REQUEST FOR PROPOSALS FOR THE DEVELOPMENT OF A NATIONAL OVERVIEW OF THE ASGM SECTOR, INCLUDING BASELINE ESTIMATES OF MERCURY USE AND PRACTICES

REFERENCE NUMBER: RFP/18/001

18th January 2018
The Swaziland Environment Authority (SEA) or “the Authority”) invites sealed Proposals for “The Development of a National Overview of the Artisanal and Small Scale Gold Mining (ASGM) Sector, Including Baseline Estimates of Mercury Use and Practices in Swaziland”. The ‘Request for Proposals’ document can be obtained at the reception area of the offices of the Swaziland Environment Authority, Rhus Office Park, Mbabane or downloaded from the Swaziland Public Procurement Regulatory Agency’s website at www.spppra.co.sz

The Authority in partnership with the Africa Institute (AI) is implementing a project titled “The Development of a National Overview of the Artisanal and Small Scale Gold Mining (ASGM) Sector, Including Baseline Estimates of Mercury Use and Practices in Swaziland”. The Swaziland Environment Authority is thus seeking the services of a suitably qualified, competent, local consultant/consultancy to undertake the study.

The purpose of this Request for Proposals (RFP) is to establish a service agreement for the undertaking of this study. Detailed information regarding the terms of reference is available in the ‘Request for Proposals’ document. The Authority shall continuously review the performance of the consultancy and, if the performance of the consultant is not satisfactory, SEA shall have the right to terminate the service agreement in line with the agreed terms and conditions.

Proposals will be evaluated on a Quality and Cost basis and the resulting contract will be a Unit Price contract (i.e. agreed fee rates for a specified period of time for either nominated personnel or a certain type or grade of personnel or type of service, with reimbursable items being on the basis of actual expenses or agreed unit prices).

The Proposal shall consist of a Technical Proposal and a Financial Proposal, which shall be in separate sealed envelopes marked “Technical Proposal - RFP18/001” and “Financial Proposal - RFP18/001”, respectively. The two envelopes must be enclosed in a sealed outer envelope, which shall be marked: “Request for Proposal: The Development of a National Overview of the Artisanal and Small Scale Gold Mining (ASGM) Sector, Including Baseline Estimates of Mercury Use and Practices in Swaziland, for SEA, RFP18/001 - Do Not Open before 1400 hrs (Swaziland time) on 22nd February 2018” and addressed to “Chief Executive Officer, Swaziland Environment Authority, Rhus Office Park, Mbabane”. Failure to mark the envelope clearly and accurately may result in rejection of the application.

To be eligible for consideration for this proposal, a consultant/consultancy should provide in its proposal the documents specified in “Instructions to Consultants /Consultancies”, including the following: Signed Declaration of Eligibility, Certified copy of a valid Trading Licence, Certified copy of a valid Tax Clearance Certificate, Certified copy of an official statement of the Directors and
alternative directors (i.e. Form ‘J’) or owner/s in the case of unincorporated persons, Certified copy of an official statement of the annual summary of share capital and shares (i.e. Form ‘C’ or equivalent) for incorporated persons and Certified copy of Labour Compliant Certificate.

The Proposal must be deposited in the Tender Box situated at the Swaziland Environment Authority (SEA), Rhus Office Park, Mbabane at the latest by 1400 hrs (Swaziland time) on 22nd February 2017. Late tenders, as well as tenders received by telegram, facsimile, email or similar medium will not be considered. Tenders received in time by the latest date and time for submission will be opened at the Agency’s Offices at 1430 hrs on the 22nd February 2017. Tenderers may attend the opening procedure.

Requests for clarifications, which must be in writing, should be addressed, via email, to bhdlamini@sea.org.sz, the Authority will strive to promptly respond in writing via e-mail to any requests for clarification up until Close of Business on 12th February 2017. Written copies of the Authority’s response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders.

For administrative and technical enquiries, please contact Ms. Bianca Dlamini by sending your request for clarification at bhdlamini@sea.org.sz.
Section 1: Instructions to Consultants

TERMS OF REFERENCE

1. BACKGROUND

The Swaziland Environment Authority (SEA) is established by the Environmental Management Act, 2002, with the mandate of promoting the enhancement, protection, conservation of the Environment and the sustainable management of natural resources.

In line with this mandate, the Authority in partnership with the Africa Institute (AI) is implementing a project titled “The Development of a National Overview of the Artisanal and Small Scale Gold Mining (ASGM) Sector, Including Baseline Estimates of Mercury Use and Practices in Swaziland”

This project is aimed at assisting the country to develop a National Action Plan to reduce and eventually eliminate the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, artisanal and small-scale gold mining and processing in accordance to Annex C of the Minamata Convention, to which the country is a Party.

By developing the National Action Plan, Swaziland will be complying with Article 7 of the Minamata Convention on Mercury and this will assist the country to implement this Treaty.

The country will also benefit from new and updated information about the use of mercury in the ASGM sector and from increased capacity in managing the risks of mercury emitted and released from such activity. The sharing of experiences and lessons learned throughout the project is also expected to be an important contribution to other similar countries and foster cooperation for future implementation of the NAPs.

The goal of the project is to contribute to the implementation of the Minamata Convention through the reduction of the risks posed by the unsound use, management and release of mercury in the Artisanal and Small-Scale Gold Mining sector. The NAP has four components, which consist of the activities indicated below. Each component includes information on project activities, outcomes and outputs.

1. Component 1: Regional information exchange, capacity building and knowledge generation
2. Component 2: Establishment of Coordination Mechanism and organisation of process
3. Component 3: Develop a national overview of the ASGM sector, including baseline estimates of mercury use and practices
4. Component 4: Develop, endorse and submit to the Minamata Convention Secretariat a NAP on ASGM

This consultancy falls under component 3 that relates to the development of a national overview of the ASGM sector, including baseline estimates of mercury use and practices. The study will be
conducted nationally. The Swaziland Environment Authority is thus seeking the services of a suitably qualified, competent, local consultant to undertake the study.

2. GENERAL OBJECTIVES

The overall objective of this consultancy is, using the methodology developed by UN Environment, under component 1 (global component) establish a national overview of the ASGM sector, including baseline estimates of mercury use and practices and thus get a full understanding of comprehensive information of the national ASGM sector and enable participating countries to develop NAP in compliance with the Convention.

3. SCOPE OF WORK

The baseline information necessary to develop a national overview of the ASGM sector will be gathered through:

1. Desk study that will entail compiling all available information on ASGM. The desk study will be complemented by the interviews with the key stakeholders at the national, regional and local level.
2. Field visits at the selected ASGM sites in the country in order to collect more in depth information via interviews with mining community, observations and physical measurements.

The consultancy will, using the methodology developed under the global component, gather national information on:

a) Legal and regulatory status of ASGM;
b) Baseline estimates of mercury emissions and releases from the ASGM sector;
c) Structure of the ASGM sector (i.e., single family miners, community mines, etc.);
d) Policies surrounding ASGM;
e) Geographic distribution of ASGM;
f) Economics, such as earnings per capita, mercury supply, use and demand, information on gold trade and export, cost of living, and access to finance for miners. The project will search in particular for information about gender and children aspects of the ASGM economics;
g) Size of the formal and informal ASGM economy;
h) Information on mining practices, including information on ore bodies exploited, processes used, the amount of mercury used, the number of people directly involved in ASGM and indirectly exposed to mercury (disaggregated by gender and age);
i) Information on gold processing practices/burn off of mercury in gold processing shops or community retorts;
j) Known information on overall environmental impacts, contaminated sites, mercury releases in soil, air and water;
k) Studies and other information on mercury exposure, through various media, and studies on impacts in ASGM communities and downstream communities. The project will search for known information desegregated by gender and age;
l) Information about access to basic education, health care (including health effects of mercury exposure) and other services in mining communities;
m) Information about access to technical assistance for miners;
n) Leadership and organization of ASGM at national and local levels.
o) Experiences in addressing ASGM;
p) Information gaps at the local and national scale that can be addressed;
q) Known information about the influence of ASGM practices and policies in neighbouring countries.

The consultancy team is expected to:

1. Attend the field ASGM training on how to develop baseline estimates and national overview of the ASGM sector as part of the NAP, conducted by SEA.
2. Conduct desk research on available information on ASGM sector in the country, according to the categories listed above.
3. Plan field trip (e.g. choose areas to visit, schedule trip, etc.) and make needed logistical arrangements, in coordination with the National Project Coordinator.
4. Collect and analyse data during field research trips (e.g. visit mining sites, interview miners and their families, etc.), based on UN Environment toolkit and NAP guidance document.
5. Supervise and coordinate the work of the inventory research assistant(s) hired to support the data collection in the field.
6. Develop a draft and finalize national overview of the ASGM sector, including baseline estimates of mercury used and practices employed (ready to be integrated in the NAP document) and develop problem statement list.

4. EXPECTED OUTPUTS

1. Inception Report
2. Draft Report “National Overview of ASGM sector” detailing a full understanding of national ASGM that in turn will enable the country develop NAP in compliance with the Convention.
3. Final Report “National Overview of ASGM sector” detailing a full understanding of national ASGM that will enable the participating country develop NAP in compliance with the Convention.

The inception report shall include (but not necessarily be limited to the following issues):

a) An up-dated work plan and timetable
b) List of literature to be reviewed
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c) List of stakeholder organizations and key informants to be consulted by the consultant during the study.
d) Number, venues and invitees of meetings to be organized with the critical stakeholders in the country by the consultant during the study.
e) Structure and outline of the study report to be produced by the consultant during the study.

5. TIME FRAME

This consultancy is expected to be completed within six months from the day of inception.

6. QUALIFICATIONS, KNOWLEDGE AND EXPERIENCE

The following will constitute the national team of experts for the consultancy:

1. The Technical Consultant with experience in chemistry/mining/ASGM/environmental chemistry.
2. Public health consultant that will lead the public health strategy component.
3. Policy/governance/legal consultant that will review legal and institutional framework around ASGM and be involved in setting formalization strategy.
4. Socio-economic expert that will collect socio-economic data and assist with setting strategies around that area.

7.1 Team leader

1. Minimum educational background: Master’s degree in Chemistry, Geology, Mining, Environmental Management with a Major in Chemistry,
2. A PhD in the above fields will be an added advantage.
3. Professional experience in the mining/mercury management sector and preferably understanding of the ASGM sector and its various components: mining, processing, economics, environmental and health impacts, etc., (at least 10 years of working experience)
4. Experience conducting field research (social and/or technical)
5. Experience working with remote rural communities and labour associations
7. Past consulting experience in related topic will be an added advantage.
8. Knowledge of national, regional and international legislations including on international conventions will also be an added advantage.
9. Skills in data acquisition and management, and basic knowledge of the scientific method
10. Good problem-solving skills, open minded, able to take initiative and be proactive in daily tasks.
1.2 Team members

1. Minimum educational background: Degree in the relevant field of expertise; Environmental Chemistry/Science, Public Health, Law, Policy, Natural Science, Economics, Resource Economics etc.

2. Professional experience in the dealing with communities/gender issues and other vulnerable groups mining sector with special emphasis in ASGM (at least 5 years of working experience).

3. Past consulting experience in related topic or dealing with multilateral environmental agreements will be an added advantage.

4. Knowledge of national, regional and international legislations including on international conventions.

5. Skills in data acquisition and management, and basic knowledge of the scientific method

6. Good problem-solving skills, open minded, able to take initiative and be proactive in daily tasks
SECTION 1
INSTRUCTIONS TO CONSULTANTS

DEFINITIONS

(a) “Authority” means the Swaziland Environment Authority.

(b) “Coercive practices” 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.

(c) “Collusive” practices mean a scheme or arrangement between two or more consultants or consultancies, with or without the knowledge of the procuring entity, designed to establish tender prices at artificial, non-competitive levels.

(d) “Consultants/Consultancies” means any entity or person that may provide or provides the Services to the Agency under the Contract.

(e) “Contract” means the Contract signed by the Parties and all the attached documents, i.e. the General Conditions (GCC), the Special Conditions (SCC), and the Appendices.

(f) “Corrupt practice” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the action of a public officer in the procurement process or in contract execution.

(g) “Data Sheet” means such part of the Instructions to Consultants/Consultancies Audit firm(s) used to reflect specific assignment conditions.

(h) “Day” means calendar day.

(i) “Fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract.

(j) “Government” means the government of Swaziland.

(k) “Instructions to Consultants” means the document which provides Consultants with all information needed to prepare their Proposals.

(l) “Personnel” means professionals and support staff provided by the Consultancy or by any Sub-consultant/consultancy and assigned to perform the Services or any part thereof;

“Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside Swaziland;
“Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside Swaziland.


(n) “RFP” means this Request For Proposals.

(o) “Study” means the work to be performed by the Consultant/Consultancy pursuant to the Contract.

(p) “Sub-Consultant/Consultancy” means any person or entity with whom the Consultant/Consultancy subcontracts any part of the study.

(q) “Terms of Reference” (TOR) means the document included in the RFP which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Authority and the Consultant/Consultancy, and expected results and deliverables of the assignment.
1. **Introduction**

1.1 The **Authority** will select a **Consultant/Consultancy** or organization in accordance with the method of selection specified in the Data Sheet.

1.2 **Consultants/Consultancies** are invited to submit a Technical Proposal and a Financial Proposal for the study required for the assignment named in the Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected **Consultant/Consultancy**.

1.3 **Consultants/Consultancies** should familiarize themselves with local conditions and take them into account in preparing their Proposals.

1.4 The **Authority** will make timely available relevant data, information and reports upon signing of contract.

1.5 **Consultants/Consultancies** shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The **Authority** is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the **Consultants/Consultancies**.

2. **Conflict of Interest**

In accordance with Section 40 and 41 of the Procurement Act, 2011, the bidder is requested to fully comply with the requirements stated below.

2.1 **Consultants/Consultancies** are required to provide professional, objective, and impartial service at all times and hold the **Authority**'s interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.

2.2 Without limitation on the generality of the foregoing, **Consultants/Consultancies**, and any of their affiliates, shall be considered to have a conflict of interest and shall not be eligible for selection, under any of the circumstances set forth below:

(i) **Consultants/Consultancies** (including its Personnel and Sub-Consultancies) or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the **Consultants/Consultancies** to be executed for the same or for another agency. For example, a consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a consultant assisting the **Authority** in the privatization of public assets shall not purchase, nor advice purchasers of such assets. Similarly, a consultant hired to
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prepare Terms of Reference for an assignment shall not be hired for the assignment in question.

(ii) Consultants/Consultancies (including its Personnel and Sub-Consultancies) that has a business or family relationship with a member of the Authority’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, may not be awarded a Contract.

2.3 Consultants/Consultancies have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Authority, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant/Consultancy or the termination of the Contract.

3. Association

3.1 If a shortlisted Consultant/Consultancy could derive a competitive advantage from having provided consultancy services related to the assignment in question, the Authority shall make available to all shortlisted Consultants/Consultancies together with this RFP all information that would in that respect give such Consultant/Consultancy any competitive advantage over competing Consultants/Consultancies.

4. Commissions

4.1 Consultants/Consultancies shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant/Consultancy is awarded the Contract, as requested in the Financial Proposal submission form.

5. One Proposal

5.1 Consultants/Consultancies shall submit one proposal only and the required number of copies. However, this does not limit the participation of the same Sub-consultants/consultancies, including individual experts, to more than one proposal for this RFP.

6. Validity

6.1 The Data Sheet indicates how long Consultants/Consultancies Proposals must remain valid after the submission date. During this period, Consultants/Consultancies shall maintain the availability of Professional staff nominated in the Proposal. The Authority will make its best effort to complete negotiations within this period. Should the need arise, however, the Authority may request Consultants/Consultancies to extend the validity period of their proposals.
Consultants/Consultancies who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants/Consultancies can submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants/Consultancies who do not agree have the right to refuse to extend the validity of their Proposals.

7. Clarification and Amendment of RFP Documents

7.1 Consultants/Consultancies may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, through standard electronic means to the Authority’s e-mail address indicated in the Data Sheet. The Authority will respond in writing or by standard electronic means and will send written or electronic copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants/Consultancies that have shown interest to submit a proposal. Should the Authority deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure detailed below.

7.2 At any time before the submission of Proposals, the Authority may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be advertised in the print media and uploaded on the Authority’s website www.sea.co.sz and will be binding on all potential bidders. To give Consultants/Consultancies reasonable time in which to take an amendment into account in their Proposals the Authority may, if the amendment is substantial, extend the deadline for the submission of Proposals.

8. Preparation of Proposals

8.1 The Proposal, as well as all related correspondence exchanged by the Consultants/Consultancies and the Authority, shall be written in the English language.

8.2 In preparing their Proposal, Consultants/Consultancies are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

9. Preparation of the Technical Proposal

9.1 As required in Form TECH-2, Part C, tenderers who are firms are to submit the specified documents which must be attached to the Technical Proposal as Appendices.
9.2 **Consultants/Consultancies** are required to submit a Full Technical Proposal. The Technical Proposal shall provide the information indicated in the following paragraphs, from (a) to (g) using the attached Standard Forms:

a) Form TECH-1 requires the tenderer to complete the tender submission form and append the authorised signature of the **Consultants/Consultancy**.

b) Form TECH-2 requires the tenderer to provide adequate and concise responses to the questionnaire regarding the **Consultant/Consultancy** overall capabilities.

c) Form TECH-3 requires the tenderer to provide the Consultancy organogram relating to the proposed staff to be assigned as well as signed CV and hours to be spent for each proposed staff member/partner

d) Form TECH-4 requires the tenderer to give a description of the approach, methodology to be applied for conducting the study.

e) Form TECH-5 requires the tenderer to give timelines (in days) for completion of different activities for the study.

f) Form TECH-6 requires the tenderer to include certified copies of: trading licence, tax clearance certificate, police clearance, form ‘J’ and form ‘C’ and Labour certificate.

g) Form TECH-7 requires the tenderer to complete the Declaration of Eligibility confirming that the **Consultant/Consultancy** meets the criteria for eligibility to participate in public procurement.

10. **Preparation of the Financial Proposal**

10.1 The Financial Proposal shall be prepared using the attached Standard Forms, which prescribe the required minimum data and information. **Consultant/Consultancy** may provide additional details if appropriate. It shall list all costs associated with the assignment, including, but not necessarily limited to: (a) remuneration for **Consultant/Consultancy** and (b) reimbursable expenses. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign and local expenditures.

10.2 All activities and items described in the Technical Proposal must be priced separately; activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items.

10.3 The **Consultant/Consultancy** shall be subject to local taxes (such as: value added or sales tax, social charges or income taxes on non-resident Foreign Personnel, duties, fees, and levies) on amounts payable by the Agency under the Contract.

10.4 **Consultant/Consultancy** must express the price of their services in Emalangeni unless otherwise specified in the Data Sheet. Commissions and gratuities, if any,
paid or to be paid by Consultant/Consultancy and related to the assignment will be listed in the Financial Proposal Form FIN-1.

11. Packing and Submission of Proposal

11.1 The original proposal (Technical Proposal and Financial Proposal) shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultant/Consultancy themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 and FIN-1.

11.2 An authorized representative of the Consultant/Consultancy shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been duly authorized to sign. The signed Technical and Financial Proposals shall be marked “Original”.

11.3 The Technical Proposal shall be marked “Original” or “Copy” as appropriate. All required copies of the Technical Proposal are to be made from the original. If there are discrepancies between the original and the copies of the Technical Proposal, the original governs.

11.4 If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated in the Data Sheet, this will constitute grounds for declaring the Proposal non-responsive.

12. Latest Date for Submission

12.1 The Proposals must be sent to the address/addresses indicated in the Data Sheet and received by the Authority no later than the date and time indicated in the Data Sheet or any extension to this date. Any proposal received by the Agency after the deadline for submission shall be returned unopened.

13. Opening of Technical Proposals

13.1 The Agency shall open the Technical Proposal immediately after the deadline for their submission. The envelopes with the Financial Proposal shall remain sealed and securely stored.

13.2 From the time the Proposals are opened to the time the Contract is awarded, the Consultants/Consultancies should not contact the Authority on any matter related to its Technical and/or Financial Proposal. Any effort by Consultant/Consultancy to influence the Authority in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultant/Consultancy’s Proposal.
Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

14. Evaluation of the Technical Proposals

14.1 The evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet. Each responsive Proposal will be given a technical score (St).

A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in the Data Sheet.

14.2 After the technical evaluation is completed and the Entity Tender Committee has provided its approval, the Authority shall inform the Consultants/Consultancies who have submitted proposals the technical scores obtained by their Technical Proposals, and shall notify those Consultants/Consultancies whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the RFP and TOR, that their Financial Proposals will be returned unopened after completing the selection process.

14.3 The Authority shall simultaneously notify in writing Consultants/Consultancies that have secured the minimum qualifying mark, the date, time and location for opening the Financial Proposals. The opening date should allow Consultants/Consultancies sufficient time to make arrangements for attending the opening. Consultants/Consultancies’ attendance at the opening of Financial Proposals is optional.

15. Opening of Financial Proposals

15.1 Financial Proposals shall be opened publicly in the presence of the Consultants/Consultancies representatives who choose to attend. The name of the Consultants/Consultancies and the technical scores of the Consultants/Consultancies’ shall be read aloud. The Financial Proposal of the Consultants/Consultancies who met the minimum qualifying mark will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. A Copy of the record shall be sent to all Consultants/Consultancies who request it.

16. Evaluation of Financial Proposals

16.1 The Evaluation Committee will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures the formers will prevail. Activities and items described in the Technical Proposal but not priced,
shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, no corrections are applied to the Financial Proposal in this respect.

16.2 The Evaluation Committee will convert prices in various currencies to the single currency specified in the Data Sheet. The official currency exchange rates used, provided by the source indicated in the Data Sheet, will be those in effect on the date indicated in the Data Sheet. The evaluation shall exclude those taxes, duties, fees, levies, and other charges imposed under the applicable law; and to be applied to foreign and non-permanent resident Consultants/Consultancies (and to be paid under the contract, unless the Consultant/Consultancy is exempted).

17. Evaluation of Quality and Cost based Proposals

17.1 The lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Data Sheet: \( S = St \times T\% + Sf \times P\% \). The firm achieving the highest combined technical and financial score will be invited for negotiations.

18. Place and Time for Negotiations

18.1 Negotiations will be held at the date and address indicated in the Data Sheet. The invited Consultants/Consultancy will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Failure in satisfying such requirements may result in the Authority proceeding to negotiate with the next-ranked Consultant/Consultancy. Representatives conducting negotiations on behalf of the Consultant/Consultancy must have written authority to negotiate and conclude a Contract.

19. Technical Negotiations

19.1 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultants/Consultancies to improve the Terms of Reference. The Authority and the Consultant/Consultancy will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as
“Description of Services”. Special attention will be paid to clearly defining the inputs and facilities required from the Authority to ensure satisfactory implementation of the assignment. The Authority shall prepare minutes of negotiations which will be signed by the Authority and the Consultant/Consultancy.

20. Financial Negotiations

20.1 If applicable, it is the responsibility of the Consultant/Consultancy, before starting financial negotiations, to contact the local tax authorities to determine the local tax amount to be paid by the Consultant/Consultancy under the Contract. The financial negotiations will include a clarification (if any) of the Consultant/Consultancy’s tax liability in the Authority’s country, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.

20.2 Having selected the Consultant/Consultancy on the basis of, among other things, an evaluation of proposed Professional staff, the Agency expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the Agency will require assurances that the Professional staff will be actually available.

The Agency will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Consultant/Consultancy may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and shall be submitted by the Consultant/Consultancy within the period of time specified in the letter of invitation to negotiate.

20.3 Negotiations will conclude a review of the draft Contract. To complete negotiations the Authority and the Consultant/Consultancy will initial the agreed Contract. If negotiations fail, the Authority will invite the Consultant/Consultancy whose Proposal received the second highest score to negotiate a Contract.

20.4 After completing negotiations the Authority shall award the Contract to the selected Consultant/Consultancy and after Contract signature, promptly notify all Consultants/Consultancies who have submitted proposals.

20.5 Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants/Consultancies who
submitted the Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract.

21. Intention to Award

21.1 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 Swaziland Public Procurement Regulatory Agency (SPPRA).

22. Commencement of Assignment

22.1 The Consultant/Consultancy is expected to commence the assignment on the date and at the location specified in the Data Sheet.

23. Corrupt, collusive, fraudulent or coercive practices

23.1 Consultants/Consultancies should be aware that a Consultant/Consultancy who engages in corrupt, collusive, fraudulent or coercive practices will have their proposals rejected and may further be subject to the prosecution under the laws of Swaziland.
INSTRUCTIONS TO CONSULTANTS/CONSULTANCIES

Proposal Data Sheet

<table>
<thead>
<tr>
<th>Paragraph Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definitions</td>
</tr>
<tr>
<td>Name of the Authority: <strong>Swaziland Environment Authority (SEA)</strong></td>
</tr>
<tr>
<td>Method of selection: <strong>Quality and Cost Based Selection (QCBS)</strong></td>
</tr>
<tr>
<td>Name of Assignment: <strong>The Development of a National Overview of the Artisanal and Small Scale Gold Mining (ASGM) Sector, Including Baseline Estimates of Mercury Use and Practices in Swaziland</strong></td>
</tr>
<tr>
<td>Validity</td>
</tr>
<tr>
<td>Proposals must remain valid for 90 (ninety) days after the submission date.</td>
</tr>
<tr>
<td>Clarification and Amendment of RFP Documents</td>
</tr>
<tr>
<td>Clarifications may be requested in writing (email only), but not later than 12th February 2018. The address for requesting clarifications is: <a href="mailto:bhdlamini@sea.org.sz">bhdlamini@sea.org.sz</a>.</td>
</tr>
<tr>
<td>Preparation of the Technical Proposal</td>
</tr>
<tr>
<td>As required in Form TECH-6, the following documents shall be included as Appendices to the Technical Proposal if a Consultancy is tendering (in case of a joint venture or consortium each member must provide the documents):</td>
</tr>
<tr>
<td>• Signed Declaration of Eligibility (TECH-7 below);</td>
</tr>
<tr>
<td>• Certified copy of a valid Trading Licence;</td>
</tr>
<tr>
<td>• Certified copy of a valid Tax Clearance Certificate;</td>
</tr>
<tr>
<td>• Certified copy of an official statement of the Directors and alternative directors (i.e. Form ‘J’) or owner/s in the case of unincorporated persons;</td>
</tr>
<tr>
<td>• Certified copy of an official statement of the annual summary of share capital and shares (i.e. Form ‘C’ or equivalent) for incorporated persons; and</td>
</tr>
<tr>
<td>• Certified copy of Labour Compliant Certificate (if tenderer is an employer).</td>
</tr>
</tbody>
</table>
Section 1: Instructions to Consultants

### Preparation of the Financial Proposal

Taxes: All Consultancies must take note that a withholding tax of 15% on the gross amount paid shall be levied on payment made to non-Swazi residents companies in respect of services performed in Swaziland and 10% on Swazi resident companies unless the company/contractor has a tax exemption certificate from the Commissioner of Taxes (Refer to Income Tax Order No. 21 of 1975 as amended).

Information on taxes may be obtained from the following:

**The Commissioner General**  
P.O. Box 186  
Mbabane  
Swaziland  
Tel. +268 2406 4050 (contact centre)

### Packing and Submission of the Proposal

The Consultants/Consultancies must submit One (1) original and five (5) copies of the Technical Proposal, and One (1) original and five (5) copies of the Financial Proposal.

The proposal shall consist of a Technical Proposal and a Financial Proposal, which shall be in separate sealed envelopes marked “Technical Proposal - RFP18/001” and Name of tenderer and “Financial Proposal - RFP18/001”, and Name of tenderer respectively. The two envelopes must be enclosed in a sealed outer envelope, which shall be marked: “Request for Proposal: The Development of a National Overview of the Artisanal and Small Scale Gold Mining (ASGM) Sector, Including Baseline Estimates of Mercury Use and Practices in Swaziland – RFP/18/001 - Do Not Open before 1400hrs (Swaziland time) on the 22nd February 2018” and addressed to:

**The Chief Executive Officer**  
Swaziland Environment Authority  
Rhus Office Park  
Mbabane

Failure to mark the envelope clearly and accurately may result in rejection of the application.

The Proposal should be deposited in the Tender Box situated at the Swaziland Environment Authority, Rhus Office Park, Mbabane the latest by 1400 hrs (Swaziland time) on the 22nd February 2018. Late applications will not be considered.

### Evaluation of the Technical Proposals

Criteria, sub-criteria and point system for the evaluation of Full Technical Proposals are:

<table>
<thead>
<tr>
<th>Technical Criteria</th>
<th>Technical Sub-criteria</th>
<th>Max Points</th>
</tr>
</thead>
</table>

20
Section 1: Instructions to Consultants

| Overall Response | • Completeness of response  
|                  | • Understanding of the key issues |
| Maximum Points   |  |
| Company and Key Personnel | • Range and depth of experience with similar studies  
|                  | • Relevant experience and qualifications |
| Maximum Points   |  |
| Proposed Methodology and Approach | • Methodologies and Timelines proposed  
|                  | • Project management, monitoring and quality assurance process |
| Maximum Points   |  |
| Total Maximum    | 80  |

The price/cost of each of the technically compliant proposals shall be considered only after evaluation of the above technical criteria.

The minimum Technical Score (St) required to pass is: 80 (eighty)

Evaluation of the Financial Proposals

Foreign currency rate will be converted to Lilangeni (SZL) at the official selling rate published by the Central Bank of Swaziland on the day of the latest submission date of the tender.

Evaluation will take place in Lilangeni (SZL) only.

Evaluation of Quality Cost Based Proposals

The lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as follows: Sf = 100 x Fm / F, in which Sf is the financial score, Fm is the lowest price and F the price of the proposal under consideration.

Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Data Sheet: S = St x T% + Sf x P%. The firm achieving the highest combined technical and financial score will be invited for negotiations.

The weights given to the Technical and Financial Proposals are:
T = 0.8  
P = 0.2

Negotiations
### Section 1: Instructions to Consultants

<table>
<thead>
<tr>
<th>Expected address for contract negotiations: <strong>Swaziland Environment Authority, Rhus Office Park, MBABANE.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Intention to Award</strong></td>
</tr>
<tr>
<td>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 Swaziland Public Procurement Regulatory Agency (SPPRA).</td>
</tr>
<tr>
<td><strong>Commencement of Assignment</strong></td>
</tr>
<tr>
<td>The assignment is expected to commence on or before <strong>1st March 2018</strong> or immediately after contract award (subject to confirmation by the Authority).</td>
</tr>
</tbody>
</table>
SECTION 2

TECHNICAL PROPOSAL - STANDARD FORMS

Paragraph 9 of ‘Instructions to Consultants/Consultancies’ informs about the format in which the Technical Proposal shall be submitted.

TECH-1 Technical Proposal Submission Form
TECH-2 Overall Capabilities of the Consultant/ Consultancy, Questionnaire
TECH-3 Professional Team Assigned
TECH-4 Proposed Methodology, Questionnaire
TECH-5 Timelines
TECH-6 Documents comprising proposal
TECH-7 Declaration of Eligibility
FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM

To: The Chief Executive Officer
Swaziland Environment Authority
Rhus Office Park
P.O. Box 2602
Mbabane

Dear Sirs:

I, the undersigned, offer to provide consultancy services to the Authority in accordance with your Request for Proposal dated 25th January 2018 and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

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

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph Reference 2.1 of the Data Sheet, we undertake to negotiate on the basis of the proposal. My Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if my Proposal is accepted, to initiate the auditing services related to the assignment not later than the date indicated in Paragraph Reference 22.1 of the Data Sheet.

We understand the Swaziland Environment Authority (SEA) is not bound to accept the lowest or any proposal.

We remain,

Yours sincerely,

Authorized Signature: ________________________________
Name and Title of Signatory: ________________________________
Name of Consultant/Consultancy: ________________________________
Address: ________________________________

[Stamp of the Consultancy]
### FORM TECH-2:

**CONSULTANCY’S OVERALL CAPABILITIES**

<table>
<thead>
<tr>
<th>OVERALL CAPABILITIES OF THE FIRM</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the size of the Consultancy from which the study would be carried out? Please provide information on the number for each level of professional staff in the Consultancy, partner/staff ratio. The number of similar studies performed annually by the Consultancy.</td>
<td></td>
</tr>
<tr>
<td>2. How many clients does the Consultancy have? In what sectors does the client base predominate?</td>
<td></td>
</tr>
<tr>
<td>3. What experience does the Consultancy have in carrying out similar studies?</td>
<td></td>
</tr>
<tr>
<td>4. What experience does the Consultancy have in relation to such clients, where the clients must report in accordance with its establishing Act and International Financial Reporting Standards?</td>
<td></td>
</tr>
<tr>
<td>5. What is the Consultancy’s internal quality control procedures for studies conducted?</td>
<td></td>
</tr>
<tr>
<td>6. What is the nature of the Consultancy’s access to the worldwide Consultancy’s knowledge base, quality assurance system, professional development and other resources to support its work?</td>
<td></td>
</tr>
<tr>
<td>7. Does the Consultancy have an internal staff rotation policy? If so what is the period of rotation of professional staff in charge for assignments in your Consultancy?</td>
<td></td>
</tr>
<tr>
<td>8. What arrangements does the Consultancy have to ensure that if key personnel proposed for the study cannot be made available, must be substituted during the course of the engagement, or must rotate in accordance with the Consultancy’s rotation policy, that</td>
<td></td>
</tr>
</tbody>
</table>
similarly qualified and experienced staff can be assigned in their place in a timely fashion?

<table>
<thead>
<tr>
<th>9. Are there any legal actions or potential conflicts of interest relating to the Consultancy that may impact the ability of the firm to provide services to the Authority</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>10. Can the Consultancy provide client references to support its proposal? Please state three recent references with contact persons and contact details.</th>
</tr>
</thead>
</table>
**Form TECH-3:**

**Professional Team Assigned**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Please provide the organogram structure of the organisation in relation to the team to be assigned for the study</td>
</tr>
<tr>
<td>2.</td>
<td>Please provide the CVs of the proposed professional staff and any specialist. Note the professional and academic qualifications, years of experience, recent professional development activities, experience with similar assignments</td>
</tr>
<tr>
<td>3.</td>
<td>What is the time allocation for the various proposed members of the professional team?</td>
</tr>
<tr>
<td>4.</td>
<td>What would be the nature and extent of the involvement of the professional staff and specialists.</td>
</tr>
</tbody>
</table>

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, these CVs correctly describes the qualifications, and experience of the team to be assigned for the audit services. I understand that any wilful misstatement described herein may lead to the firm’s disqualification or dismissal, if engaged.

__________________________________________________________________________

Date: ______________

(Signature of staff member or authorized representative) (Day/Month/Year)
## Form TECH-4:

### Proposed Methodology

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the firm’s approach to incorporating risk assessment into the planning and conduct of financial statement audits? How would this be expected to integrate with the Agency's own risk management processes?</td>
<td></td>
</tr>
<tr>
<td>2. What is the firm’s approach to incorporating reviews of the corporate governance arrangements of the Agency and the control environment – against good international practice – into the planning and conduct of the financial statement audits?</td>
<td></td>
</tr>
<tr>
<td>3. What is the firm’s approach to the balance of internal control review versus substantive testing for financial statement audits?</td>
<td></td>
</tr>
<tr>
<td>4. What is the firm’s approach to reviewing the computerized and manual controls over the financial reporting system, including review of the financial system?</td>
<td></td>
</tr>
<tr>
<td>5. To what extent does the proposed audit methodology enable the office to provide advice to the Agency on internal control processes particularly as they relate to fraud elimination (prevention/detection), efficiency of operations, risk reduction and compliance with the Agency’s financial and related policies?</td>
<td></td>
</tr>
<tr>
<td>6. What is the audit firm’s proposed approach to interaction with the internal audit activity of the Agency?</td>
<td></td>
</tr>
<tr>
<td>7. What, in the audit firm’s opinion, are the greatest risks for financial integrity and internal control for public enterprises like the Agency</td>
<td></td>
</tr>
<tr>
<td>8. What, in the firm’s opinion, are the greatest challenges to a public enterprise like the Agency implementing ISA?</td>
<td></td>
</tr>
<tr>
<td>9. What features, if any, of the proposed audit approach does the firm wish to highlight in terms of tailoring to the Agency’s needs as a public enterprise which must report according to ISA</td>
<td></td>
</tr>
<tr>
<td>ACTIVITY</td>
<td>TIMEFRAME</td>
</tr>
<tr>
<td>----------</td>
<td>-----------</td>
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<tr>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Technical Proposal must include the following documents:

- Signed Declaration of Eligibility (TECH-6 below);
- Certified copy of a valid Trading Licence;
- Certified copy of a valid Tax Clearance Certificate;
- Certified copy of a valid Police Clearance Certificate;
- Certified copy of an official statement of the Directors and alternative directors (i.e. Form ‘J’) or owner/s in the case of unincorporated persons;
- Certified copy of an official statement of the annual summary of share capital and shares (i.e. Form ‘C’ or equivalent) for incorporated persons; and
- Certified copy of Labour Compliant Certificate (if tenderer is an employer).
FORM TECH-7: DECLARATION OF ELIGIBILITY

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

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

To: The Chief Executive Officer
Swaziland Environment Authority (SEA)
Rhus Office Park
P.O. Box 2602
Mbabane

Dear Sirs,

Re Tender Reference: RFP18/001

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.

Signed ........................................

Authorised Representative

Date ..........................................
SECTION 3

FINANCIAL PROPOSAL - STANDARD FORMS

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal in accordance with instructions provided under paragraph 10 of the ‘Instructions to Consultancies’ section.

FIN-1  Financial Proposal Submission Form

FIN-2  Summary of Proposal or Activity Costs
**FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM**

[Note to Consultancies: This Financial Proposal Submission Form should be on the letterhead of the Consultancies 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 Consultancy in its financial proposal.]

[>>>Location>>>]
[>>>Date>>>]

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

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

Dear Sirs:

We, the undersigned, declare that:

(a) We offer to provide the consulting services for [>>>insert a brief description of the Services>>>] in conformity with your Request for Proposals and our technical and financial proposals;

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

(c) Our proposal shall be valid for a period of [>>>specify the number of calendar days>>>] days from the date fixed for the proposal submission deadline in accordance with the Request for Proposals, 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 proposal for and on behalf of: [insert complete name of Tenderer]
## FORM FIN-2: Summary of Proposal or Activity Cost

[Note to Consultancies: Consultancies may reproduce this form in landscape format with additional columns, rows or fields]

[Commissions and gratuities, if any, paid or to be paid to agents by Consultancies and related to the assignment should be listed]

<table>
<thead>
<tr>
<th>Cost item</th>
<th>Cost (SZL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees (provide detailed rates and descriptions)</td>
<td></td>
</tr>
<tr>
<td>Reimbursable costs(^1) (provide detailed rates and descriptions)</td>
<td></td>
</tr>
<tr>
<td>% fee increases in subsequent years, describe basis for increase</td>
<td></td>
</tr>
<tr>
<td>Local taxes (provide detailed rates and descriptions)</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
</tr>
</tbody>
</table>

[The above table may be expanded to include more categories and types of relevant data and information as appropriate]

---

\(^1\) Local transportation costs are not to be included, if local transportation is being made available by the Agency. Similarly, the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Agency.
GENERAL CONDITIONS OF CONTRACT

1.1 General Provisions

1.2 Definitions

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

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

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

1.4 Language

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

1.5 Notices

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

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

1.6 Location

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

1.7 Authority of Member in Charge

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

1.8 Authorized Representatives

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

1.9 Taxes and Duties
The Consultancy, Sub-consultancies, and their Personnel shall pay such indirect taxes, duties, fees, and other impositions levied under the Applicable Law as specified in the SCC, the amount of which is deemed to have been included in the Contract Price.

2. Fraud and Corruption

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

2.1 Commission and Fees

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

3. Commencement, Completion, Modification and Termination of Contract

3. Effectiveness of Contract

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

4. Commencement of Services

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

5. Expiration of Contract

Unless terminated earlier pursuant to Clause GCC 2.6, this Contract shall expire at the end of the time period after the Effective Date, as specified in the SCC.

6. Modifications or Variations

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

7.1 **Definition**

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

7.2 **No Breach of Contract**

The failure of a Party to fulfil any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

7.3 **Extension of Time**

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

7.4 **Payments**

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultancy shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

7.5 **Termination**

7.5.1 **By the Authority**

The Authority may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GCC 2.6.1. In such an occurrence the Authority shall give not less than thirty
(30) days’ written notice of termination to the Consultancy, and sixty (60) days’ in the case of the event referred to in (e).

a) If the Consultancy does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Authority may have subsequently approved in writing.

b) If the Consultancy becomes insolvent or bankrupt.

c) If the Consultancy, in the judgment of the Authority has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

d) If, as the result of Force Majeure, the Consultancy are unable to perform a material portion of the Services for a period of not less than sixty (60) days.

e) If the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

f) If the Consultancy fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 8 hereof.

7.5.2 By the Consultancy

The Consultancy may terminate this Contract, by not less than thirty (30) days’ written notice to the Authority, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GCC 2.6.2:

a) If the Authority fails to pay any money due to the Consultancy pursuant to this Contract and not subject to dispute pursuant to Clause GCC 7 hereof within forty-five (45) days after receiving written notice from the Consultancy that such payment is overdue.

b) If, as the result of Force Majeure, the Consultancy is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

c) If the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 8 hereof.
7.6 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GCC 2.6.1 or GCC 2.6.2, the Authority shall make the following payments to the Consultancy:

a) Payment pursuant to Clause GCC 6 for Services satisfactorily performed prior to the effective date of termination;

b) Except in the case of termination pursuant to paragraphs (a) through (c), and (f) of Clause GCC, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

8. Obligations of the Consultancy
8.1 General
8.1.1 Standard of Performance

The Consultancy shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultancy shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Authority, and shall at all times support and safeguard the Authority’s legitimate interests in any dealings with Sub-consultancies or third Parties.

8.1.2 Conflict of Interests

The Consultancy shall hold the Authority’s interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

8.1.3 Consultancy is Not to Benefit from Commissions, Discounts, etc.

The payment of the Consultancy pursuant to Clause GCC 6 shall constitute the Consultancy’s only payment in connection with this Contract or the Services, and the Consultancy shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultancy shall use their best efforts to ensure that the Personnel, any Sub-consultants, and agents of either of them similarly shall not receive any such additional payment.

8.1.4 Consultancy and Affiliates Not to be Otherwise Interested in Project.
The Consultancy agrees that, during the term of this Contract and after its termination, the Consultancy and any entity affiliated with the Consultancy, as well as any Sub-consultancy and any entity affiliated with such Sub-Consultancy, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Consultancy’s Services for the preparation or implementation of the project.

8.1.5 Prohibition of Conflicting Activities

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

8.1.6 Confidentiality

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

8.1.7 Insurance to be Taken Out by the Consultancy

The Consultancy (a) shall take out and maintain, and shall cause any Sub-Consultancy to take out and maintain, at their (or the Sub-Consultancies’), as the case may be) own cost but on terms and conditions approved by the Authority, insurance against the risks, and for the coverage, as shall be specified in the SCC; and (b) at the Authority’s request, shall provide evidence to the Authority showing that such insurance has been taken out and maintained and that the current premiums have been paid.

8.1.8 Consultancy’s Actions Requiring Authority’s Prior Approval

The Consultancy shall obtain the Authority’s prior approval in writing before taking any of the following actions:

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

(a) The Consultancy shall submit to the Authority the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.

(b) Final reports shall be delivered in soft copy in addition to the hard copies specified in said Appendix.

8.1.10 Documents Prepared by the Consultancy to be the Property of the Authority

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

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

8.1.11 Consultancy’s Personnel

8.1.11.1 Description of Personnel

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

8.1.11.2 Removal and/or Replacement of Personnel

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

(a) If the Authority finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultancy shall, at the Authority’s written request specifying
the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Authority.

(b) The Consultancy shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

9. Obligations of the Agency

9.1 Assistance

The Authority shall use its best efforts to provide the Consultancy such assistance as specified in the SCC.

9.2 Change in the Applicable Law Related to Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultancy in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultancy under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses GCC 6.2 (a) or (b), as the case may be.

9.3 Payments to the Consultancy

Payment shall be based on agreed fee rates for nominated personnel and certain type or grade of personnel and reimbursable items, such as transportation and subsistence, using either actual expenses or the agreed unit prices.

9.4 Contract Unit Prices and Reimbursable

(a) The unit prices and reimbursable payable in the currency is set forth in the SCC.

(b) The unit price and reimbursable payable in local currency is set forth in the SCC.

(c)

9.5 Payment for Additional Services

For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the unit prices and reimbursable is provided in Appendices D and E.

9.6 Terms and Conditions of Payment

Payments will be made to the account of the Consultancy and according to the payment schedule stated in the SCC. Unless otherwise stated in the SCC, the first payment shall be made against the provision by the Consultancy of an advance payment guarantee for the
same amount, and shall be valid for the period stated in the SCC. Such guarantee shall be in the form set forth in Appendix G hereto, or in such other form, as the Authority shall have approved in writing. Any other payment shall be made after the conditions listed in the SCC for such payment have been met, and the Consultancy firm has submitted an invoice to the Agency specifying the amount due.

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

10. Settlement Of Disputes

10.1 Amicable Settlement

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

10.2 Dispute Resolution

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