proven competence in SANS/IEC standards for solar PV and lighting systems.
- Must have participated in at least one (1) similar project.

3. SHEQ Officer

Minimum Requirements:

- Certificate in Occupational Health & Safety (NOSA, NEBOSH, or equivalent).
- Minimum 2 years experience supervising safety on construction or electrical installation sites.

4. Electrician

Minimum Requirements:

- Grade 1 -2 Certificate
- Minimum 4 years experience general work experience and 2 years experience in proposed position.

5. Assessment of Responsiveness

5.1 The assessment of responsiveness will consider the following criteria:

- Acceptance of the conditions of the proposed contract;
- Acceptable completion schedule;
- Acceptability of the proposed program (work method and schedule), including relevant drawings and charts.

6. Mobilization



Part 1: Section 3 Evaluation Methodology and Criteria

Evaluation of the responsiveness of the Tender to the technical requirements will include an assessment of the Contractor's capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section 6 (Statement of Requirements).

6.1 Personnel and Equipment

A. Personnel

The Contractor must demonstrate that it will have the personnel for the key positions that meet the following requirements:

No.	Position	Academic Qualification	General Work Experience (years)	Experience in Similar Works (years)
1	Contracts Manager	<u>Degree/B-Tech Construction Industry Related</u>	<u>7 years</u>	<u>4 years</u>
2	Electrical Technician/Site Agent	<u>Diploma in Electrical Engineering</u>	<u>5 years</u>	<u>3 years</u>
3	SHEQ Officer	<u>Certificate: Occupational Health and safety</u>	<u>5 years</u>	<u>3 years</u>
4	Electrician	<u>Grade 1 -2 Certificate</u>	<u>4 years</u>	<u>2 years</u>

Contractors to attached CV's and certificates for all personnel.

The Contractor shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Tendering Forms.

B. Equipment

The Contractor must demonstrate that it shall have access to the key equipment listed hereafter (either by ownership, lease, hire): Attach documentary evidence of ownership, lease, hire such as registration books, agreements or memoranda or purchase order).

The Contractor shall provide further details of proposed items of equipment using the relevant Form in Section 4.

No.	Equipment Description	Capacity	Minimum Number required
-----	-----------------------	----------	-------------------------



Part 1: Section 3 Evaluation Methodology and Criteria

1	Cherry Picker	12m working height reach	<u>1</u>
2	Mini Truck	3tons	<u>1</u>
3	Bakkie	1ton	<u>2</u>
4	Concrete Mixer	1200 RPM speed	<u>1</u>



6.2 Qualification

F actor	Historical Contract Non-Performance					
Sub- Factor	Criteria					Documentation Required
	Requirement	Contractor				
		Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
6.2.1 History contracts performance	Non-performance of a contract did not occur within the last <i>four (4)</i> years prior to the deadline for application submission, based on all information on fully settled disputes or litigation.	Must meet requirement by itself or as partner to past or existing JV	N / A	N / A	N / A	Completed Form 5
6.2.2 Pending Litigation	All pending litigation shall in total not represent more than <i>twenty percent (20%)</i> of the Contractor’s net worth and shall be treated as resolved against the Contractor.	Must meet requirement by itself or as partner to past or existing JV	N / A	N/A	N / A	Form 5A

Factor	Financial Situation and Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Single Entity	Contractor			
			Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
6.2.3 Historical Financial Performance	Submission of audited accounts or other financial statements acceptable to the Employer, for the last <i>two (2)</i> years to demonstrate the current soundness of the Contractors financial position and its prospective long-term profitability.	Must meet requirement	N / A	N / A	N / A	Form 6 and audited financial statements
6.2.4 Average Annual Turnover	Minimum average annual turnover of <i>four (4 million)</i> , calculated from total certified payments received for contracts in progress or completed, within the last <i>three (3)</i> years.	Must meet requirement	N / A	N / A	N / A	Form 7 and audited financial statements
6.2.5 Financial Resources	The Contractor must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the overall cash flow requirements for this contract and its concurrent commitments.	Must meet requirement				Form 8 and line of credit

<i>Factor</i>	Experience					
<i>Sub Factor</i>	<i>Criteria</i>					<i>Documentation Required</i>
	<i>Requirement</i>	<i>Contractor</i>				
		<i>Single Entity</i>	<i>Joint Venture, Consortium or Association</i>			
			<i>All partners combined</i>	<i>Each partner</i>	<i>At least one partner</i>	
6.2.6. General Experience	Experience under contracts in the role of contractor for at least the last <i>four(4)</i> years prior to the Tender submission deadline, and with activity in at least two(2) months in each year.	Must meet requirement	N / A	N/A	N / A	Form 9 and Certificates of Completion or Substantial Completion
6.2.7. Specific Experience	(a) Participation as contractor, in at least <i>two (2)</i> contracts within the last <i>five (5)</i> years, each with a value of at least <i>one million and eight hundred thousand (1,800,000.00)</i> that have been successfully and substantially completed (at least 70 percent complete) and that are similar to the proposed Works. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section 6, Statement of Requirements.	Must meet requirement	N/A	N / A	N/A	Form 10 and Certificates of Completion or Substantial Completion

Factor	Technical Adequacy					
Sub Factor	Criteria					Documentation Required
	Requirement	Contractor				
		Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
6.2.8 Personnel	Demonstrate that you have key personnel mentioned in Section 3 Sub Clause 6.1 (a) above. The key personnel are the contracts manager, site agent, SHEQ officer and Electrician.	Must meet requirement	N/A	N/A	N/A	Form 1 and Form 2
6.2.9 Equipment	The Contractor must demonstrate that it shall have access to the key equipment listed hereafter (either by ownership, lease, hire): See Section 3 Sub Clause 6.1 (b) above.	Must meet requirement	N/A	N/A	N/A	Form 3
6.2.10 Technical documentation	The contractor must demonstrate that they are responsive to technical requirements through statements or illustration of the following Site Organization	Must meet requirement	N/A	N/A	N/A	Tendering Forms Page 51
	Method Statement					Tendering Forms Page 52
	Mobilization Schedule					Tendering Forms Page 53

<i>Factor</i>	Technical Adequacy					
<i>Sub Factor</i>	<i>Criteria</i>					<i>Documentation Required</i>
	<i>Requirement</i>	<i>Contractor</i>				
		<i>Single Entity</i>	<i>Joint Venture, Consortium or Association</i>			
			<i>All partners combined</i>	<i>Each partner</i>	<i>At least one partner</i>	
	• Construction Schedule	Must meet requirement	N/A	N/A	N/A	Tendering Forms Page 54
	• Environmental and Social Management Plan					Tendering Forms Page 55
• Code of Conduct for Contractor's Personnel	Tendering Forms Page 56					

The Technical Evaluation is to be by binary method as follows:

A. Historical Contract Non-Performance			
Sub Factor:	Requirements	Yes	No
6.2.1 History contracts performance	Non-performance of a contract did not occur within the last four (4) years prior to the deadline for application submission, based on all information on fully settled disputes or litigation.		
6.2.2 Pending Litigation	All pending litigation shall in total not represent more than twenty percent (20%) of the Contractor's net worth and shall be treated as resolved against the Contractor.		
B. Financial Situation and Performance			
Sub Factor:	Requirement	Yes	No
6.2.3 Historical Financial Performance	Submission of audited accounts or other financial statements acceptable to the Employer, for the last two (2) years to demonstrate the current soundness of the Contractors financial position and its prospective long-term profitability.		

6.2.4 Average Annual Turnover	Minimum average annual turnover of <i>four (4 million) per annum</i> , calculated from total certified payments received for contracts in progress or completed, within the last <i>three (3)</i> years.					
6.2.5 Financial Resources	Demonstration of access to, or availability of, financial resources such as liquid assets other than any contractual advance payments to meet the overall cash flow requirements for this contract and its concurrent commitments.					
C. Experience						
Sub Factor:	Requirement	Yes	No			
6.2.6.General Experience	Experience under contracts in the role of contractor for at least the last <i>four(4)</i> years prior to the Tender submission deadline, and with activity in at least <i>two(2)</i> months in each year.					
6.2.7.Specific Experience	(a) Participation as contractor, in at least <i>two (2)</i> contracts within the last <i>five (5)</i> years, each with a value of at least <i>one million and eight hundred thousand (1,800,000.00)</i> that have been successfully and substantially completed (at least 70 percent complete) and that are similar to the proposed Works.					
D. Technical Requirements						
Sub Factor:	Requirement	Yes	No			
6.2.8. Personnel	The Contractor must demonstrate that it will have the personnel for the key positions that meet the following requirements:					
	Position	Academic Qualification	<u>Experience</u>		Yes	No
			<u>General</u>	<u>Specific</u>		
	<i>1. Contracts Manager</i>	<i>Degree/B-Tech – Construction Industry related</i>	<u>7</u>	<u>4</u>		
	<i>2. Electrical Technician/Site Agent</i>	<i>Diploma - Electrical</i>	<u>5</u>	<u>3</u>		
	<i>3. SHEQ Officer</i>	<i>Certificate (safety)</i>	<u>5</u>	<u>3</u>		
	<i>4. Electrician</i>	<i>Certificate Grade 1 or 2</i>	<u>4</u>	<u>2</u>		
Sub Factor:	Requirement	Yes	No			

6.2.9. Plant	The Contractor must demonstrate that it shall have access to the key equipment listed hereafter (either by ownership, lease, hire).				
	Plant	Minimum Capacity	Quantity	Yes	No
	1. Cherry Picker	12m working height reach	1		
	2. Mini Truck	3 tons	1		
	3. Bakkie	1 ton	2		
	4. Concrete Mixer	1200 RPM speed	1		
Sub Factor:	Requirement			Yes	No
6.2.10 Technical documentation	The contractor must demonstrate that they are responsive to technical requirements through completing following technical forms:				
	1. Site Organization				
	2. Method Statement				
	3. Mobilization Schedule				
	4. Construction Schedule				
	5. Environmental and Social Management Plan				
	6. Traffic management Plan				
	7. Code of Conduct for Contractor's Personnel				

Contractor's shall also provide information and documentation of: -

- (a) Authority to seek references from the Contractor's bankers; and
- (b) Foreign firms shall be required to submit proposals for subcontracting components of the works to local (Swati) firms amounting to at least 30% of the Contract Price.

D. Financial Comparison Criteria

7. Costs to be included in the Tender Price

7.1 The financial comparison shall be conducted in accordance with ITT Clause 37.

The following costs shall be included in the Tender price:

- (a) the total price given in the Activity Schedule/Bills of Quantities;
- (b) day works, if any.

7.2 The following costs shall be excluded from the Tender price:

- (a) provisional sums;
- (b) the provision for contingencies in the Activity Schedule/ Bills of Quantities.

8. Margin of Preference

8.1 If the TDS specifies a margin of preference is applicable, for the purpose of Tender comparison, the following procedures will apply:

8.2 The PE will first review the Tenders that have reached financial comparison to confirm the appropriateness of the classification, and to identify the Tender group classification of each based upon Contractors' declarations in the Tender Submission Sheet and supporting evidence on ownership/shareholding of the Contractors in accordance with ITT 38.2.

8.3 All evaluated Tenders in each group will then be compared to determine the lowest evaluated Tender of each group. The Tender prices for Contractors in Group A and Group B will be increased by the respective percentages of preference as specified in the Tender Data Sheet. *[For Example: (Tender Price of Contractor Z)- (Tender Price of Contractor Z x percentage specified in the Tender Data Sheet ITT 35.2)].* After application of the preferences, all the Tenders shall be compared, with the lowest-evaluated Tender determined from this comparison selected for the award.



9. Determination of Best Evaluated Tender or Tenders

- 9.1 Post qualification evaluation will be carried out on the lowest evaluated Contractor as specified below: -

Legal Requirements – Due diligence shall be done to verify ownership of the company and its registration with appropriate body in the country of principal business.

(i) Technical Requirements–Due diligence shall be done to:

- (a) Verify and validate the Contractor's performance on previous indicated private and public contracts in the Contractor's submission.
- (b) Verify and validate current commitments and litigation record of the Contractor.

(ii) Financial Requirements - Due diligence shall be done to verify and ascertain the Contractor's financial contracting capacity and bank commitment to provide a credit line to the Contractor.

- 9.2 A Contractor not meeting any of the above criteria shall be rejected.

- 9.3 The Tender with the lowest evaluated price, from among those which are eligible, compliant and substantially responsive and have passed the post-qualification shall be the best evaluated Tender. If this Tendering Document includes more than one lot, the best evaluated Tender shall be determined separately for each lot.

- 9.4 Notwithstanding paragraph 9.1, if the Tendering Document allows Contractors to quote different prices for single lots and for the award to a single Contractor of multiple lots, the Procuring Entity shall conduct a further financial comparison to apply any conditional discounts. The Tender or Tenders offering the lowest priced combination of all the lots shall be the best evaluated Tender or Tenders.



Section 4: Tendering Forms

Table of Forms

Tender Submission Sheet.....	47
Code of Ethical Conduct in Business for Contractors	49
Form of Tender-Securing Declaration	51
Technical Documentation	52
Site Organization	53
Method Statement	54
Mobilization Schedule	55
Construction Schedule.....	56
Code of Conduct for Contractor’s Personnel Form	58
Forms for Key Personnel.....	61
Form – 1: Proposed Personnel.....	61
Form – 2: CV of Proposed Personnel	62
Forms for Equipment	64
FORM 3	64
Qualification Forms	65
Form 4	66
Contractor Information Sheet	66
Form	4
.....	A
! Bookmark not defined.	Error
Party to JV / Consortium / Association Information Sheet	
.....	Error
! Bookmark not defined.	
Form 5	67
Historical Contract Non-Performance	67
Form 5A.....	68
Pending Litigation.....	68
FORM	5
.....	B
! Bookmark not defined.	Error
Environmental, Social, Health and Safety Performance Declaration	
.....	Error
! Bookmark not defined.	
Form 6	69
Current Contract Commitments / Works in Progress.....	69



Part 1: Section 4 Tendering Forms

FORM 6	70
Financial Situation	70
Form 7	72
Average Annual Turnover	72
Form 8	73
Financial Resources	73
FORM 9	74
Experience	74
Form 10	75
Specific Experience	75



Part 1: Section 4 Tendering Forms

[This Tender Submission Sheet should be on the letterhead of the Contractor and should be signed by a person with the proper authority to sign documents that are binding on the Contractor]

Tender Submission Sheet

Date: *[insert date (as day, month and year) of Tender Submission]*

Procurement Reference No: *[insert Procurement Reference number]*

To: *[insert complete name of Procuring Entity]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Tendering Document, including Addenda No.: *[insert the number and issue date of each Addenda]*;
- (b) We offer to execute in conformity with the Tendering Document and in accordance with the completion schedule specified in the Statement of Requirements and the terms and conditions of the Tendering Document, the following works *[insert a brief description of the Works]*;
- (c) The total price of our Tender, excluding any discounts offered in item (d) below, is

- (d) The discounts offered and the methodologies for their application are:

Unconditional discounts. If our Tender is accepted, the following discounts shall apply. *[Specify in detail each discount offered (e.g. amount/percentage) and the specific item of the Statement of Requirements to which it applies.]*

Methodology of application of the unconditional discounts. The unconditional discounts shall be applied using the following method: *[Specify precisely the method that shall be used to apply the discounts]*;

Cross discounts. If our Tenders for more than one lot are accepted, the following discounts shall apply. *[Specify precisely each discount offered (e.g. amount/percentage) and the conditions for its application.]*

Methodology of application of the cross discounts. The cross discounts shall be applied using the following method: *[Specify in detail the method that shall be used to apply the discounts]*;

- (e) Our Tender shall be valid until the date specified in ITT Sub-Clause 19.1 and it shall remain binding upon us and may be accepted at any time before that date;
- (f) If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering Document in the amount of *[insert amount in words and figures of the Performance Security]* for the due performance of the Contract;
- (g) We, including any subcontractors for any part of the contract resulting from this procurement process, are eligible to participate in public procurement in accordance with ITT Clause 4.1;
- (h) We, including any subcontractors for any part of the contract, have nationals from eligible countries *[insert the nationality of the Contractor, including that of all parties that comprise the Contractor, if the Contractor is a joint venture, consortium or association, and the nationality of each subcontractor]*;
- (i) We are eligible for a Margin of Preference in accordance with ITT Clause 38;
[or]

We are not eligible for a Margin of Preference in accordance with ITT Clause 38;

- (j) We have signed and undertake to abide by the Code of Ethical Conduct for Contractors and Providers during the procurement process and the execution of any resulting contract;



Part 1: Section 4 Tendering Forms

(k) We accept the appointment of *[name proposed in SCC 21.1]* as the Adjudicator.

[or]

We do not accept the appointment of *[name proposed in GCC 21.1]* as the Adjudicator, and propose instead that *[name]* be appointed as Adjudicator, whose daily fees and biographical data are attached.

- (l) We are not participating, as Contractors, in more than one Tender in this Tendering process, other than alternative Tenders in accordance with the Tendering Document;
- (m) We, including any subcontractors, do not have any conflict of interest as stated in ITT 4.4 and are not associated, nor have been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or that is being proposed as Project Manager for the Contract;
- (n) We, including any subcontractors for any part of the contract, have not been suspended by the Eswatini Public Procurement Regulatory Agency from participating in public procurement;
- (o) We understand that you are not bound to accept the lowest Tender or any other Tender that you may receive.

Signed: *[signature of person whose name is shown below]*

Name: *[insert complete name of person signing the Tender]*

In the capacity of *[insert designation of person signing the Tender]*

Duly authorised to sign the Tender for and on behalf of: *[insert complete name of Contractor/Joint Venture]*

Dated on _____ day of _____, _____ *[insert date of signing]*



Part 1: Section 4 Tendering Forms

Code of Ethical Conduct in Business for Contractors

1. Ethical Principles

Contractors and providers shall at all times-

- (a) Maintain integrity and independence in their professional judgement and conduct;
- (b) Comply with both the letter and the spirit of-
 - (i) The laws of Eswatini; and
 - (ii) Any executed contract.
- (c) Avoid associations with businesses and organisations which are in conflict with this code.

2. Standards

Contractors and providers shall-

- (a) Strive to provide works, services and goods of high quality and accept full responsibility for all works, services or goods provided;
- (b) Comply with the professional standards of their industry or of any professional body of which they are members.

3. Conflict of Interest

Contractors and providers shall not accept contracts which would constitute a conflict of interest with any prior or current contract with any Procuring Entity. Contractors and providers shall disclose to all concerned parties those conflicts of interest that cannot reasonably be avoided or escaped.

4. Confidentiality and Accuracy of Information

- (a) Information given by Contractors and service providers in the course of procurement processes, or the performance of contracts shall be true, fair and not designed to mislead.
- (b) Service providers shall respect the confidentiality of information received in the course of performance of a contract and shall not use such information for personal gain.

5. Gifts and Hospitality

Contractors and providers shall not offer gifts or hospitality directly or indirectly, to staff of a Procuring Entity that might be viewed by others as having an influence on a procurement decision of the Entity.

6. Inducements

- (a) Contractors and service providers shall not offer or give anything of value to influence the action of a public official in the procurement process or in contract execution.
- (b) Contractors and service providers shall not ask a public official to do anything which is inconsistent with the Act, Regulations, Guidelines or the Code of Ethical Conduct in Business.

7. Fraudulent Practices

Contractors and service providers shall not-



Part 1: Section 4 Tendering Forms

- (a) Collude with other businesses and organisations with the intention of depriving a Procuring Entity of the benefits of free and competitive competition;
- (b) Enter into business arrangements that might prevent the effective operation of fair competition;
- (c) Engage in deceptive financial practices, such as bribery, double billing or other improper financial practices;
- (d) Misrepresent facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity; or utter false documents;
- (e) Unlawfully obtain information relating to a procurement process in order to influence the process or execution of a contract to the detriment of the PE;
- (f) Withholding information from the PE during contract execution to the detriment of the PE.

I agree to comply with the above code of ethical conduct in business.

AUTHORISED SIGNATORY

NAME OF CONTRACTOR²



² If the bidder is a JV, Consortium or Association, state the name of the JV, Consortium or Association

Form of Tender-Securing Declaration

Date: *[insert date (as day, month and year)]*

Subject of procurement and Ref number.: *[insert reference number of procurement process]*

To: *[insert complete name of Procuring Entity]*

I/We*, the undersigned, declare as follows:

I/We* understand that, according to the conditions of the Tendering Document, Tenders must be supported by a Tender Securing Declaration valid until the date indicated in the Tender Data Sheet (TDS).

I/We* accept that I/we* may be suspended by the Agency from being eligible for Tendering in any public procurement or disposal process if we are in breach of our obligations under the conditions in the Tendering document, because we:

- (a) Have withdrawn our Tender during the period of Tender validity specified by us in the Tender Submission Sheet or as provided in ITT Sub-Clause 19.3 or have refused to accept the correction of our Tender price pursuant to ITT Clause 32.5; or
- (b) Having been notified of the acceptance of our Tender by the PE during the period of Tender validity, (i) fail or refuse to sign the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with ITT 45.2 or and, if required, the Environmental and Social (ES) performance securing declaration.

I/We* understand this Tender Securing Declaration shall cease to be valid if I am/we are* not the successful Contractor, upon the earlier of:

- (i) The expiry of the notice of best evaluated Contractor without any pending administrative review application; or
- (ii) Twenty-eight (28) days after the expiration of the validity of my/our* Tender.

Signed: *[insert signature of person whose name is shown below]* In the capacity of *[insert designation of person signing the Tender Securing Declaration]*

Name: *[insert complete name of person signing the Tender Securing Declaration]*

Duly authorized to sign the Tender for and on behalf of: *[insert complete name of Contractor]*

Dated on _____ day of _____ (month), _____ (year) *[insert date of signing]*
Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, Consortium or Association the Tender Securing Declaration must be in the name of all partners that submit the Tender and signed by the representative duly authorized by the partners.]

***Please delete as appropriate**



Technical Documentation

1. Site Organization
2. Method Statement
3. Mobilization Schedule
4. Construction Schedule
5. Environmental and Social Management Plan
6. Code of Conduct for Contractor's Personnel



Site Organization

Provide a detailed description/illustration of the proposed site organization in terms of personnel, offices, materials storage, workshops etc.



Method Statement

Provide a detailed description of the proposed method statement to execute the works



Mobilization Schedule

Provide a detailed description/illustration of the proposed mobilization schedule for materials, equipment, labour etc. including sources.



Construction Schedule

Provide a detailed description/illustration of the proposed construction schedule.



Environmental and Social Management Plan

- a) *The Contractor shall submit comprehensive and concise Environment Social Health and Safety Management Plan as required by ITT 15.1 (i) of the Tender Data Sheet. This plan shall describe in detail the actions and management processes etc. that will be implemented by the Contractor, and its subcontractors.*
- b) *In developing these strategies and plans, the Contractor shall have regard to the ESHS provisions of the contract including those as may be more fully described in the Statement of Requirements in Section 6.*



Part 1: Section 4 Tendering Forms

Code of Conduct for Contractor's Personnel Form

Note to the Contractor:

The minimum content of the Code of Conduct Form as set out by the Employer shall not be substantially modified. However, the Contractor may add requirements as appropriate, including to take into account Contract-specific issues/risks.

The Contractor shall initial and submit the Code of Conduct Form as part of its bid.

CODE OF CONDUCT FOR CONTRACTOR'S PERSONNEL

We....., [enter name of Contractor], undertake that once we are awarded the contract for [enter description of the works] to be carried out at [enter the site and other locations where the works will be carried out] shall implement measures to address environmental and social risks related to the works, including the risks of sexual exploitation and assault and gender-based violence.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the works. It applies to all our staff, labourers and other employees at the Works Site or other places where the works would be carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as “**Contractor's Personnel**” and are subject to this Code of Conduct.

This Code of Conduct identifies the behaviour that we require from all Contractor's Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behaviour will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

REQUIRED CONDUCT

Contractor's Personnel shall:

1. Carry out his/her duties competently and diligently;
2. Comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;
3. Maintain a safe working environment including by:
 - a. Ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
 - b. Wearing required personal protective equipment;
 - c. Using appropriate measures relating to chemical, physical and biological substances and agents; and
 - d. Following applicable emergency operating procedures.
4. Report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;



Part 1: Section 4 Tendering Forms

5. Treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
6. Not engage in any form of sexual harassment including unwelcome sexual advances, requests for sexual favours, and other unwanted verbal or physical conduct of a sexual nature with other Contractor's or Employer's Personnel;
7. Not engage in Sexual Exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.
8. Not engage in Sexual Assault, which means sexual activity with another person who does not consent. It is a violation of bodily integrity and sexual autonomy and is broader than narrower conceptions of "rape", especially because (a) it may be committed by other means than force or violence, and (b) it does not necessarily entail penetration.
9. Not engage in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;
10. Complete relevant training courses that will be provided related to the environmental and social aspects of the contract, including on health and safety matters, and Sexual Exploitation and Assault (SEA);
11. Report violations of this Code of Conduct; and
12. Not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the [Project Grievance [Redress] Mechanism].

RAISING CONCERNS

If any person observes behaviour that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

1. Contact [*enter name of the Contractor's Social Expert with relevant experience in handling gender-based violence, or if such person is not required under the Contract, another individual designated by the Contractor to handle these matters*] in writing at this address [] or by telephone at [.....] or in person at [.....]; or
2. Call [.....] to reach the Contractor's hotline (*if any*) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There will be no retaliation against any person who raises a concern in good faith about any behaviour prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

Any violation of this Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.



Part 1: Section 4 Tendering Forms

FOR CONTRACTOR'S PERSONNEL:

I have received a copy of this Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this Code of Conduct, I can contact *[enter name of Contractor's contact person with relevant experience in handling gender-based violence]* requesting an explanation.

Name of Contractor's Personnel: [insert name]

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____



Forms for Key Personnel

Form – 1: Proposed Personnel (See 6.2.8)

Contractors should provide the names of suitably qualified personnel to meet the specified requirements for each of the positions listed in Section 3: Evaluation Methodology and Criteria. The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position
	Name
	Duration of commitment for this position
2.	Title of position
	Name
	Duration of commitment for this position
3.	Title of position
	Name
	Duration of commitment for this position

Part 1: Section 4 Tendering Forms

Form – 2: CV of Proposed Personnel

The Contractor shall provide all the information requested below.

Position		
Personnel Information	Name	Date of birth
	Professional qualifications	
	Academic qualifications	
Present Employment	Name of Employer	
	Address of Employer	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present Employer

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	To	Project	Role	Duration in Involvement	Relevance Experience
<i>[Date, Month and Year]</i>	<i>[Date, Month and Year]</i>	<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role i.e. Months and Years]</i>	<i>[describe the experience relevant to this position]</i>



Part 1: Section 4 Tendering Forms

Declaration

I, the undersigned *[insert name of “Key Personnel”]*, certify that to the best of my knowledge and belief, the information in reference to my data contained in the Forms for Key Personnel correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Tender:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Contractor’s Key Personnel is available to work on this contract]</i>

I understand that any misrepresentation or omission in this Form may:

1. Be taken into consideration during Tender evaluation;
2. Result in my disqualification from participating in the procurement process.

Name of Key Personnel: *[insert name]*

Signature: _____

Date: (day, month, year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____



Part 1: Section 4 Tendering Forms

Forms for Equipment (See 6.2.9)

The Contractor shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section 3: Evaluation Methodology and Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Contractor. The Contractor shall provide all the information requested below, to the extent possible:

FORM 3

Type of Equipment		
Equipment Information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current Status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment ☐ Owned ☐ Rented ☐ Leased ☐ Specially manufactured [Attach evidence of ownership, lease or hire in the form of registration books, agreements or memoranda or purchaser order] [For Specially Manufactured Equipment, attach evidence in form of Proforma Invoices, Quotation or Sales Agreement between the Contractor and the prospective equipment manufacturer]	

The following information shall be provided only for equipment not owned by the Contractor.

FORM 3A

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project. (Attach evidence of lease or hire in the form of registration books, agreements or memoranda or purchaser order)	



Qualification Forms

To establish its qualifications to perform the contract in accordance with Section 3: Evaluation Methodology and Criteria. The Contractor shall provide the information requested in the corresponding Information Sheets included hereunder:



Part 1: Section 4 Tendering Forms

Form 4

Contractor Information Sheet

Date: _____
Procurement Reference Number:

1. Contractor's Name ¹ :
2. In case of JV / Consortium / Association, state name of each party in Form 4A
3. Contractor's Country of Registration / Incorporation ² :
4. Contractor's Year of Registration / Incorporation ³ :
5. Contractor's Address in Country of Registration / Incorporation ⁴ :
6. Contractor's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: ☐ Certificate of Incorporation or Registration of firm named in 1, above. ☐ In case of JV / Consortium / Association, the JV / Consortium / Association Agreement ☐ In case of government owned entity from the Procuring Entity's country, documents establishing legal and financial autonomy and compliance with the principles of commercial law.



¹In case of JV / Consortium / Association, Fill in Form 4A

²In case of JV / Consortium / Association, Fill in Form 4A

³In case of JV / Consortium / Association, Fill in Form 4A

⁴In case of JV / Consortium / Association, Fill in Form 4A

Part 1: Section 4 Tendering Forms

Form 5

Historical Contract Non-Performance

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Names: _____

Procurement Reference No.: _____

Non-Performing Contracts in accordance with the Technical Criteria			
☐ Contract non-performance did not occur during the stipulated period, in accordance with Sub-Factor 6.2.1 of Section III.			
☐ Contract non-performance during the stipulated period, in accordance with Sub-Factor 6.2.1 of Section III.			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount
_____	_____	Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____	_____



Part 1: Section 4 Tendering Forms

Form 5A

Pending Litigation

Pending Litigation, in accordance with Section III

- ☐ No pending litigation in accordance with Sub-Factor 6.2.2 of Section III
- ☐ Pending litigation in accordance with Sub-Factor 6.2.2 of Section III, as indicated below

Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____



Part 1: Section 4 Tendering Forms

Form 6

Current Contract Commitments / Works in Progress

[The following table shall be filled in for the Contractor, each member of a Joint Venture / Consortium / Association]

Contractor's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture / Consortium / Association Member's Name: *[insert full name]*

Proc. Reference No: *[insert Reference Number]*

[Contractors and each partner to a JV/ Consortium / Association should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.]

Name of contract	Employer, contact address/tel	Value of outstanding work	Estimated completion date	Average monthly invoicing over last six months (Lilangeni /month)
1.				
2.				
3.				
4.				
5.				
etc.				



Part 1: Section 4 Tendering Forms

FORM 6 A

Financial Situation

Historical Financial Performance

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Legal Name: _____

Procurement Reference No.: _____

To be completed by the Contractor and, if JV/ Consortium / Association, by each partner

Financial information in Lilangeni equivalent	Historic information for previous _____ () years (Lilangeni equivalent)						
	Year 1	Year 2	Year 3	Year ...	Year n	Avg.	Avg. Ratio
Information from Balance Sheet							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW)							
Current Assets (CA)							
Current Liabilities (CL)							
Information from Income Statement							
Total Revenue (TR)							
Profits Before Taxes (PBT)							



Part 1: Section 4 Tendering Forms

- ☐ Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:
- Must reflect the financial situation of the Contractor or partner to a JV, and not sister or parent companies
 - Historic financial statements must be audited by a certified accountant
 - Historic financial statements must be complete, including all notes to the financial statements
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)



Part 1: Section 4 Tendering Forms

Form 7

Average Annual Turnover

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Name: _____

Procurement Reference No.: _____

Annual turnover data (construction only)		
Year	Amount and Currency	Lilangeni equivalent
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
*Average Annual Construction Turnover	_____	_____

*Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in Section III, Sub-Factor 6.2.5, divided by that same number of years.



Part 1: Section 4 Tendering Forms

Form 8

Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section 3: Evaluation Methodology and Criteria.

Source of financing	Amount (Lilangeni equivalent)
1.	
2.	
3.	
4.	



Part 1: Section 4 Tendering Forms

FORM 9

Experience

General Experience

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Name: _____

Procurement Reference No.: _____

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Contractor
_____	_____	_____	Contract name: Brief Description of the Works performed by the Contractor: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Contractor: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Contractor: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Contractor: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Contractor: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the Works performed by the Contractor: Name of Employer: Address:	_____

*List calendar year for years with contracts with at least nine (9) months activity per year starting with the earliest year



Part 1: Section 4 Tendering Forms

Form 10

Specific Experience

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Name: _____

Procurement Reference No.: _____

Similar Contract Number: ____ [insert specific number] of ____ [insert total number of contracts required].	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	☐ Contractor	☐ Management Contractor	☐ Subcontractor
Total contract amount	_____		Lilangeni ____
If partner in a JV or subcontractor, specify participation of total contract amount	_____ %	_____	Lilangeni ____
Employer's Name:	_____		
Address:	_____ _____ _____		
Telephone number:	_____ _____		
E-mail:	_____ _____		



Part 1: Section 4 Tendering Forms

Form 10 A (cont.)

Specific Experience (cont.)

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Name: _____

Procurement Reference No.: _____

Similar Contract No. <i>___[insert specific number] of ___[insert total number of contracts] required</i>	Information
Description of the similarity in accordance with Sub-Factor 6.2.8a) of Section 3: Evaluation Methodology and Criteria.:	
Amount	_____
Physical size	_____
Complexity	_____
Methods/Technology	_____
Physical Production Rate	_____



Part 1: Section 4 Tendering Forms

Form 10 A (b)

Specific Experience in Key Activities

Contractor's Name: _____

Date: _____

JV/ Consortium / Association Partner Name: _____

Procurement Reference No.: _____

	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	☐ Contractor	☐ Management Contractor	☐ Subcontractor
Total contract amount	_____		_____
If partner in a JV / Consortium / Association, specify participation of total contract amount	_____ %	_____	_____
Employer's Name:	_____		
Address:	_____ _____ _____		
Telephone number:	_____		
E-mail:	_____		



Part 1: Section 4 Tendering Forms

Form 10 (b) (cont.)

Specific Experience in Key Activities (cont.)

Contractor's Name: _____ Date: _____

JV/ Consortium / Association Partner Name: _____

Procurement Reference No.: _____

	Information
Description of the key activities in accordance with Sub-Factor 6.2.9 b) of Section III:	

We, the undersigned, declare that the information contained in and attached to these forms is true and accurate as of the date of Tender submission:

Signed: *[signature of person whose name and capacity are shown below]*

Name: *[insert complete name of authorized person signing the Qualification Form]*

Duly authorised to sign the Qualification Form for and on behalf of: *[insert complete name of Contractor or name of Joint Venture/ Consortium / Association]*

Dated on _____ day of _____, _____ *[insert day / month / year of signing]*



PART 2 - Statement of Requirements

Section 6: Statement of Requirements

Contents

<u>Scope of Works</u>	80
<u>Technical Specifications</u>	81
<u>Activity Schedule/ Bills of Quantities</u>	Error!
Bookmark not defined.	
<u>Activity Schedule</u>	Error!
Bookmark not defined.	
<u>Bill of Quantities</u>	81
<u>Completion Schedule</u>	86
<u>Supplementary Information</u>	Error!
Bookmark not defined.	



Scope of Works

Scope of Works

1. Project: Supply and Installation of Solar Street Lights in Malkerns Town

2. Background

Malkerns Town Council (MKTC) is responsible for the maintenance and improvement of urban infrastructure within the Malkerns Town boundaries. In furtherance of its mandate to improve public safety, mobility and quality of life, MKTC intends to install solar-powered street lights in Malkerns. The town currently lack adequate lighting, creating safety concerns for residents, motorists and pedestrians especially during night hours

3. Scope of Work

Site mobilization

Excavation for 55 x streetlight pad footings

Delivery of 55 x 8m galvanized steel streetlights

Delivery and installation of 55 x 60W solar streetlight luminaries

Testing & commissioning of 55 x street lights

4. Site establishment and mobilisation.

Supply and delivery of 55 complete solar street light units (poles, lamps, brackets and all accessories).

5. Installation and erection of 55 hot-dip galvanized: hot-dip galvanized steel conical light poles (SANS121,ISO1461) at 35m – 40m spacing.

Technical Specifications

Specifications and Standards;

All material is to be according to SANS/SABS/ISO specification. Contractors must attach manufacturer's data sheet or brochure or equivalent documentation demonstrating compliance with all performance parameters. Failure to meet these mandatory requirements below shall render the tender non- responsive.

The following functional and mandatory specifications shall apply:

1. SOLAR STREET LIGHTS:

a) Galvanized Street Light Poles

- *are to be tapered/stepped*
- *should come with banner arms*
- *should withstand wind loading of up to 145km/h*
- *backfill is to be concrete (in-situ soil poor for construction works)*
- *the height should be within the range of 8 - 8.5m,*
- *are to be hot dip galvanized to SANS 121, ISO 1461*
- *should be designed according to SANS 0225*

b) Integrated Street Light Fitting:

• Lifespan:	100 000 hours minimum
• Colour Temperature:	Cool white - CRI ≥ 70
• Charging Time:	6 - 8 hours
• Autonomy:	2 - 3 days
• Spacing:	35 - 40m
• Ingress Protection:	IP66 or better
• Warranty:	3 - 5 years
• Power:	$\geq 60W$
• Nominal Flux:	$\geq 18\ 000lm$
• Operating Temperature:	$-10^{\circ}C - +40^{\circ}C$

Bill of Quantities

PREAMBLE TO THE SCHEDULE OF QUANTITIES

(1) For the purpose of this Schedule of Quantities the following words shall have the meanings hereby assigned to them:

Unit	:The unit of
Quantity	:The number of units of work for each item.
Rate	:The payment per unit of work at which the Contractor tenders to do the work.



Part 3: Section 7. General Conditions of Contract

Amount :The product of the Quantity and the Rate tendered for an item.

(2) This Schedule of Quantities forms part of the Contract Documents and shall be read in conjunction with all the other documents comprising the Contract Documents.

(3) The quantities set out in the Schedule of Quantities are approximate only and the quantities of work finally accepted and certified for payment shall be used for determining payments to the Contractor.

The validity of the Contract shall in no way be affected by differences between the quantities in the Schedule of Quantities and the quantities finally certified for payment. Work shall be valued at the rates tendered, subject only to the provisions of the General Conditions of Contract and the provisions of paragraphs 11 and 12 of this preamble

(4) Rates and lump sum amounts shall be inclusive of overheads, profits, incidentals, etc. and shall include full compensation for the completed items of work as specified. Full compensation for completing all the work shown on the Drawings and specified in the Specifications and Project Specifications and for all the risks, obligations and responsibilities specified in the General Conditions of Contract, Specifications and Project Specifications shall be considered as provided for collectively in the items of payment given in the Schedule of Quantities, except in so far as the quantities given in the Schedule of Quantities are only approximate.

(5) The Tenderer shall fill in a rate or lump sum to each item where provisions made therefore even where no quantities are given. Items against which no rate or lump sum is entered in the Tender will not be paid for when executed but payment for such work will be regarded as covered by other rates in the Schedule of Quantities.

(6) The Works as executed will be measured for payment in accordance with the methods described in the Contract under the various pay items notwithstanding any custom to the contrary.

(7) The quantities of work or material stated in the Schedule of Quantities shall not be considered as binding or extending the amount of work to be done or quantity of material to be supplied by Contractor.

(8) The quantities of material or work stated in the Schedule of Quantities shall not be regarded as constituting authorisation to the Contractor to order material or execute work. The Contractor shall obtain the Engineer's detailed instructions for all work before ordering any materials for or executing work or making arrangements therefore.

(9) The short description given of pay items in the Schedule of Quantities are only for the purposes of identifying the items and providing specific details. Reference shall be made *inter alia* to the Drawings, Standard Specifications, Project Specifications and General Conditions of Contract for more detailed information regarding the extent of the work entailed under each item.

(10) **ERRORS IN TENDERS:**

The rates filled in by the Tenderer in the Form for the submission of Tenders shall be final and binding for purposes of tendering and errors resulting from incorrect extensions or additions shall be corrected in such a way that the rates remain unaltered.



Part 3: Section 7. General Conditions of Contract

(11) UNBALANCED RATES OR AMOUNTS

A Tender may be rejected if the unit rates or amounts for some of the items in the Schedule of Quantities are in the opinion of the Employer unreasonable or out of proportion, and the Tenderer fails, within a period of seven (7) days after having been notified in writing by the Employer to adjust the unit rates or amounts of such items, to make such adjustments.

(12) UNITS OF MEASUREMENT

The units of measurement described in the Schedule of Quantities are metric units. Abbreviations used in the Schedule of Quantities are as follows:

No. = Number

All rates and sums of money quoted in the Schedule of Quantities shall be in Emalangeni.

(13) ITEM NUMBERS

The item numbers appearing in the Schedule of Quantities are created by the Employer and not referenced to any standard document.

(14) "RATE ONLY" ITEMS

The Tenderer shall fill in a rate opposite all items where the words "rate only" appear in the "Amount" Column. The intention is that although no work is foreseen under such an item, and no quantities are accordingly given in the "quantity" column, the tendered rate shall apply in the event of work under this item being actually required.

Date: *[insert date (as day, month and year) of Tender Submission]*

Procurement Reference No.: *[insert Procurement Reference number]*

Name of Contractor:

Item No	Description of Works	Unit	Quantity	Rate	Amount
1.	Preliminaries & Generals:	<u>Sum</u>	<u>1</u>		



Part 3: Section 7. General Conditions of Contract

Item No	Description of Works	Unit	Quantity	Rate	Amount
2.	Supply and install Galvanized steel street light poles 9m - 10.5m height (4mm thick or above)	<u>No</u>	<u>55</u>		
3.	Supply and install integrated street lights (60W or above)	<u>No</u>	<u>55</u>		
4.	Lighting protection /Earthing - 1.2m earth spikes	<u>No</u>	<u>55</u>		
5.	Hydraulic Power tool with remote	<u>No.</u>	<u>1</u>		
	Sub Total				
	Contingencies (5%)				
	Sub Total				
	CIC Levy (1%)				
	Sub Total				
	VAT (15%)				
	Grand Total:				
	Amount in words:				

Signed: [signature of person whose name and capacity are shown below]

Name: [insert complete name of person signing the Tender]

In the capacity of [insert legal capacity of person signing the Tender]

Duly authorised to sign the Tender for and on behalf of: [insert complete name of Contractor/Joint Venture/Consortium/Association]



Part 3: Section 7. General Conditions of Contract

Dated on _____ **day of** _____, _____ *[insert date of signing]*



Completion Schedule

The contractor should indicate the project timelines that show the sequence of activities required to finish a project:

PART 3 – Contract



Section 7: General Conditions of Contract for the Procurement of Works

Any resulting contract shall be subject to the Government of Eswatini General Conditions of Contract (GCC) for the Procurement of Works (available on request) except where modified by the Special Conditions below.

1. Any resulting contract shall be subject to the Government of Eswatini General Conditions of Contract (GCC) for the Procurement of Works (available on request) except where modified by the Special Conditions below.

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a) “Applicable Law” means the laws and any other instruments having the force of law in Swaziland, as they may be issued and in force from time to time
- b) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, i.e. these General Conditions (GCC), the Special Conditions (SCC), and the Appendices.
- c) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
- d) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 2.1.
- e) “GCC” means these General Conditions of Contract.
- f) “Government” means the Government of Eswatini.
- g) “Local Currency” means Lilangeni (SZL).
- h) “Member” means any of the entities that make up the joint venture/consortium/association, and “Members” means all these entities.
- i) “Party” means the Local Authority or the Service Provider firm, as the case may be, and “Parties” means both of them.
- j) “Personnel” means persons hired by the Service Provider firm or by any SubService Provider firm(s) and assigned to the performance of the Services or any part thereof.
- k) “Service Provider firm” means any private or public entity that will provide the Services to the Local Authority under the Contract.
- l) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- m) “Services” means the work to be performed by the Service Provider firm pursuant to this Contract, as described in Appendix A hereto.
- n) “Sub-Service Provider firm s” means any person or entity to whom/which the Service Provider firm subcontracts any part of the Services.
- o) “In writing” means communicated in written form with proof of receipt.

1.2 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.



Part 3: Section 7. General Conditions of Contract

1.3 Language

This Contract has been executed in the English language which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.4 Notices

1.4.1 Delivery of Notice

Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

1.4.2 Change of Address

A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SCC.

1.5 Location

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in Eswatini or elsewhere, as the Local Authority may approve.

1.6 Authority of Member in Charge

In case the Service Provider firm consists of a joint venture/ consortium/ association of more than one entity, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Service Provider firm's rights and obligations towards the Local Authority under this Contract, including without limitation the receiving of instructions and payments from the Local Authority.

1.7 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Local Authority or the Service Provider firm may be taken or executed by the officials specified in the SCC.

1.8 Taxes and Duties

The Service Provider firm, Sub-Service Provider firm(s), and their Personnel shall pay such indirect taxes, duties, fees, and other impositions levied under the Applicable Law as specified in the SCC, the amount of which is deemed to have been included in the Contract Price.

2. Fraud and Corruption

Service Provider firm(s) should be aware that a Service Provider firm who engages in corrupt, collusive or fraudulent practices will have their proposals rejected or Contract terminated in accordance with Clause GCC (c), and may further be subject to prosecution under the laws of Swaziland.

2.1 Commission and Fees

It is required that the successful Service Provider firm will disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.



Part 3: Section 7. General Conditions of Contract

3. Commencement, Completion, Modification and Termination of Contract

3.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both Parties or at such other later date as may be stated in the SCC. The date the Contract comes into effect is defined as the Effective Date.

3.2 Commencement of Services

The Service Provider firm shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

3.3 Expiration of Contract

Unless terminated earlier, this Contract shall expire at the end of the time period after the Effective Date, as specified in the SCC.

3.4 Modifications or Variations

Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the Scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

4. Force Majeure

4.1 Definition

For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

4.2 No Breach of Contract

The failure of a Party to fulfil any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event:

- (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and
- (b) has informed the other Party as soon as possible about the occurrence of such an event.

4.3 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

4.4 Termination

By the Local Authority

The Local Authority may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f). In such an occurrence the Local Authority shall give not less than thirty (30) days’ written notice of termination to the Service Provider firm, and sixty (60) days’ in the case of the event referred to in (e).



Part 3: Section 7. General Conditions of Contract

- (a) If the Service Provider firm does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Local Authority may have subsequently approved in writing.
- (b) If the Service Provider firm becomes insolvent or bankrupt.
- (c) If the Service Provider firm, in the judgment of the Local Authority has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- (d) If, as the result of Force Majeure, the Service Provider firm are unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (e) If the Local Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (f) If the Service Provider firm fails to comply with any final decision reached as a result of arbitration proceedings.

- By the Service Provider firm

The Service Provider firm(s) may terminate this Contract, by not less than thirty (30) days' written notice to the Local Authority, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c).

- (a) If the Local Authority fails to pay any money due to the Service Provider firm pursuant to this Contract and not subject to dispute pursuant to Clause GCC 10 hereof within forty-five (45) days after receiving written notice from the Service Provider firm that such payment is overdue:
- (b) If, as the result of Force Majeure, the Service Provider firm is unable to perform a material portion of the Services for a period of not less than sixty (60) days:
- (c) If the Local Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 8 hereof:

4.5 Payment upon Termination

Upon termination of this Contract, the Local Authority shall make the following payments to the Service Provider firm:

- a) Payment pursuant to Clause GCC 6 for Services satisfactorily performed prior to the effective date of termination;
- b) Except in the case of termination pursuant to paragraphs (a) through (c), and (f) of Clause GCC, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

5. Obligations of the Service Provider firm

5.1 General

5.1.1 Standard of Performance

The Service Provider firm shall perform the Services and carry out their obligations hereunder with all due diligence, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Service Provider firm shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Local Authority, and shall at all times support and safeguard the Local Authority's legitimate interests in any dealings with Sub- Service Provider firm(s) or third Parties.

5.1.2 Conflict of Interests



Part 3: Section 7. General Conditions of Contract

The Service Provider firm shall hold the Local Authority's interests' paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

5.1.3 Service Provider firm is Not to Benefit from Commissions, Discounts, etc. The payment of the Service Provider firm pursuant to Clause GCC 6 shall constitute the Service Provider firm 's only payment in connection with this Contract or the Services, and the Service Provider firm shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Provider firm shall use their best efforts to ensure that the Personnel, any Sub-Service Provider firm s, and agents of either of them similarly shall not receive any such additional payment.

5.1.4 Service Provider firm and Affiliates Not to be Otherwise Interested in Project.

The Service Provider firm agrees that, during the term of this Contract and after its termination, the Service Provider firm and any entity affiliated with the Service Provider firm, as well as any Sub-Service Provider firm(s) and any entity affiliated with such Sub-Service Provider firm s, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Service Provider firm's Services for the preparation or implementation of the project.

5.1.5 Prohibition of Conflicting Activities

The Service Provider firm shall not engage, and shall cause their Personnel as well as their Sub-Service Provider firm(s) and their Personnel not to engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Contract.

5.1.6 Confidentiality

Except with the prior written consent of the Local Authority, the Service Provider firm and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Service Provider firm and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

5.1.7 Service Provider firm 's Actions Requiring Local Authority's Prior Approval The Service Provider firm shall obtain the Local Authority's prior approval in writing before taking any of the following actions:

- (a) Entering into a subcontract for the performance of any part of the Services,
- (b) Appointing such members of the Personnel not listed by name in Appendix C, and
- (c) Any other action that may be specified in the SCC.

5.1.8 Reporting Obligations

- (a) The Service Provider firm shall submit to the Local Authority the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
- (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

5.1.8 Documents Prepared by the Service Provider firm to be the Property of the Local Authority

- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Service Provider firm under this Contract shall become and remain the property of the Local Authority, and the Service Provider firm shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Local Authority, together with a detailed inventory thereof.



Part 3: Section 7. General Conditions of Contract

(b) The Service Provider firm may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SCC.

5.1.9 Service Provider firm 's Personnel

5.1.9.1 Description of Personnel

The Service Provider firm shall employ and provide such qualified and experienced Personnel and Sub-Service Provider firm(s) as are required to carry out the Services. The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider firm 's Key Personnel are described in Appendix C. The Key Personnel and Sub-Service Provider firm(s) listed by title as well as by name in Appendix C are hereby approved by the Local Authority.

5.1.9.2 Removal and/or Replacement of Personnel

Except as the Local Authority may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider firm, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Personnel, the Service Provider firm shall provide as a replacement a person of equivalent or better qualifications.

5.1.9.3 If the Local Authority finds that any of the Personnel have

5.1.9.4 committed serious misconduct or have been charged with having committed a criminal action, or

5.1.9.5 have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider firm shall, at the Local Authority's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Local Authority.

5.1.9.5 The Service Provider firm shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

6. Obligations of the Local Authority

6.1 Assistance

The Local Authority shall use its best efforts to provide the Service Provider firm such as assistance as specified in the SCC.

6.2 Change in the Applicable Law Related to

Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Service Provider firm in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Service Provider firm under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts.

Tenderers should therefore reflect this pattern of payment in their tender price. Council will ensure that each invoice received is settled within 30 days following receipt.

6.3 Payment for Additional Services

For the purpose of determining the remuneration due for additional services as may be agreed under Financial Proposal.

6.4 Terms and Conditions of Payment

Payments will be made to the account of the Service Provider firm and according to the payment schedule stated in the SCC. All payments shall be made after the conditions listed in the SCC for such payment have been met, and the Service



Part 3: Section 7. General Conditions of Contract

Provider firm has submitted an invoice to the Local Authority specifying the amount due.

6.5 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

7. Settlement of Disputes

7.1 Amicable Settlement

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

7.2 Dispute Resolution

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SCC.



Section 8: Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

GCC Clause Reference	Special Conditions
	Procurement Reference No: <i>Tender No 04 of 2026/2027</i>
GCC 1.1(cc)	The Site is located at <i>Malkerns Town Council</i>
GCC 1.1(ee)	The Start Date shall be: <i>14 (fourteen) calendar days after the day of contract signing</i>
GCC 1.1(z)	The Project Manager is: <i>Sakhile Mngomezulu</i>
GCC 2.1	The following documents also form part of the Contract: • <i>Tender No.4 of 2026/27</i> • <i>General Conditions of Contract</i> • <i>Special Conditions of Contract</i> • <i>Contractors bid</i> • <i>Performance Security</i>
GCC 3.7	This Contract is a <i>Remeasurable Bill of quantities</i> Contract.
GCC 3.8	Sectional completion <i>NOT</i> permitted.
GCC 7.1	For notices , the PE's address shall be: Attention: <i>Town Clerk, Mr. Cinisela Dlamini</i> Physical address: <i>Portion 59 of farm 65 Malkerns</i> Telephone: <i>2528 3298</i> Electronic mail address: townclerk@malkerns.co.sz Procurement@malkerns.co.sz For notices , the Contractor's address shall be: Attention: _____ Physical Address: _____ Telephone: _____ Electronic mail address: _____
GCC 9.1	The Works consist of: 1. <i>Site mobilization</i> 2. <i>Excavation for 55 x streetlight pad footings</i> 3. <i>Delivery of 55 x 8m galvanized steel streetlights</i> 4. <i>Delivery and installation of 55 x 60W solar streetlight luminaries</i> 5. <i>Testing & commissioning of 55 x solar streetlights</i>



Part 3: Section 7. General Conditions of Contract

GCC Clause Reference	Special Conditions
GCC 12.1	GCC Clause 12.1 on sub-contracting is modified as follows: None
GCC 22.1	The Intended Completion Date for the whole of the Works shall be: 4 (four) weeks from start date
GCC 26.1	The Site Possession Date shall be: 14 (fourteen) calendar days after the date of contract signing
GCC 34.1	The procedure for settling disputes shall be adjudication in accordance with GCC Clause 34, followed by Arbitration under Arbitration Act of Eswatini.
GCC 34.3	Fees and types of reimbursable expenses to be paid to the Adjudicator:
GCC 34.4	The arbitration shall be conducted in accordance with the Arbitration Act of Eswatini. Arbitration shall take place at: To be determined.
GCC 35.1	The Appointing Authority for the Adjudicator is: ESPPRA
GCC 36.1	The Contractor shall submit the Program for the Works within two (2) days of contract signature.
GCC 36.3	The period between Program updates is 0 days. The amount to be withheld for late submission of an updated Program is:
GCC 44.1	The Defects Liability Period is 365 days.
GCC 50.1	Statements of estimated value of works executed shall be on a weekly basis.
GCC 56.1	The Contract is not subject to price adjustment in accordance with Clause 56 of the General Conditions of Contract.
GCC 58.1	The liquidated damages for the whole of the Works are 0.5% per day. The maximum amount of liquidated damages for the whole of the Works is Ten(10%) Percent of the final Contract Price.
GCC 59.1	The Bonus for the whole of the Works is None per day. The maximum amount of Bonus for the whole of the Works is Zero Percent of the final Contract Price.
GCC 60.1	The Advance Payment is not applicable in this contract.
GCC 61.1	A Performance Security Shall be required. A Performance Security shall be for E50,000 in form of Bank Guarantee.
GCC 61.3	The standard form of Performance Security acceptable to the PE shall be an Unconditional Bank Guarantee in the format presented in Section 9 of the Tendering Documents.
GCC 67.1	The date by which “as built” drawings are required is: Not applicable
GCC 69.1	The percentage to apply to the value of the work not completed, representing the PE’s additional cost for completing the Works, is: 100%



Section 9: Contract Forms

Table of Forms

[Contract Agreement](#) i

[Performance Security](#) ii

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Contract Agreement

Procurement Reference No: _____

THIS CONTRACT AGREEMENT made this _____ day of _____,
_____, between _____ of _____
(hereinafter “the Procuring Entity - PE”), of the one part, and _____ of
_____ (hereinafter “the Contractor”), of the other part.

Whereas the PE is desirous that the Contractor executes _____
(hereinafter called “the Works”) and the PE has accepted the Tender by the Contractor for the
execution and completion of such Works and the remedying of any defects therein for the
Contract Price of Eswatini Lilangeni _____.

NOW THIS CONTRACT AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Contract Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Contract Agreement shall prevail over all other Contract documents.
 - (a) the Contractor’s Tender;
 - (b) the Special Conditions of Contract;
 - (c) the General Conditions of Contracts;
 - (e) the Scope of works;
 - (f) the Drawings; and
 - (g) the completed Schedules.
3. In consideration of the payments to be made by the PE to the Contractor as indicated in this Contract, the Contractor hereby covenants with the Procuring Entity to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The PE hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein the Contract Price of _____ or such other sum as may become payable under the provisions of the Contract, at the times and in the manner prescribed by the Contract.
5. The Contract Price or such other sum as may be payable shall be paid _____ in Eswatini Lilangeni, _____ in _____ and _____ in _____.

IN WITNESS whereof the parties thereto have caused this Contract to be executed in accordance with the law specified in the Special Conditions of Contract on the day, month and year indicated above.

Signed by _____ (for the Procuring Entity)

Name: _____ Position: _____

In the presence of:



Part 3. Section 9. Contract Forms

Name: _____ Position: _____

Signed by _____ (for the Contractor)

Name: _____ Position: _____

In the presence of:

Name: _____ Position: _____



Performance Security

[The Performance Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution. The draft is for an unconditional Security. The amount of the guarantee must represent the percentage of the Contract Price specified in the Contract and should be denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Procuring Entity].

Date: *[insert date (as day, month and year) of Performance Security]*

Procurement Reference No: *[insert Procurement Reference Number]*

To: *[insert complete name and address of Procuring Entity]*

WHEREAS *[insert name and address of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to the Contract referenced above, dated *[insert date (as day, month and year) of contract]* to execute *[insert brief description of Works]* (hereinafter called “the Contract”);

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Provider shall furnish you with a demand guarantee issued by a financial institution for the sum specified therein as security for compliance with the Provider’s performance obligations in accordance with the Contract;

AND WHEREAS the undersigned *[insert complete name of Guarantor]*, legally domiciled in *[insert complete address of Guarantor]*, (hereinafter the “Guarantor”), have agreed to give the Contractor a security;

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of *[insert currency and amount of Guarantee in words and figures]*, such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract, without cavil or argument, any sum or sums within the limits of *[insert currency and amount of Guarantee in words and figures]* as aforesaid without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain in force up to and including _____ * *[insert date: day, month, year]*



Insert the date twenty-eight (28) days after the intended completion date as stated in SCC 22.1. In the event of an extension of the intended completion date, the Entity shall request for an extension of this guarantee from the contractor. The request for extension shall be in writing and must be made prior to the expiration date stated in the guarantee.

Annexures

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except that Sub-article 20(a) is hereby excluded.

Name: *[insert complete name of person signing the Performance Security]*

In the capacity of *[insert legal capacity of person signing the Performance Security]*

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorized to sign the Performance Security for and on behalf of: *[insert complete name of Financial Institution]*.

Dated on _____ day of _____, _____ *[insert date of signing]*

Disclaimer

This tender document and the information contained therein is provided "as is" and the Eswatini Public Procurement Regulatory Agency (ESPPRA) makes no express or implied representations or warranties with regard thereto. Portions of the information may be incorrect or not current. Any person or entity that relies on any information obtained from this tender document does so at own risk. The ESPPRA expressly disclaims all implied warranties, including, without limitation, warranties of merchantability, title, suitability to task, non-infringement, compatibility, security, and accuracy. The ESPPRA furthermore disclaims any warranty towards the accuracy, correctness, reliability, and timeliness of the publishing of content. Furthermore, no warranty, expressed or implied, is given this tender document is free of viruses, trojans, bombs, time-locks or any other data or code which have the ability to corrupt or affect the operation of any computer system it is used on. The ESPPRA cannot accept any responsibility for any loss, disruption, or damage to any of your data or computer system which may occur whilst using this tender document.

