

## **INVITATION TO TENDER**

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## **GOVERNMENT OF THE KINGDOM OF SWAZILAND**

**TENDER REFERENCE NUMBER: 68 of 2022/23**

**INVITATION TO TENDER FOR THE SUPPLY, DELIVERY AND  
INSTALLATION OF BULK FILING UNITS**

**MINISTRY OF NATURAL RESOURCES & ENERGY**  
**AUGUST 2022**

## ADVICE FOR TENDERERS ON KEY REQUIREMENTS

These documents should be read carefully by the Tenderer before preparing the Tender to ensure compliance with the key requirements. Failure to fulfil these requirements will result in disqualification of the offer. Special attention should be paid to the following:

### 1. Price Schedule and Tender Form

The price schedule must be completed and must include all taxes. The total figure of the Price Schedule must be taken to the Tender Form.

### 2. Tender Form

The Tender Form is the Tenderer's offer and shall therefore be completed, signed by the Tenderer's authorized representative and stamped with the Tenderer's stamp.

### 3. Documents Required

All documents stated in the "Instruction to Tenderers" and "Tender Data Sheet" must be included in the offer.

### 4. Partial Offers

When the Tender Documents calls for complete offers all items must be priced, as the offer otherwise will be rejected. Notes on this can be found in the "Schedule of Requirements"

### 5. Envelope with the Original Tender and a Number of Copies

The envelope with the original Tender Document must also include the number of copies specified in the "Tender Data Sheet". The original Tender must clearly be marked "original", while the copy/copies should must be marked "copy". The envelope must clearly be marked according to instructions in the "Tender Data Sheet".

### 6. Tender Security

When a Tender Security is required, it can be provided in the form of a Bank Guarantee, an Insurance Company Bond or a Banker's Guaranteed Cheque. The original Tender document shall in such cases be accompanied by the original Tender Security. Photocopies, company or personal cheques are not accepted and will lead to rejection of the offer.

### 7. Performance Security

When the "Tender Data Sheet" states that a Performance Security is required, this is only applicable to the successful Tenderer, who at the time of the contract signing will be expected to provide such Performance Security to ensure that the supplier carries out his contract obligations. The Performance Security can be provided in the form of a Bank Guarantee or an Insurance Company Bond.

### 8. Contract Form

Tenderers should examine the Contract Form in the Tender Document, as it contains information about the contract, which will be signed by the successful Tenderer following the Award of Contract.

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## INSTRUCTION TO TENDERERS

### INSTRUCTIONS TO TENDERERS

**Tenderers should read these Instructions in conjunction with the attached Tender Data Sheet.**

#### 1. ELIGIBILITY AND QUALIFICATION OF TENDERERS

Tenderers must be eligible to tender and be qualified and capable to perform the resulting contract prior to being awarded a contract.

The Tender Data Sheet shall specify the eligibility and qualification criteria.

#### 2. TENDERER'S RESPONSIBILITIES

The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Invitation to Tender documents. Failure to furnish all information required by the Invitation to Tender documents or to submit a Tender not substantially responsive to the Invitation to Tender documents will be at the Tenderer's risk and may result in the rejection of its Tender.

The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

#### 3. CORRUPT COLLUSIVE, FRAUDULENT AND COERCIVE PRACTICES

Tenderers should be aware that the Government of Swaziland has embarked on a 'procurement reform program' with the objective of achieving greater transparency, accountability and value for money in the use of public funds.

Tenderers participating in public procurement at all times are to abide by their obligations and are not to commit or abet corrupt, fraudulent, collusive or coercive practices.

Tenderers should be aware that a Tenderer, who engages in corrupt, collusive, fraudulent or coercive practice, will have their proposals rejected and may further be subject to prosecution under the laws of Swaziland.

The Government of Swaziland has established an Anti Corruption Commission to investigate specific instances of alleged corrupt, collusive, fraudulent or coercive procurement practices.

"Corrupt practice" means the offering, giving, receiving or soliciting, directly or indirectly, of any thing of value to influence the action of a public officer in the procurement process or in contract execution;

"Collusive" practice means a scheme or arrangement between two or more tenderers, with or without the knowledge of the procuring entity, designed to establish tender prices at artificial, non-competitive levels;

"Fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;

"Coercive practice" means harming or threatening to harm, directly or indirectly, persons, or their property, to influence their participation in a procurement process or affect the execution of a contract.

#### 4. CONFLICT OF INTEREST

Suppliers are required to provide professional, objective, and impartial advice and at all times hold the Client's interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.

Without limitation on the generality of the foregoing, Suppliers and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

A firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or non-consulting

## INSTRUCTION TO TENDERERS

services other than consulting services resulting from or directly related to the firm's consulting services for such preparation or implementation.

For the purpose of this paragraph, non-consulting services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

Suppliers (including its Personnel and Sub-Consultants) that has a business or family (parents, spouse(s) and children including adopted children) relationship with a member of the Client's staff, who is directly or indirectly involved in any part of: (i) the preparation of the Terms of Reference of the assignment, (ii) the selection process for such assignment, or (iii) supervision of the Contract, shall not be awarded a Contract.

Suppliers have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the supplier or termination of its contract.

### 5. TENDER PREPARATION

The Tender prepared by the Tenderer, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the Procuring Entity shall be written in the English language.

### 6. PRE-TENDER MEETING/SITE INSPECTION

Tenderers shall be invited to a pre-tender meeting/site inspection, as so stated in the Tender Data Sheet. The date, time and location are stated in the Data Sheet for the Tenderers. Tenderers are encouraged to provide questions in writing to the Procuring Entity before the event.

If a pre-tender meeting/site inspection is described as compulsory, tenderers will not be eligible to tender, if they fail to attend.

### 7. VALIDITY

Tenders shall be valid for the number of days specified in the Tender Data Sheet from the date for submission. Tenders with a shorter validity will be rejected.

### 8. DOCUMENTARY REQUIREMENTS

Tenders shall be submitted on the forms provided in the Invitation to Tender document and in the number of copies stated in the Tender Data Sheet. Tenders must be typewritten and signed in black ink by the Tenderer's authorized representative. Incomplete or unsigned Tenders may be rejected.

#### DOCUMENTS COMPRISING THE TENDERER'S TENDER

The Tender must comprise the following:

- a) **Tender Form** duly completed and signed by the Tenderer (and any joint venture partners) **together with Priced Schedule/s**
- b) A signed **Declaration of Eligibility** in the form provided in this document.
- c) A **Tender Security** for the value and validity indicated in the Tender Data Sheet. The Tender Security may be forfeited, if a Tenderer:
  - withdraws its Tender during the period of Tender validity specified on the Tender Form;
  - does not accept the correction of errors; or
  - in the case of a successful Tenderer, if the Tenderer fails to sign the contract; or to furnish a performance guarantee if required.
- d) A certified copy of a relevant current **Trading Licence**, or equivalent for foreign suppliers.
- e) Certified copy of a current **Tax Clearance Certificate**, or equivalent for foreign suppliers.
- f) The **Tenderers Delivery Schedule**.
- g) Certified copy of the **Labour Compliant Certificate**.
- h) Adequate **Certificates of Quality**, where required by the Tender Data Sheet or Statement of Requirements.

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i) Technical brochure of each proposed item where required by the Tender Data Sheet or Statement of Requirements.

j) In cases where the offered equipment would normally be subject to **Manufacturer's Warranty** and the Tenderer is not the manufacturer of the equipment offered, suitable authority from the manufacturer must be provided in the format provided in this document.

j) Any other documents specified in the Tender Data Sheet.

Failure to provide any of the required documents may result in rejection of the Tenderer's offer.

### 10. PRICES

Tenderers shall indicate pricing and pricing breakdown as required. In the event of an error in the extension of prices, the unit prices shall prevail.

Prices shall be fixed for the duration of the contract and not subject to variation unless otherwise stated in the Tender Data Sheet.

Government of Swaziland tenders for a period of 12 months or less are considered to be 'fixed and firm prices'. Only in exceptional circumstances will the Government of Swaziland consider granting an increase to unit prices within 12 months of contract award.

Prices must be denominated in Emalangenzi including any breakdown costs in the form contained in this Invitation to tender document.

The Tender Data Sheet permits pricing in a currency other than Emalangenzi.

Prices must include all costs for the requirement including any incidental services and shall be inclusive of all applicable taxes.

The Government of Swaziland may undertake 'price verification' to confirm market prices and rates.

### 11. TENDERER'S REQUEST FOR CLARIFICATION

A Tenderer requiring any clarification of the "Invitation to Tender" documents may notify the Procuring Entity in writing

or electronic mail, The Procuring Entity will respond in writing to any request for clarification of the Invitation to Tender documents. Written copies of the Procuring Entity's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all tenderers that have received the tender documents.

### 12. SUBMISSION OF TENDERS

Original, signed and sealed Tender shall be clearly marked "Original", while each copy shall be marked "Copy".

The Original, signed and sealed Tender must together with the required number of copies Tenderer shall be in a sealed envelope, which shall be addressed and marked according to the requirements of the Tender Data Sheet.

The Tender and the copies shall be in "hard copy", as electronic submissions will not be accepted.

The Tender and the copies must be received at the location specified in the Tender Data Sheet on or before the specified date and time.

Delivery means depositing the Tender in the Tender Box or as otherwise instructed.

### 13. LATE TENDERS

Any Tender received by the Procuring Entity after the deadline for submission specified in the Tender Data Sheet will be rejected and returned unopened to the Tenderer.

### 14. MODIFICATIONS AND WITHDRAWAL OF TENDERS

A Tenderer may modify or withdraw its Tender after submission, provided that written notice of the modification is received by the Procuring Entity prior to the deadline for its submission. A withdrawal notice may also be sent by fax or e-mail, but followed by a signed confirmation copy. A Tenderer's representative shall initial Tender changes or modifications in black ink.

No Tender may be modified after the deadline for submission of Tenders.

No Tender may be withdrawn in the interval between the deadline for

## INSTRUCTION TO TENDERERS

submission of Tenders and the expiration of its validity.

### 15. TENDER OPENING

The date, time and place for the opening of Tenders and proposals shall be as specified in the Tender Data Sheet. All Tenderers have the right to attend the opening at their own expense.

The name of each Tenderer and the total amount of its Tender will be read aloud and the Tender Form and Price Schedules shall be signed by the Tender Opening Committee.

Minutes of the Tender Opening will be kept and copies provided to any interested party upon request.

### 16. PRELIMINARY EXAMINATION

Prior to the detailed evaluation, the Procuring Entity will determine the substantial responsiveness of each Tender. For purposes of this clause, a substantially responsive Tender is one, which conforms to all the terms and conditions of the Invitation to Tender document without material deviations.

The Procuring Entity's determination of a Tender's responsiveness is based on the contents of the Tender itself without recourse to extrinsic evidence.

If a Tender is not substantially responsive, the Procuring Entity shall reject it. The Tender must not subsequently be made responsive by the Tenderer by correction of the nonconformity.

The Procuring Entity will examine the Tenders to determine, whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the Tenders are generally in order.

The Procuring Entity shall reject any Tender when:

- The Tenderer has failed to demonstrate an ability to perform according to the requirements indicated in the Invitation to Tender documents;
- The Tenderer refuses to accept the correction of an arithmetical error;

- The Tenderer is not substantially responsive to the requirements of the Invitation to Tender documents or the technical specifications;
- The Tenderer has failed to comply with a request for clarification of Tenders.
- If a Tender Security has been requested and this does not accompany the Tender.

### 17. DETAILED EVALUATION

Only Tenders found to be substantially responsive will be subjected to detailed examination.

The Procuring Entity shall appoint a committee of evaluators to examine and evaluate all Tenders.

In the evaluation of Tenders, the following criteria will be taken into account.

- Responsiveness to the required specifications.
- Price of goods or equipment.
- Any other Criteria specified in the Tender Data Sheet.

During evaluation of the Tenders, the Procuring Entity may, at its discretion, ask the Tenderer for a clarification of its Tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the Tender shall be sought, offered, or permitted. Tenderers who do not respond to requests for clarification will have their tenders rejected.

Any effort by a Tenderer to influence the Procuring Entity in its decisions on Tender evaluation, Tender comparison, or contract award may result in the rejection of the Tenderer's Tender.

### 18. LOCAL PREFERENCE

Swazi companies will be given a preference in the evaluation of tenders by adding a 15% (fifteen percent) margin to the evaluated price of other tenderers, who are not eligible for the preference during the financial evaluation of tenders. For purposes of this Clause, a Swazi company is one, which is registered in Swaziland and majority owned by Swaziland citizens.

## INSTRUCTION TO TENDERERS

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### 19. AWARD OF CONTRACT

Prior to recommending an award of contract the Procuring Entity may decide to post-qualify the lowest evaluated substantially responsive Tenderer to verify the tenderer's documentation and facilities. A contract will not be awarded to any Tenderer, who fails to pass such a post-qualification.

The Procuring Entity will award the contract to the Tenderer, which have submitted the lowest evaluated, substantially responsive Tender, and who is recognized to have the capability to undertake and complete a contract.

Prior to the expiration of the Tender's validity, the Procuring Entity will notify the successful Tenderer in writing that its Tender has been accepted. The successful Tenderer will be expected to sign a contract and, if required in the Tender Data sheet, provide a \ within 14 (fourteen) days of the notification of award. The Performance Security will be valid for the period of the contract including any warranty obligations.

Where a Tender Security has been provided, this will be returned to the successful Tenderer on furnishing of the Performance Guarantee.

The Tender Securities of the unsuccessful tenderers will be returned at the same time.

### 20. REJECTION OF TENDERS

The Procuring Entity reserves the right to accept or reject any tender, and to annul the tendering process at any time prior to the award of a contract, without thereby incurring any liability to the affected Tenderer(s) or any obligation to provide information on the grounds for its action.

### 21. CHANGES OR REDUCTIONS AT AWARD

The Procuring Entity reserves the right at the time of contract award to increase or decrease, by up to 15% (fifteen percent), the quantity of goods originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.

### 22. CONTRACT FORMATION

The Tenderer's response to the Invitation to Tender document is an offer to the Government.

A Tender becomes a binding contract only when officially accepted in writing by the Government. Payment for any procurement under this tender is dependent upon a Contract duly signed by both parties.

### 23. CONTRACT PERFORMANCE

Contract performance of awarded tenders will be measured against:

- Delivery against agreed Specification;
- Delivery of tendered items against agreed Delivery Schedule; and
- Delivery of tendered items against Agreed Price.

Contract performance will be considered in future tenders.

## TENDER DATA SHEET

### TENDER DATA SHEET

This Tender Data Sheet shall be read in conjunction with the foregoing "Instructions to Tenderers"

Section No.	Section description.	Additional or modifying data to the Instructions to Tenderers
1.	<b>Eligibility Criteria</b>	Tenderers must provide a signed 'Declaration of Eligibility' in the format as included in this Tender Document (Section 4). In case of a joint venture or consortium each member must sign a declaration.  Further Eligibility Criteria are Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
1b.	<b>Qualification Criteria</b>	The Qualification Criteria shall be: The tenderers must have a valid Construction Industry Council Registration Certificate-Category BSh-5.  Further qualification criteria shall be (1) the tenderer must be capable of and have capacity to perform the resulting contract; (2) experience of supplier in providing similar services: Details of previously supplied bulk filling units and amounts over the last 3 years, including clients supplied, contact numbers and persons to contact. Also list details of order underway or committed including expected delivery dates, Catalogues, specifications etc.
6.	<b>Pre-tender Meeting/Site Inspection</b>	A pre-tender meeting/site inspection is to be held.  Venue: Deeds Registry Office, Ground Floor, Mhlambanyatsi Road, Mbabane.  Date and time: <b>15<sup>th</sup> August, 2022 at 10.00hrs.</b>  Attendance is compulsory.
7.	<b>Validity Period of the Tender</b>	The validity period of the Tender shall be 90 days from the date of submission.
8.	<b>Documentary Requirements</b>	One original and three copies are required. Mark clearly on the front page, which is the original and which are the copies.
9.	<b>Documents comprising the Tenderers Offer</b>	In addition to the documents stated in the "Instructions to Tenderers", the following documents are required: <ul style="list-style-type: none"><li>• A <b>Hand Written</b> Original and Valid Tax Compliance Certificate for Government Tender;</li></ul>

## TENDER DATA SHEET

Section No.	Section description.	Additional or modifying data to the Instructions to Tenderers
		<ul style="list-style-type: none"> <li>• The Tenderer shall furnish, as part of its Tender, a Tender Security to the value of <b>E50 000.00</b> (Fifty Thousand Emalangeni) <b>original Bank Security Bond</b></li> <li>• The Original General Receipt for E300.00 (Three Hundred Emalangeni);</li> <li>• Certified copy of Certificate of VAT Registration;</li> <li>• One original tender document, three copies of tender document;</li> <li>• Certified copy of Certificate of registration from the Construction Industry Council of Eswatini (<b>Category BSh-5</b>);</li> <li>• Certified copy of Valid Certificate of Labour Compliance for local tenders;</li> <li>• Certified copy of valid Certificate of ENPF Compliance Certificate for local tenders;</li> <li>• Certified copy of Police Clearance Certificate for all Directors;</li> <li>• Certified copy of current Form J;</li> <li>• Certified copy of current Form C;</li> <li>• Certified copy of Certificate of Incorporation.</li> <li>• Tender Form, price schedule and Specification form must be duly completed and signed.</li> </ul>
10.	<b>Prices</b>	<p>Prices must include the cost of supply, carriage, and local delivery including all taxes and duties to the point of delivery.</p> <p>The point of delivery shall be: Deeds Registry Office, Ground Floor, Mhlambanyatsi Road, Mbabane.</p> <p>All prices in the tender must be in Emalangeni.</p>
12.	<b>Tender Submission.</b>	<p>The location for submission of Tenders is :</p> <p style="text-align: center;"><b>The Secretary to National Tender Board Treasury Building, Mhlambanyatsi Road, MBABANE</b></p> <p>Tenders must be deposited in the Treasury Tender Box. The Tender Box Closing Time is as per the Clock in the Foyer of the Treasury Building adjacent to the Treasury Tender Box.</p>

## TENDER DATA SHEET

Section No.	Section description.	Additional or modifying data to the Instructions to Tenderers
		<p>The date and time for submission of Tenders is: Wednesday <b>26<sup>th</sup> August, 2022 at 0900 hrs.</b></p> <p>The envelope SHALL be sealed and must be marked:</p> <p style="text-align: center;"><b>The Secretary to National Tender Board Treasury Building Mhlambanyatsi Road MBABANE</b></p> <p>Further, the envelope must be marked with: Ministry of Natural Resources &amp; Energy- Deeds Registry &amp; Surveyor General Offices, Tender No. 68 of 2022/23; Supply, Delivery and Installation of Bulk filing units; and "Do not open before 0900 hrs on the <b>26<sup>th</sup> August, 2022</b>".</p> <p>The envelope must contain the original, which are marked 'original' and an envelope containing the copy/copies, which are marked 'copy'.</p>
15.	<b>Tender Opening</b>	Tenders will be opened at Tender Board, Room 109 Treasury Building, Mhlambanyatsi Road, Mbabane on 26 <sup>th</sup> August, 2022 at 0900 hrs.
17.	<b>Detailed Evaluation</b>	<p>The Criteria stated in the "Instruction to Tenderer" will be used in the evaluation.</p> <p>Partial Offers will not be accepted.</p> <p>Only complete offers will be considered for evaluation.</p>
18.	<b>Local Preference</b>	<p>Swazi companies will be given a preference in the evaluation of tenders by adding a 15% margin to the evaluated price of other tenderers, who are not eligible for the preference during the financial evaluation of tenders.</p> <p>For purposes of this Clause, a Swazi company is one, which is registered in Swaziland and majority owned by Swaziland citizens.</p>
19.	<b>Award of Contract</b>	<p>The notice of intention to award will be sent and published through the Government website at least 10 days before the contract award.</p> <p>Prior to the expiration of the Tender's validity, the Procuring Entity will notify the Tenderer in writing that its Tender has been accepted.</p> <p>The Procuring Entity shall issue an award of contract confirming that the Tender has been awarded.</p> <p>A Performance Security is required to the value of 5%. The Performance Security shall be provided in the form stated in Special Conditions of the Contract</p>

## TENDER DATA SHEET

Section No.	Section description.	Additional or modifying data to the Instructions to Tenderers
		<p>and shall be valid for the period of the Contract including any warranty obligations.</p> <p>Once delivery has been completed the Supplier may apply to have the Performance Security reduced to 1% to cover the period of warranty obligations.</p>

## TENDER FORMS

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### TENDER FORM

[>>state date>>]

Tender No. [>>tender number>>]

**To: The [>>name of Procuring Entity>>]**

**Government of Swaziland**

Having examined the Invitation to Tender document, the receipt of which is hereby duly acknowledged, we, the undersigned, offer **to Supply, Deliver and Install Bulk Filing Units** in conformity with the said "Invitation to Tender" document for the sum of [.....]

>>insert the sum first as a figure, then in words>>] sum is inclusive of all taxes.

We undertake, if our Tender is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Tender is accepted, and if required in the Special Conditions of Contract, we will obtain the performance security of a reputable bank or an insurance company in a sum equivalent to **5%** of the Contract Price for the due performance of the Contract, and in the form prescribed by the Procuring Entity.

We agree to abide by this Tender for a period **90 days** from the date fixed for Tender opening, as stated in the Tender Data Sheet Section 15, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any tender you may receive.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(in the capacity of)

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_

[Seal of the Tenderer]

**TENDER FORMS**

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**PRICE SCHEDULE**

**THE SUPPLY, DELIVERY AND INSTALLATION OF BULK FILING UNITS**

	ITEM DESCRIPTION	Unit	Qty	Unit Price (per item)	Total Price
				(E)	(E)
1	13 Bay Tandem Bulk Filing unit (26 cupboards)		2		
2	10 Bay Bulk Filing Unit		1		
3	9 Bay Bulk Filing Unit		2		
4	17 Bay Bulk Filing Unit (17 cupboards)		2		
5	9 Bay Tandem Filing Unit (18 cupboards)		2		
6					
7					
8					
	<b>TOTAL Carried to Form of Tender</b>			<b>E</b>	

Prices shall include all taxes, sales tax and duty paid or to be paid in the event of an award of contract.

Signed:

.....  
(signature)

.....  
(in the capacity of)

Duly authorized to sign the Tender for and on behalf of .....

Date: .....

[Seal of the Tenderer]

## TENDER FORMS

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### DECLARATION OF ELIGIBILITY

In accordance with the requirements of the Procurement Regulations issued in accordance with the terms of Section 26 of the Finance and Audit Act No. 18 of 1967 all Tenderers must meet the following criteria, to be eligible to participate in public procurement

Dear Sirs

Re Tender Reference [**>>> Tender Reference Number >>>**]

In accordance with the eligibility requirements of the tender documents we hereby declare that:

- (a) We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- (b) We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we not the subject of legal proceedings for any of the foregoing;
- (c) We have fulfilled our obligations to pay taxes and social security contributions;
- (d) We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- (e) That we do not have a **conflict of interest** (1) in relation to the procurement requirement.

Signed: .....

Date: .....

Note: (1) **Conflict of interest** is defined in Section 4 of the Instructions to Tenderers.

## TENDER FORMS

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### FORM FOR TENDER SECURITY

**WHEREAS** Messrs [>>>Name of Tenderer>>>] of [>>>Address of Tenderer>>>]

Hereinafter referred to as the "Tenderer" has on [>>>date>>>] submitted its Tender for the Supply of [>>>insert the short description of goods and associated service, which this Tender is for>>>].

**AND WHEREAS** the said Tenderer has undertaken to abide by his Tender so submitted for a period of [>>>state here the number of days, not less than 90>>>] calendar days of the date of submission hereinabove stated, or such other period as may mutually be agreed between the Government of Swaziland, represented by the Director of Central Stores of the Government of Swaziland and the Tenderer and notified to us by the Government of Swaziland.

#### NOW

**WE**, [>>>name and address of financial institution registered in the Kingdom of Swaziland>>>] hereby guarantee and undertake to pay to the account of the Government of Swaziland on first demand in writing and without reference to the Tenderer the sum of Emalangeni [>>>insert the sum first as a figure, then in words>>>].

#### PROVIDED THAT

- a) This Tender Security remains valid, and
- b) The Government of Swaziland declares in writing that the Tenderer has failed to abide by his undertaking that the Tender shall remain open for acceptance within the specified period, or that the Tenderer is unwilling for some reason (which shall be clearly stated) to abide by his Tender or enter into a contract agreement with the Government of Swaziland for the Supply of [>>>insert the short description of the goods and associated service>>>].

This Tender Security shall remain valid in the first instance until the earlier of:

- a) 10 days after the expiry of the Tenderer's Tender;
- b) Upon our receipt of copies of the contract signed by the Tenderer and the Performance Security issued to you upon the instruction of the Tenderer; or
- c) Upon our receipt of a copy of a notification from the Government of Swaziland to the Tenderer of the name of the successful Tenderer.

.....  
(Authorised Signature)

.....  
(Date)

.....  
(Name of Signatory)

.....  
(Seal / Stamp of Financial Institution)

.....  
(Position of Signatory)

## TENDER FORMS

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### MANUFACTURER'S AUTHORIZATION FORM

[>>insert date>>].

See Clause 9(i) of the "Instructions to Tenderers" and the corresponding section in the Tender Data Sheet for further instruction.

To: [>>name of Procuring Entity>>];

WHEREAS [>>name of the Manufacturer>>] who are established and reputable manufacturers of [>>name and/or description of the goods>>] having factories at [>>address of factory>>]

do hereby authorize [>>name and address of Agent>>] to submit a Tender, and subsequently negotiate and sign the Contract with you against Tender ref. [>>reference number of the Tender>>] for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per Clause 14 of the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

.....  
(Date)

.....  
(Authorised Signature for and on behalf of Manufacturer)

*[Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person having the authority to bind the Manufacturer. It should be included by the Tenderer in its Tender. If the organization is also authorized to execute the manufacturer's warranty and maintenance plans, then this **MUST** also be stated.]*

**SPECIFICATIONS AND SCHEDULE OF REQUIREMENTS**

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**SPECIFICATIONS**

**THE SUPPLY, DELIVERY AND INSTALLATION OF BULK FILING UNITS**

DESCRIPTION	FEATURES
13 Bay Tandem Bulk Filing Units (26 cupboards)	920 x 400 3 shelves per bay (8 openings) with chain drive 1840 W x 5600 L x 2385 H
10 Bay Bulk Filing Unit	920 x 400 x 2400H 7 shelves per bay (8 openings) 920 W x 4850 L x 2370 H
9 Bay Bulk Filing Unit	920 x 400 x 2400H 7 shelves per bay (8 openings) 920 W x 4475 L x 2370 H
17 Bay Bulk Filing Unit (17 cupboards)	1200 x 400 x 2400H 7 shelves per bay (8 openings) with chain drive 1200 W x 7700 L x 2385 H
9 Bay Tandem Filing Unit (18 cupboards)	920 x 400 x 2400H 7 shelves per bay (8 openings) with chain drive 1840 W x 4400 L x 2385 H

Signed:

.....  
(signature) (in the capacity of)

Duly authorized to sign the Tender for and on behalf of .....

Date: .....

## SPECIFICATIONS AND SCHEDULE OF REQUIREMENTS

### SCHEDULE OF REQUIREMENTS

Commented [ACD1]: PLEASE ATTEND

#### REQUEST FOR TENDER FOR THE SUPPLY, DELIVERY AND INSTALLATION OF BULK FILING UNITS

The tender will be evaluated on total lot basis.

Partial Offers will not be accepted.

Item No	Description of the supply and delivery of:	Qty	Required delivery period	Required delivery address
1.	13 Bay Tandem Bulk Filing Unit (26 cupboards)	2	2 weeks	Deeds Office, Ground Floor Mhlambanyatsi Road, Mbabane
2.	10 bay Bulk Filing Unit	1	2 weeks	Deeds Office
3.	9 Bay Bulk Filing Unit	2	2 weeks	Deeds Office
4.	17 Bay Bulk Filing Unit (17 cupboards)	2	2 weeks	Deeds Office
5.	9 Bay Tandem Filing Unit (18 cupboards)	2	2 weeks	Deeds Office

Signed .....

Date .....

## CONTRACT FORM

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### CONTRACT FORM

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ between *[name of Procuring Entity]* of the Kingdom of Swaziland (hereinafter called "the Procuring Entity") of the one part and *[name of Supplier]* of *[city and country of Supplier]* (hereinafter called "the Supplier") of the other part:

**WHEREAS** the Procuring Entity invited Tenders for certain goods and ancillary services, viz., *[brief description of goods and services]* and has accepted a Tender by the Supplier for the supply of those goods and services in the sum of *[contract price in words and figures]* (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Tender Form and the Price Schedule submitted by the Tenderer;
  - (b) the Schedule of Requirements;
  - (c) the Technical Specifications;
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract; and
  - (f) the Procuring Entity's Notification of Award.
3. In consideration of the payments to be made by the Procuring Entity to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Procuring Entity to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procuring Entity hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price 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.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_  
(for the Procuring Entity)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_  
(for the Supplier)

## GENERAL CONDITIONS OF CONTRACT

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# GENERAL CONDITIONS OF CONTRACT FOR THE SUPPLY AND DELIVERY OF GOODS

### Table of Clauses

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2. Application
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## GENERAL CONDITIONS OF CONTRACT

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### GENERAL CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS

#### 1. DEFINITIONS

1.1 In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the equipment, machinery, and/or other materials which the Supplier is required to supply to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this section.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the Contract form.
- (h) "The Supplier" means the individual or firm supplying the Goods and Services under this Contract as named in the Contract Form.
- (i) "The Project Site", where applicable, means the place or places named in the Special Conditions Special Conditions of Contract.
- (j) "Day" means calendar day.

#### 2. APPLICATION

2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.

#### 3. STANDARDS

3.1 The Goods supplied under this Contract shall be new, unused and of the latest design and must conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the concerned institution.

#### 4. USE OF CONTRACT DOCUMENTS AND INFORMATION

4.1 The Supplier shall not, without the Procuring Entity's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so as may be necessary for purposes of such performance.

4.2 The Supplier shall not, without the Procuring Entity's prior written consent, make use of any document or information enumerated in GCC Clause 4.1 except for purposes of performing the Contract.

4.3 Any document, other than the Contract itself, enumerated in GCC Clause 4.1 shall remain the property of the Procuring Entity and shall be returned (in all copies) to the Procuring Entity on completion of the Supplier's performance under the Contract if so required by the Procuring Entity.

## **GENERAL CONDITIONS OF CONTRACT**

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### **5. PATENT RIGHTS**

5.1 The Supplier shall indemnify and hold harmless the Procuring Entity against all third-party claims of infringement of patent, trademark, industrial design, or intellectual property rights arising from use of the Goods or any part thereof.

### **6. PERFORMANCE SECURITY**

6.1 Within fourteen (14) days of receipt of the notification of Contract award and before the contract signing, the successful Supplier shall furnish to the Procuring Entity the Performance Security in the amount and in the format specified in the Special Conditions of Contract.

6.2 The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

6.3 The Performance Security shall be denominated in the currency of the Contract and shall be in one of the following forms:

- (a) a bank guarantee issued by a reputable bank located in the Tenderer's country or abroad, acceptable to the Procuring Entity, in the form provided in the Invitation to Tender documents or another form acceptable to the Procuring Entity; or
- (b) an insurance company bond from a reputable Insurance company acceptable to the Procuring Entity.

6.4 Once delivery of the requirements has been completed the Supplier may apply to have the Performance Security reduced to 1% (one percent) to cover the period of warranty obligations.

6.5 The Performance Security will be discharged by the Procuring Entity and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the Special Conditions of Contract.

### **7. INSPECTIONS AND TESTS**

7.1 The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The Special Conditions of Contract and the Technical Specifications shall specify what inspections and tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.

7.2 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

7.3 Should any inspected or tested Goods fail to conform to the Specifications, the Procuring Entity may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Procuring Entity.

7.4 The Procuring Entity's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival in Swaziland shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by the Procuring Entity or its representative prior to the Goods' shipment from the country of origin.

Nothing in GCC Clause 7 shall in any way release the Supplier from any warranty or other obligations under this Contract.

## **GENERAL CONDITIONS OF CONTRACT**

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7.6 Where a sample is furnished by the Supplier, the Goods shall be equivalent thereto in every respect.

### **8. PACKING**

8.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.

8.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the Special Conditions of Contract, and in any subsequent instructions given by the Procuring Entity.

### **9. DELIVERY AND DOCUMENTS**

Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are specified in the Special Conditions of Contract.

9.2 For purposes of the Contract, the trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of Incoterms published by the International Chamber of Commerce, Paris.

9.3 Documents to be submitted by the Supplier are specified in the Special Conditions of Contract.

### **10. INSURANCE**

10.1 The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the Special Conditions of Contract.

### **11. TRANSPORTATION**

11.1 Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Procuring Entity or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

11.2 Where the Supplier is required under the Contract to deliver the Goods CIP, transport of the Goods to the port of destination or such other named place of destination in Swaziland, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

11.3 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Swaziland, defined as the Project Site, transport to such place of destination in Swaziland, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and the related costs shall be included in the Contract Price.

### **12. INCIDENTAL SERVICES**

12.1 The Supplier may be required to provide any or all of the following services, including additional services, if any, specified in the Special Conditions of Contract:

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;

## **GENERAL CONDITIONS OF CONTRACT**

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- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
- (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- (e) training of the Procuring Entity's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

12.2 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged for other parties by the Supplier for similar services.

### **13. SPARE PARTS**

13.1 As specified in the Special Conditions of Contract, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- (a) such spare parts as the Procuring Entity may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) advance notification to the Procuring Entity of the pending termination, in sufficient time to permit the Procuring Entity to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the Procuring Entity, the blueprints, drawings, and specifications of the spare parts, if requested.

### **14. WARRANTY**

14.1 The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models and that incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Procuring Entity's specifications) or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in Swaziland.

14.2 This warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in the Special Conditions of Contract.

14.3 The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty.

14.4 Upon receipt of such notice, the Supplier shall, within the period specified in the Special Conditions of Contract and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Procuring Entity.

14.5 If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in the Special Conditions of Contract, the Procuring Entity may proceed to take such remedial action as may be necessary at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract.

## **GENERAL CONDITIONS OF CONTRACT**

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### **15. PAYMENT**

15.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the Special Conditions of Contract.

15.2 The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 9, and upon fulfilment of other obligations stipulated in the Contract.

15.3 Payments shall be made promptly by the Procuring Entity, but in no case later than forty five (45) days after submission of an invoice or claim by the Supplier unless otherwise stated in the Special Conditions of Contract.

### **16. PRICES**

16.1 Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its tender.

### **17. CHANGE ORDERS**

17.1 The Procuring Entity may at any time, by a written order given to the Supplier pursuant to GCC Clause 30, make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity ;
- (b) the method of shipment or packing;
- (c) the place of delivery; and/or
- (d) the Services to be provided by the Supplier.

17.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Procuring Entity's change order.

### **18. CONTRACT AMENDMENTS**

18.1 Subject to GCC Clause 17, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

### **19. ASSIGNMENT**

19.1 The Supplier may not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring Entity's prior written consent.

### **20. SUBCONTRACTS**

20.1 The Supplier may not enter into any subcontract for performance hereunder unless the Procuring Entity shall have previously consented in writing to such subcontract. Such consent shall not, however, unless otherwise specified in such consent or in the Contract, relieve the Supplier from any liability or obligation under the Contract.

### **21. DELAYS IN THE SUPPLIER'S PERFORMANCE**

21.1 Delivery of the Goods and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity in the Schedule of Requirements.

21.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion

## **GENERAL CONDITIONS OF CONTRACT**

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extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of the Contract.

21.3 Except as provided under GCC Clause 24, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of liquidated damages.

### **22. LIQUIDATED DAMAGES**

22.1 Subject to GCC Clause 24, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Procuring Entity shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the Special Conditions of Contract of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the Special Conditions of Contract. Once the maximum is reached, the Procuring Entity may consider termination of the Contract pursuant to GCC Clause 23.

### **23. TERMINATION FOR DEFAULT**

23.1 The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:

- (a) if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCC Clause 21; or
- (b) if the Supplier fails to perform any other obligation(s) under the Contract.

23.2 In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Clause 23.1, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### **24. FORCE MAJEURE**

24.1 Notwithstanding the provisions of GCC Clauses 21, 22 and 23, the Supplier shall not be liable for forfeiture of its performance security, liquidated damages or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

24.2 For purposes of this clause, "Force Majeure" means an event beyond the control of the Supplier and not involving the Supplier's fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

24.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

### **25. TERMINATION FOR INSOLVENCY**

25.1 The Procuring Entity may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination

## **GENERAL CONDITIONS OF CONTRACT**

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will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity.

### **26. TERMINATION FOR CONVENIENCE**

26.1 The Procuring Entity, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

26.2 The Goods, which are complete and ready for shipment within thirty (30) days after the Supplier's receipt of notice of termination, shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may choose to:

- (a) have any portion completed and delivered at the Contract terms and prices; and/or
- (b) cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.

### **27. RESOLUTION OF DISPUTES**

27.1 The Procuring Entity and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement, dispute, or claim arising out of or in connection with the Contract or the breach, termination, or validity thereof.

27.2 If, after thirty (30) days from the commencement of such informal negotiations, the Procuring Entity and the Supplier have failed to negotiate such an amicable settlement, any dispute, controversy, or claim arising out of or in connection with this Contract, or the breach, termination, or validity thereof, either party may require that the dispute be referred for resolution by final and binding arbitration in accordance with the UNCITRAL Arbitration Rules presently in force.

27.6 The arbitrators shall determine the matters in dispute in accordance with the laws in effect in Swaziland.

27.7 All notices to be given in connection with the arbitration shall be in writing and shall be effective upon receipt.

### **28. GOVERNING LANGUAGE**

28.1 The Contract shall be written in the English. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in the same language.

### **29. APPLICABLE LAW**

29.1 The Contract shall be interpreted in accordance with the laws and regulations in effect in The Kingdom of Swaziland.

### **30. NOTICES**

30.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing by personal delivery, mail, or e-mail or facsimile and, if by e-mail or facsimile, confirmed in writing to the other party's address specified in the Special Conditions of Contract. Each party may change such address by notice to the other party.

30.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

## **GENERAL CONDITIONS OF CONTRACT**

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### **31. TAXES AND DUTIES**

31.1 The Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies incurred or imposed until delivery of the contracted Goods to the Procuring Entity.

## SPECIAL CONDITIONS OF CONTRACT

### SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract shall supplement the General Conditions of Contract. The corresponding clause number of the GCC is indicated in first colon. Whenever there is a conflict, the provisions in the Special Conditions of Contract shall prevail over those in the General Conditions of Contract.

GCC Clause no	GCC subject	Special Condition(s)
1.1 (a)	Name and address of the Procuring Entity and the Supplier	<i>[To be completed after award]</i> <b>Procuring Entity:</b> Client: Ministry of Natural Resources & Energy Address: P.O. Box 57, Mbabane <b>Supplier:</b> Address: Phone: Contact Person:
6	<b>Performance Security:</b>	<i>A Performance Security shall be required.</i>
6.1	The amount of the Performance Security	A Performance Security is required to the value of 5%. The Performance Security shall be provided in the form stated in Special Conditions of the Contract and shall be valid for the period of the Contract including any warranty obligations. Once delivery has been completed the Supplier may apply to have the Performance Security reduced to 1% to cover the period of warranty obligations.
6.3	The format of the Performance Security	The Performance Security shall be provided in the form: <ul style="list-style-type: none"><li>a bank guarantee issued by a reputable bank located in the Tenderer's country or abroad, acceptable to the Procuring Entity, in the form provided in the Invitation to Tender documents or another form acceptable to the Procuring Entity;</li></ul> The Performance Security shall be valid for the period of the Contract including any warranty obligations.

## SPECIAL CONDITIONS OF CONTRACT

GCC Clause no	GCC subject	Special Condition(s)
<b>7. Inspections and Tests</b>		
7.1	Inspection(s) and test(s)	The inspection and test shall first be conducted upon delivery and again on completion of installation to check the Specification Requirements and for proper fitting.
7.2	Place(s) of inspection and test(s)	The inspection and test shall be conducted at the Deeds Office.
<b>8.Packing:</b>		
8.2	Packing, Marking and Documentation	The packing, marking and documentation shall be in accordance with the Specification Requirements.
<b>9. Delivery and Documents:</b>		
9.1	Delivery of the Goods:	Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements.
9.3	Document to be delivered by the supplier:	Supplier is responsible for the delivery of Documents for registration to the supplier data base. Additional documents include: (i) Copies of the Supplier invoice showing Goods description, quantity, unit price, total amount; (ii) Delivery note/railway receipt/truck receipt; (iii) Manufacturer's/Supplier's guarantee certificate (iv) the Supplier's factory inspection report; and (v) Certificate of Origin.
<b>10</b>	<b>Insurance</b>	The insurance coverage shall be as specified in terms of clause 10 of the GCC.
<b>12</b>	<b>Incidental Services</b>	No change
<b>13</b>	<b>Spare Parts</b>	Responsibility for spare parts shall be as specified in clause 13.1 (a) of the GCC
<b>14</b>	<b>Warranty</b>	No change

## SPECIAL CONDITIONS OF CONTRACT

GCC Clause no	GCC subject	Special Condition(s)
<b>15. Payment:</b>		
15.1	The method and conditions of payment:	Payments shall be made promptly by the Procuring Entity, but in no case later than forty five (45) days after submission of an invoice or claim by the Supplier accompanied by a letter of satisfactory inspection from an Official at the delivery point.
<b>22</b>	<b>Liquidated Damages:</b>	<b>Liquidated damages will apply to any delayed portion of the contract and will be a deduction of payment equivalent to half of one percent (0.5%) of the value of the delayed portion per week of delay up to a maximum of 10% (Ten percent).</b>
<b>30. Notices:</b>		
30.1	Procuring Entity's address for notice purposes:	<i>[Will be completed when contract awarded]</i>
30.1	Supplier's address for notice purposes:	<i>[Will be completed when contract awarded]</i>

**PERFORMANCE SECURITY FORM**

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**PERFORMANCE SECURITY**

To: Government of Swaziland  
Mbabane  
Swaziland.

**WHEREAS**..... (hereinafter called the "Supplier" ) has undertaken, in pursuance of Contract No..... [>>>reference number of the contract>>>] date.....201.....to supply, deliver and install bulk filing units [>>>short description of goods and associated service>>] (hereinafter called the "Contract" )

**AND WHEREAS** it has been stipulated by you in the said Contract that the Supplier shall furnish you with a performance security by a reputable Financial Institution for the sum specified therein as security for compliance with the Supplier's performance obligations in accordance with the Contract.

**AND WHEREAS** we have agreed to give the Supplier a performance security.

**THEREFORE WE** hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier up to a total of [>>>>the amount of the Performance Security in words and figures>>>], and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limit of [>>>>the amount of the Performance Security>>>] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Performance Security is valid until the .....day of.....201.....

Signature and seal of the Guarantors

.....  
(Name of the bank or financial institution)

.....  
(Address of the bank or financial institution)

.....  
(Date)