



TENDER NO: 6 OF 2023-24
SUPPLY & DELIVERY OF BUILDING MATERIAL AND TOOLS

**Civic Offices
Mpumalanga Crescent Lot 1
Mountain View Township
Ezulwini
Eswatini**



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EZULWINI TOWN COUNCIL
TENDER NO: 6 OF 2023-24 SUPPLY & DELIVERY OF BUILDING MATERIAL
AND TOOLS

1. PREAMBLE

The Ezulwini Town Council requires a competent, registered and reputable company to tender for the Supply and Delivery of Building Materials and Tools for the financial year 2023-24.

2. GENERAL CONDITIONS

Tenderers attention is drawn to the general conditions of purchase and conditions of tender:

- 2.1 This tender document constitutes the contract of engagement on award of the tender. Aspects of this tender shall be deemed as binding and part of the contract for award.
- 2.2 Completed tender documents under sealed cover with tenderer's name and addresses on reverse side of the envelope must be made and addressed to the Chief Executive Officer, Plot 1, Ezulwini Town Council Mpumalanga crescent P. O. Box 344, Ezulwini, and delivered not later than **12:00 pm on Tuesday January 31st, 2023**. Tenders will be opened on the same date at **12:00 pm**. One (1) original and Five (5) copies are required. Mark clearly on the front page, which is the original and which are the copies.
- 2.3 Late or telegraphic tenders will not be accepted.
- 2.4 The Council does not bind itself to accept any or the lowest tender.
- 2.5 Tenderers shall, together with the complete tender documents, supply technical data, illustrations and/or leaflets which adequately describe the items offered including quality.
- 2.6 If required by the Council the tenderer shall supply sample items and these samples of the accepted tender will be retained by the Council throughout the duration of the contract period. Any items supplied not in accordance with the approved samples will be rejected.
- 2.7 Tenderers may submit prices in the form of standard manufacturer's price lists. However, such list must be supplementary to and not replace the Form of Tender.



- 2.8 The validity period of the Tender shall be 120 days from the date of submission.
- 2.9 Clarifications may be requested in writing by email, but not later than **Tuesday January 24th, 2023**. The address for clarification is: townclerk@ezulwini.co.sz
- 2.10 Any time before the submission deadline, the Procuring entity may issue an addendum to the Tender document and notify all Tenderers who received the tender documents. The Tenderers will be allowed at least one week before the tender submission deadline, to effect the changes to bidding document. Where necessary, the deadline for submission would be extended. This will be applicable whenever there are major errors or omissions to tender documents noted by Procuring entity before the submission deadline.
- 2.11 All Tenderers are required to provide contact email addresses to the procuring entity through which they will be notified of the intention to award on the day that the Intention is sent to the Eswatini Public Procurement Regulatory Agency (ESPPRA).

3. 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 non-conformity. 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.

4. **INFORMATION REQUIRED FROM TENDERERS**

The Council will require the tenderers to submit the following information alongside the tender documents:

- A certified copy of an official statement of the Directors, alternative directors, managers and auditors of the company (for Eswatini firms: Form 'J');
- A certified copy of an official statement of the annual summary of shares capital and shares (for Eswatini firms: Form 'C');
- Certified copy of a valid Labour Compliant Certificate.
- **E400.00** Receipt or proof of payment for the Tender Document
- A Valid Trading License
- Original and Valid Tax Compliance Certificate
- Certified Copy of a Valid ENPF Compliance Certificate or an official ENPF letter not older than three (3) months
- Police clearance certificate for ALL Directors not older than three (3) months

5. **EVALUATION OF TENDERS**

Tenders shall be evaluated using, but not limited to the following tender evaluation criteria: The Evaluation shall be staged into three:

i. Preliminary examination

At this stage the evaluation committee will determine whether all tenderers have completed and are responsive to basic instructions and requirements of the tender document.

ii. Technical Evaluation

Partial Offers will not be accepted. Only complete offers will be considered for evaluation. Responsive tenderers shall attain a **minimum technical score of 70%**. Nonresponsive Tenderers will not proceed to the next financial evaluation stage

a) Premises Visitation (35 marks)

A team from Ezulwini Town Council will visit all company premises. The following should be in visible place; -

1. Inspections of physical premises - suppliers are expected to have a trading office and provide proof of ownership or copy of lease agreement. **(10)**;
2. Availability of samples of goods listed in the tender document which should be accompanied by a letter from your supplier or manufacturer confirming agreement to supply goods between yourselves and them. In the case where the supplier manufactures their own products; a letter must be included. (The Municipality will send through a team to inspect the premises where products are being manufactured). **(15)**
3. Companies located within a 5km radius from the Local Authorities Offices will be given preference as part of Local Economic Development Strategy. **(10)**

a) Company experience (15 marks)

Submit Company profile and provide at least three (3) references and contact details of customers where similar work was undertaken or supplied.

b) Product specification correct as per product description in Table 1.1 (Pass or Fail)

The statements of requirements will be evaluated on a pass or fail basis, to determine whether the tender is substantially responsive and, if not, the significance of any variation from that specification.

iii. A Financial Evaluation

The Evaluation Committee will compare tender prices in order to determine the tender with the lowest evaluated price. The **least cost selection method** shall be used in evaluating tenderers. The evaluated price for each proposal shall be determined by:

- a) Correction of any arithmetic errors
- b) Determining whether financial proposals are complete and have costed all corresponding inputs in the technical proposal, costing any missing items and adding them to the proposal price
- c) Converting all proposals to a single currency for the purposes of evaluation, using the currency, source and date of exchange rates indicated in the request for proposals document.

The proposal with the lowest evaluated price and responsive as per **section 5(ii)** shall be the best evaluated proposal and shall be recommended for award of contract.

6. DURATION OF CONTRACT

The contract duration will be from the award date to **31st March 2024**.

7. PROCUREMENT PROCESS

7.1 For each tender the Council will award a minimum of 3 vendors based on the evaluation stated in 4 above.

7.2 The procurement process after award is that the Council shall call for quotations for the item needed from the awarded companies for each tender. The quotations will be considered in relation to the price in the tender document or less.

7.3 The Council will consider the pricing and the variations made to the submitted item price.

7.4 The Council will issue out an order which has a validity of 30 calendar days.

7.5 At the lapse of the 30 days if the items ordered have not been delivered, the order will automatically lapse and it is automatically cancelled.

7.6 Delivery shall be made to the Ezulwini Town Council Offices during working hours:

08:00 to 16:45 Hours Monday to Thursdays

08:00 to 16:30 Hours Fridays



8. PRICING AND PAYMENT CONDITIONS

8.1 Any form of **levy or charges such as customs and excise, tax, sales duty, surcharges or discounts must be included in the tender price (s).**

8.2 Price (s) quoted must include cost of supply, delivery and off-loading.

8.3 The general conditions of payment of the Council shall apply in this contract. The Council shall make payment for work done and accepted by the Council within 30 days of receipt of invoice from the vendor. No other conditions may be allowed.

8.4 Advance payment will not be made by the Council. The vendor is expected to have the capacity to make delivery on all orders issued within 30 days without any advance payment.

9. ITEMS REQUIRED BREAKDOWN

Note – the quantities given below are for guidance only and the Council reserves the right to alter requirements.

EZULWINI TOWN COUNCIL

COMPANY NAME: _____

**TENDER NO: 6 OF 2023-24 SUPPLY & DELIVERY OF BUILDING MATERIAL
AND TOOLS**

I/We understand, hereby acknowledge, myself/ourselves fully, conversant with the details and conditions set out in the special Conditions and Specification and with the General Conditions of Purchase and Conditions of Tender attached and hereby agree to supply deliver and off-load in accordance therewith: -

Table 1.1

DESCRIPTION	QTY	UNIT PRICE (E)	TOTAL (E)
<u>IRONMONGERY</u>			
Union Mortice Lock 3 Lever	10		
Union Mortice Lock 4 Lever	10		
75mm Wire Nails	500g		
100mm Wire Nails	500g		
125mm Wire Nails	500g		
150mm Wire Nails	500g		
75mm Wire Nails	1kg		
100mm Wire Nails	1kg		
125mm Wire Nails	1kg		
150mm Wire Nails	1kg		
3mm Galvanised Wire	5kg		
1.6mm Galvanised Wire	5kg		
30mm Concrete Nails	500g		
115mm Brickforce	60m		
150mm Brickforce	60m		
<u>DOORS & DOOR FRAMES</u>			
9" Heavy Duty Door Frame	3		
6" Heavy Duty Door Frame	3		
4½" Door Frame	3		
1 Sidelight Timber D/Frame	1		
2 Sidelight Timber D/Frame	1		
Solid Exterior Door S.A.P	2		
Interior Catafold Door	5		
Interior Sapele Door	5		
<u>MISCELLANEOUS</u>			
42.5N AfriSam Cement	50kg		
42.5N A1 Cement	50kg		
42.5N Icon Cement	50kg		
32.5N Icon Cement	50kg		

32.5N B.B Cement	50kg		
32.5N LaFarge Cement	50kg		
DESCRIPTION	QTY	UNIT PRICE (E)	TOTAL (E)
Pliers (medium size)	10		
Barbed Wire	50kg		
Cast Iron Manhole Covers (750x500mm)	5		
Razor Wire	50kg		
Ref 193 Welded Mesh	10		
Ref 395 Welded Mesh	10		
115mm brickforce	5		
150mm brickforce	5		
230mm brickforce	5		
R8 Steel Bar (6m)	25		
R10 Steel Bar (6m)	20		
R12 Steel Bar (6m)	20		
Y12 Steel Bar (6m)	20		
Y16 Steel Bar (6m)	20		
Y20 Steel Bar (6m)	20		
Treated Poles (75-100mm)-2.4m	15		
Treated Poles (100-150mm)-2.4m	15		
Treated Poles (150-200mm)-2.4m	20		
Diamond mesh fence (1800x75x2.5mm)	5		
3.15mm D Galv. Wire (50kg)	2		
1.6mm D Galv. Wire (5kg)	1		
Y- standards (4.9kg)	30		
DL Mesh gates (44.5kg)	2		
38x38mm Timber (3.60m)	20		
38x38mm Timber (4.80m)	10		
38x38mm Timber (6.00m)	10		
50x76mm Timber Purlin (4.80m)	15		
50x76mm Timber Purlin (6.00m)	10		
38x114mm Timber Rafter (4.80m)	15		
38x114mm Timber Rafter (6.00m)	10		
38x152mm Timber Rafter (6.00m)	10		
50x150mm Timber Rafter (4.80m)	15		
50x150mm Timber Rafter (6.00m)	10		
375micron gunplas D.P.M	2 rolls		
225mm D.P.C	15m		
Shed cloth 80% roll	2		
Aluminium Sisalation	2 rolls		
0.30mmx4.80m IBR Sheet	10		
0.30mmx6.00m IBR Sheet	10		
0.30mmx4.80m Corrugated Sheet	10		
0.30mmx4.80m Corrugated translucent sheet	5		
PVC Gutter (circular)	10		
Gutter brackets	15		
Gutter End caps (Right & Left)	5		

End piece with downpipe outlet	3		
PVC gutter unions	10		
Downpipe PVC (circular)	3		
Downpipe 112.5deg bend	3		
Downpipe 92.5deg bend	3		
<u>TOOLS</u>			
Spade (preferably Lasher)	5		
Shovel (preferably Lasher)	5		
Slasher (preferably Lasher)	7		
Pick Head (preferably Lasher)	8		
300mm Hacksaw	2		
Heavy Duty Claw Hammer	2		
1500g Sledge Hammer	1		
3000g Sledge Hammer	1		
6000g Sledge Hammer	1		
8000g Sledge Hammer	1		
50m Polythene Measuring Tape	1		
3m Steel Measuring Tape	5		
5m Steel Measuring Tape	3		
8m Steel Measuring Tape	5		
Wooden Pick Handle	3		
Plastic Pick Handle	5		
Green Leaf Rake	5		
Steel Rake	5		
Heavy Duty Wheelbarrow (preferably Lasher)	2		
Dia. 320mm Collapsible Measuring Wheel	1		
Heavy Duty Bush Knife (preferably Lasher)	5		
26" Wooden Handle Axe	2		
Garden Fork (preferably Lasher)	5		
300mm Hard Bristle Broom (Road sweeping)	10		
450mm Hard Bristle Broom (Road sweeping)	10		
Shutter board (2.4 X 1.2m)	20		
<u>PLUMBING</u>			
Flexible water connection pipe	5		
Flexible pipe valve	5		
Single water taps (copper)	3		
Kitchen sink mixer	2		
25mm Coupling PVC	5		
25mm Coupling PVC (T-Junction)	5		
25mm Coupling PVC (90deg bend)	5		
20mm Coupling PVC	4		
Push down taps	8		
Toilet wax pan seal ring	10		

EZULWINI TOWN COUNCIL - COMMITMENT FORM

TENDER NO: 1 OF 2022-23 SUPPLY & DELIVERY OF BUILDING MATERIAL AND TOOLS

I (name of tenderer in full),,
hereby agree to deliver all goods and services at the same time without altering the
tendered price I quoted during tender submission date **Tuesday January 31st, 2023.**

Residential Address

.....
.....

Business Address

.....
.....

Postal Address

.....
.....

Telephone Number

.....

Email Address

.....

Name of person authorised to sign this tender:

NAME

SIGNATURE

FORM TECH-1: DECLARATION OF ELIGIBILITY

[The Tenderer must provide a signed declaration on its company letterhead in the following format. If the Tender is being presented by a joint venture or consortium all members must each sign their own declaration.]

[>>>Name of Company, Address, and Date>>>]

To: The CEO/ Town Clerk

Ezulwini Town Council

Mpumalanga Crescent

P.O. Box 344

Ezulwini

Dear Sirs,

Re: TENDER NO: 6 of 2023-24 SUPPLY & DELIVERY OF BUILDING MATERIAL AND TOOLS

We hereby declare that: -

- a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- b) I/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 are not the subject of legal proceedings for any of the foregoing;
- c) I/We have fulfilled our obligations to pay taxes and social security contributions;
- d) I/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) I/We do not have a conflict of interest in relation to the procurement requirement.
- f) I/We do not have 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;

g) I/We are not subject to suspension in accordance with section 55, and none of its directors or officers have been involved in a tenderer or supplier currently subject to suspension.

Signed

Authorised Representative

Date

ANNEXURE 1.

Submission Checklist

Requirement	Available/not available (Please tick <input type="checkbox"/> or cross <input type="checkbox"/> as appropriate)
A. Certified copy of Form 'C'	
B. Certified copy of Form 'J'	
C. Certified copy of a valid Labour Compliant Certificate.	
D. E400.00 Receipt or proof of payment for the Tender document.	
E. Names and contact details of at least three (3) reference customers.	
F. Police clearance for ALL Company Directors not older than three (3) months.	
G. Complete Price Listing as per Section 9 of the tender document	
H. Certified Copy of a Valid Trading License.	
I. Original and Valid Tax Compliance Certificate.	
J. Certified Copy of a Valid ENPF Compliance Certificate or official ENPF letter not older than three (3) months	



FORM BID-1: BID SUBMISSION FORM

[Note to Tenderers: This Bid Submission Form should be on the letterhead of the Company and should be signed by a person with the proper authority to sign documents that are binding on the entity. It should be included by the tenderer with the submitted tender.]

[>>>Location>>>]

[>>>Date>>>]

Procurement Reference No: [>>>insert Tender number>>>]

To: [>>>Name and address of Procuring Entity>>>]

Dear Sirs:

We, the undersigned, declare that:

(a) We offer to provide the service for [>>insert a brief description of the tender>>] in conformity with your invitation to tender;

(b) The schedule of prices of our proposal is attached.

(c) Our tender shall be valid for a period of [>>specify the number of calendar days>>] days from the date fixed for the tender submission deadline in accordance with the Tender, and it shall remain binding upon us, subject to any modifications resulting from negotiations, and may be accepted at any time before the expiration of that period;

(d) We understand that you are not bound to accept any proposal that you receive;

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

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

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

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

Duly authorised to sign the tender for and on behalf of: [insert complete name of Tenderer]

CONTRACT TERMS AND CONDITIONS

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 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 Suppliers 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) "The Procuring Entity" means the National Disaster Management Agency, an organization purchasing the Goods.
- f) "The Supplier" mean

s the individual or firm supplying the Goods and Services under this Contract.

2. APPLICATION

2.2 These Contract Terms and 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 highest standards 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 Clause 4.1 except for purposes of performing the Contract.

4.3 Any document, other than the Contract itself, enumerated in 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.

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. PACKING

6.1 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.

6.2 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 any subsequent instructions given by the Procuring Entity

7. DELIVERY AND DOCUMENTS

7.1 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 shall be specified in the Contract.

7.2 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.

8. INSURANCE

8.1 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 Contract.

9. TRANSPORTATION

9.1 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.

9.2 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 Eswatini, 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.

9.3 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Eswatini, defined as the Project Site, transport to such place of destination in Eswatini, 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.



1. WARRANTY

10.1 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 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 Eswatini.

10.2 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.

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

10.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Procuring Entity.

10.5 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 Contract.

11. PAYMENT

11.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the Contract document.

11.2 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 upon fulfilment of other obligations stipulated in the Contract.

11.3 Payment shall be made promptly by the Procuring Entity, but in no case later than thirty (30) days after submission of an invoice or claim by the Supplier unless otherwise stated in the Contract.

12. PRICES

12.1 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.

12.2 All such prices shall be valid and fixed for a period of one (01) year

13. CHANGE ORDERS

13.1 The Procuring Entity may at any time, by a written order given to the, 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.

13.2 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.

14. CONTRACT AMENDMENTS

14.1 Subject to Clause 13, no variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties.

15. ASSIGNMENT

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



16. SUBCONTRACTS

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

17. DELAYS IN THE SUPPLIER'S PERFORMANCE

17.1 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.

17.2 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 Suppliers' notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier's time of performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of the contract.

17.3 Except as provided under 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 Clause 18, unless an extension of time is agreed upon pursuant to Clause 17.2 without the application of liquidated damages.

18. LIQUIDATED DAMAGES

18.1 Subject to Clause 17, if the Supplier fails to deliver any or all of the Goods or 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 20%(percent) of the delivery 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 60% (percent). Once the maximum is reached, the Procuring Entity may consider termination of Contract.

19. TERMINATION FOR DEFAULT



19.1 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 specified in the contract, or within any extension thereof granted by the procuring entity pursuant to Clause 17; or
- b) If the supplier fails to perform any other obligation(s) under the contract.

19.2 In the event the Procuring entity terminates the contract in whole or in part, pursuant to clause 18.1, the Procuring Entity may procure, upon such terms and in 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 cost for such similar goods or services. However, the supplier shall continue performance of the contract to the extent not terminated.

20. FORCE MAJEURE

20.1 Notwithstanding the provision of Clause 17, 18 and 19, the supplier shall not be liable for liquidated damages or termination for default if and to the extent that it's delays in performance or other failure to perform its obligation under the contract is the result of Force Majeure.

20.2 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 Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

20.3 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 obligation 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.

21. TERMINATION FOR INSOLVENCY



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

22. RESOLUTION OF DISPUTES

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

22.2 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.

22.3 The arbitrator shall determine the matters in dispute in accordance with the laws in effect in Eswatini.

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

23. APPLICABLE LAW

23.1 The contract shall be interpreted in accordance with the laws and regulations in effect in the Kingdom of Eswatini.

24. NOTICES

24.1 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.

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



25. TAXES AND DUTIES

25.1 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.