



Eswatini Water and Agricultural Development Enterprise (ESWADE)

SMALLHOLDER MARKET-LED PROJECT/CLIMATE SMART AGRICULTURE FOR RESILIENT LIVELIHOODS (SMLP/CSARL)

MINISTRY OF AGRICULTURE

IFAD LOAN NUMBER: Loan no.2000001126, Grant no.2000001127

NATIONAL COMPETITIVE BIDDING (NCB)

TENDER DOCUMENT

SUPPLY AND DELIVERY OF BUILDING MATERIAL FOR FERRO-CEMENT TANKS

TENDER No. ESWADE/0438

BID ISSUANCE: 1st NOVEMBER, 2019

BID CLOSING: 2nd DECEMBER, 2019

BID OPENING: 2ND DECEMBER, 2019



ESWATINI WATER & AGRICULTURAL DEVELOPMENT ENTERPRISE LTD
SMALLHOLDER MARKET-LED PROJECT /CLIMATE SMART AGRICULTURE FOR RESILIENT
LIVELIHOODS (SMLP/CSARL)

SECTION 1: INVITATION TO TENDER

SUPPLY AND DELIVERY OF BUILDING MATERIAL FOR FERRO-CEMENT TANKS

CONTRACT NO.: ESWADE/ 0438

The Ministry of Agriculture (MoA), Eswatini Water and Agriculture Development Enterprise (ESWADE) has received a loan from the International Fund for Agricultural Development (IFAD) towards the implementation of Smallholder Market-Led Project/Climate Smart Agriculture for Resilient Livelihoods (SMLP/CSARL) and intends to apply part of the proceeds of this loan for eligible payments under the contract for **Supply and Delivery of Building Material for Ferro-Cement Tanks** for the Project.

#Lots	Description	Tender Bond	Expected Delivery Schedule
1	Building Material – Cement Bags	E20,000	7 months after contract signature
	Building Material – Various Items		30 days after contract signature

- ESWADE invites sealed Tenders from eligible suppliers for the Supply and Delivery of Building Material for Ferro-Cement Tanks. Tendering will be conducted through **National Competitive Bidding (NCB)** procedures specified in the Procurement Guidelines, 2010 by IFAD and the Eswatini Public Procurement Act, 2011 and policies laid down by the Eswatini Public Procurement Regulatory Agency (ESPPRA).
- A complete set of the Tender Document in English may be purchased by interested Tenderers at the address below and upon the payment of a non-refundable fee of **Three Hundred and Fifty Emalangeni (E350.00)**. The document can also be downloaded from ESWADE website, www.swade.co.sz or the ESPPRA's website at www.sppra.co.sz.
- Tenders must be delivered to the address below at or before 10.00am, 2nd December 2019. Tenders shall be valid for a period of 120 days after the deadline of Tender submission. All Tenders must be accompanied by a Tender Security of Twenty Thousand Emalangeni (E20,000) of the Tender Price from a Commercial Bank or Insurer which shall be strictly based on the template attached. Late Tenders will be rejected. Tenders will be opened in the presence of the Tenderers' representatives who choose to attend the tender opening at the **Conference Room of the ESWADE Head Office at Mbabane, immediately after the closing time.**

Location of Bid Submission:

ESWADE OFFICE
SINCEPHETELO MVA BUILDING, 3RD FLOOR, MBABANE STREET



MBABANE, HHOHHO REGION, ESWATINI

The Tenderer should ensure signed and completed tenders are to be accompanied by the following documents:

1. Original and Valid Tax Compliance Certificate
2. A copy of Valid Trading License
3. A copy of Form J endorsed by Register of Companies
4. A copy of Form C endorsed by Register of Companies
5. A copy of Valid Labour Compliance Certificate
6. Police Clearance Certificates for Director's Listed in Form J
7. Certified Copies of National IDs of Company's Directors
8. Tender Bond of E20,000
9. Original/Copy of ESWADE Receipt of Tender Purchase
10. A fully signed document providing Power of Attorney
11. A fully signed Declaration of Eligibility

CONFIDENTIALITY

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PART 1 – Tendering Procedures



Section I. Instructions to Tenderers

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Section I. Instructions to Tenderers

A. General

- | | |
|--------------------------|--|
| Scope of Tender | <p>1.1 In support of the Invitation To Tenders (ITT) indicated in the Tender Data Sheet (TDS), the Purchaser, as indicated in the TDS, issues these Tender Documents for the supply of Goods and Related Services incidental thereto as specified in Section VI, Schedule of Requirements. The name, identification, and number of lots of the National Competitive Bidding (NCB) are provided in the TDS.</p> <p>1.2 Throughout these Tender Documents:</p> <ul style="list-style-type: none">(a) the term “in writing” means communicated in written form with proof of receipt;(b) if the context so requires, singular means plural and vice versa; and(c) “day” means calendar day. |
| Source of Funds | <p>2.1 Procurement Entity (hereinafter called “Purchaser”) named in the Tender Data Sheet shall fund this procurement from part of its budgetary allocation toward the realization of the project named in the TDS.</p> <p>2.2 Payments will be made only at the request of the Purchaser and upon approval by a designated official of the Eswatini Water & Agriculture Development Enterprise (ESWADE) of the Government of Eswatini in accordance with the terms and conditions of the contract agreement between the Purchaser and the Supplier (hereinafter called the Contract Agreement), and will be subject in all respects to the Eswatini Procurement of the Government of Eswatini. No party other than the Supplier shall derive any rights from the Contract Agreement or have any claim to the funds.</p> |
| Corrupt Practices | <p>3.1 ESWADE requires that all Tenderers, Suppliers, Contractors and Consultants participating in contracts financed from the public funds of the Government of Eswatini, adhere to the highest ethical standards, both during the tendering process and throughout the execution of such contracts. The list of definitions set forth below involves the most common types of corrupt practices, but is not exhaustive. For this reason, the Public Procurement Agency will also consider claims of similar nature involving alleged acts of corruption, in accordance with the established procedure.</p> <ul style="list-style-type: none">(a). “Bribery” means the act of unduly offering, giving, receiving or soliciting anything of value to influence the process of procuring goods or services, selecting consultants, or executing contracts.(b). “Extortion” or “Coercion” means the act attempting to influence the process of procuring goods or services, selecting consultants |



executing contracts by means of threats of injury to person, property or reputation.

- (c). “Fraud” means the misrepresentation of information or facts for the purpose of influencing the process of procuring goods or services, selecting consultants, or executing contracts, to the detriment of the Procurement Entity/Purchaser or other participants.
- (d). “Collusion” is an agreement between tenderers designed to result in tenders at artificial prices that are not competitive.

3.2 If, in accordance with the administrative procedures of the Eswatini Public Procurement Regulation Authority (ESPPRA), it is demonstrated that a government/public official, or anyone acting on his or her behalf, and/or a Tenderer in a procurement process or supplier/contractor during the execution of the contract carried out in connection with a project financed from the donor and grant funds of the Government of Eswatini has committed in corrupt practices, the ESPPRA or the appropriate Tender review Board will:

- (a). reject a proposal to award a contract in connection with the respective procurement process; and/or
- (b). declare a firm and/or its personnel directly involved in corrupt practices, temporarily or permanently ineligible to be awarded future contracts financed from the public funds of the Government of Eswatini.

3.3 The Tenderer shall 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 tendering process or execution of the contract. The information disclosed must include the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. The information must be included in the Tender Submission Sheet. Furthermore, Tenderers shall be aware of the provision stated in Sub-Clause 3.2 and Sub-Clause 3.1 (c) of the General Conditions of Contract.

3.4 Any communication between the Tenderer and the Purchaser related to matters of alleged fraud or corruption must be made in writing.

Eligible Tenderers

4.1 A Tenderer may be a private, public or government-owned legal entity, subject to ITT Sub-Clause 4.4, or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). In the case of a JV:

- (a) all parties to the JV shall be jointly and severally liable; and
- (b) A JV shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution.

4.2 A Tenderer, and all parties constituting the Tenderer, shall have the nationality of



eligible country, in accordance with Section V, Eligible Countries. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.

- 4.3 A Tenderer shall not have a conflict of interest. All Tenderers found to have conflict of interest shall be disqualified. Tenderers may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:
- (a) have controlling shareholders in common; or
 - (b) receive or have received any direct or indirect subsidy from any of them; or
 - (c) have the same legal representative for purposes of this tender; or
 - (d) participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the tender.
 - (e) are or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this Invitation for Tenders; or
 - (f) submit more than one Tender in this Tendering process, except for alternative offers permitted under ITT Clause 13.
- 4.4 A Tenderer that is under a declaration of ineligibility by the Public Procurement Board in accordance with ITT Clause 3, at the date of the deadline for Tender submission or thereafter, shall be disqualified.
- 4.5 Government-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law.

Tenderers shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.

**Eligible
Goods and
Related
Services**

- 5.1 All goods and related services to be supplied under the Contract shall have as their country of origin an eligible country as specified in Section V, Eligible Countries, of this Tender Document.
- 5.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, installation, training, and initial maintenance.
- 5.3 The term “country of origin” means the country where the goods have been mined



grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components.

- 5.4 The nationality of the firm that produces, assembles, distributes, or sells the goods shall not determine their origin.
- 5.5 Unless otherwise specified in the TDS, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section V, Tender Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these goods in Eswatini.

B. Contents of Tender Document

- Sections of Tender Document** 6.1 The Tender Document consists of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT Clause 8.

PART 1 Tendering Procedures

- Section I. Instructions to Tenderers (ITT)
- Section II. Tender Data Sheet (TDS)
- Section III. Evaluation and Qualification Criteria
- Section IV. Tender Forms
- Section V. Eligible Countries

PART 2 Supply Requirements

- Section VI. Schedule of Requirements

PART 3 Contract

- Section VII. General Conditions of Contract (GCC)
- Section VIII. Special Conditions of Contract (SCC)
- Section IX. Contract Forms

- 6.2 The Invitation for Tenders issued by the Purchaser is part of the Tender Documents.
- 6.3 The Purchaser is not responsible for the completeness of the Tender Documents and their addenda, if they were not obtained directly from the Purchaser.
- 6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Documents. Failure to furnish all information or documentation required by the Tender Documents, may result in the rejection of the Tender.

- Clarification** 7.1 A prospective Tenderer requiring any clarification of the Tender Document



- of Tender Documents** contact the Purchaser in writing at the Purchaser's address indicated in the TDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than seven (7) days prior to the deadline for submission of Tenders. The Purchaser shall forward copies of its response to all those who have acquired the Tender Document directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Tender Document as a result of a clarification, it shall do so following the procedure under ITT Clause 8 and Sub-Clause 24.2.
- Amendment of Tender Documents**
- 8.1 At any time prior to the deadline for submission of Tenders, the Purchaser may amend the Tender Documents by issuing addenda.
- 8.2 Any addendum issued shall be part of the Tender Documents and shall be communicated in writing to all who have obtained the Tender Documents directly from the Purchaser.
- 8.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Purchaser may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT Sub-Clause 24.2.

C. Preparation of Tenders

- Cost of Tendering** 9.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
- Language of Tender** 10.1 The Tender, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the Purchaser, shall be written in the language specified in the TDS. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language specified in the TDS, in which case, for purposes of interpretation of the Tender, such translation shall govern.
- Documents Comprising the Tender** 11.1 The Tender shall comprise the following:
- (a) Tender Submission Sheet and the applicable Price Schedules, in accordance with ITT Clauses 12, 14, and 15;
 - (b) Tender Security, in accordance with ITT Clause 21;
 - (c) alternative Tenders, if permissible, in accordance with ITT Clause 13;
 - (d) written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT Clause 22;
 - (e) documentary evidence in accordance with ITT Clause 16 establishing the Tenderer's eligibility to Tender, including the Tenderer Information Sheet and, when applicable, the Party to JV Information Sheet using the form



furnished in Section IV, Tender Forms;

- (f) documentary evidence in accordance with ITT Clause 17, that the Goods and Related Services to be supplied by the Tenderer are of eligible origin;
- (g) documentary evidence in accordance with ITT Clauses 18 and 30, that the Goods and Related Services conform to the Tender Documents;
- (h) documentary evidence in accordance with ITT Clause 19 establishing the Tenderer's qualifications to perform the contract if its Tender is accepted; and
- (i) any other document required in the TDS.

Tender Submission Sheet and Price Schedules

- 12.1 The Tenderer shall submit the Tender Submission Sheet using the form furnished in Section IV, Tender Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 12.2 The Tenderer shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section IV, Tender Forms

Alternative Tenders

- 13.1 Unless otherwise indicated in the TDS, alternative Tenders shall not be considered.

Tender Prices and Discounts

- 14.1 The prices and discounts quoted by the Tenderer in the Tender Submission Sheet and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All lots and items must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Lots or items not listed in the Price Schedule shall be assumed not to be included in the Tender, and provided that the Tender is substantially responsive, the corresponding adjustment, as appropriate, shall be applied in accordance with ITT Sub-Clause 31.3.
- 14.3 The price to be quoted in the Tender Submission Sheet, in accordance with ITT Sub-Clause 12.1, shall be the total price of the Tender, excluding any discounts offered.
- 14.4 The Tenderer shall quote any unconditional discounts and indicate the method for their application in the Tender Submission Sheet, in accordance with ITT Sub-Clause 12.1(d).
- 14.5 The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, at the date of the Invitation for Tenders or as specified in the TDS.
- 14.6 Prices indicated on the respective Price Schedule Form included in Section IV, Tender



Forms, shall be entered separately, when appropriate, in the following manner:

- (a) For Goods to be supplied from inside Eswatini:
 - (i) the price of the goods quoted EXW (ex-works, ex- factory, ex-warehouse, ex-showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable:
 - (A) on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex-factory;
 - or**
 - (B) on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf.
 - (ii) any Eswatini sales and other taxes which will be payable on the goods if the contract is awarded to the Tenderer.
 - (iii) the price for inland transportation, insurance, and other local services required to convey the goods to their final destination, if specified in the TDS.
- (b) For Goods to be supplied from outside Eswatini:
 - (i) the price of the goods shall be quoted CIF named port of destination, or CIP border point, or CIP named place of destination, in Eswatini, as specified in the TDS. In quoting the price, the Tenderer shall be free to use transportation through carriers registered in any eligible countries. Similarly, the Tenderer may obtain insurance services from any eligible source country.
 - (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), if specified in the TDS.
 - (iii) the price of goods quoted CFR port of destination (or CPT as the case may be), if specified in the TDS.
 - (iv) the price for inland transportation, insurance, and other local services required to convey the goods from the port of entry to their final destination, if specified in the TDS.
- (c) for Related Services, other than inland transportation and other services required to convey the goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
 - (i) the price of each item comprising the Related Services inclusive of;
 - (ii) all custom duties, sales and other similar taxes applicable in Eswatini, payable on the Related Services, if the Contract is awarded to the Tenderer.



- 14.7 The disaggregation of price components in accordance with ITT Sub-Clause 14.6 shall be solely for the purpose of facilitating the comparison of Tenders by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered.
- 14.8 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not subject to variation on any account, unless otherwise specified in the TDS. A Tender submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITT Clause 30. However, if in accordance with the TDS, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract, a Tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.9 If so indicated in ITT Sub-Clause 1.1, Tenders shall be invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the TDS, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Tenderers wishing to offer any price reduction for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package or, alternatively, to individual Contracts within the package. Price reductions shall be submitted in accordance with ITT Sub-Clause 14.4, provided the Tenders for all lots are submitted and opened at the same time.

Currencies of Tender

- 15.1 For Goods and Related Services that the Tenderer will supply from inside Eswatini the prices shall be quoted in Emalangeni (E) indexed to any convertible currency, unless otherwise specified in the TDS.
- 15.2 For Goods and Related Services that the Tenderer will supply from outside Eswatini, prices shall be expressed in the currency of any eligible country. The Tenderer will be paid in the same currency (i.e. one currency) as per quotation.

Documents Establishing the Eligibility of the Tenderer

- 16.1 To establish their eligibility in accordance with ITT Clause 4, Tenderers shall:
- (a) complete the eligibility declarations in the Tender Submission Sheet, included in Section IV, Tender Forms; and
 - (b) if in accordance with ITT sub-Clause 4.1, the Tenderer is an existing or intended JV, it must submit the Tenderer Information Sheet and a copy of the JV Agreement, or a letter of intent to enter into such an Agreement. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended JV, as appropriate.

Documents Establishing the Eligibility of

- 17.1 To establish the eligibility of the Goods and Related Services in accordance with ITT Clause 5, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Tender Forms.



**the Goods
and Related
Services**

Documents Establishing the Conformity of the Goods and Related Services 18.1 To establish the conformity of the Goods and Related Services to the Tender Documents, the Tenderer shall furnish as part of its Tender the documentary evidence that the goods conform to the technical specifications and standards specified in Section VI, Schedule of Requirements.

18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.

18.3 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period to be specified in the **Tender Data Sheet**, following commencement of the use of the goods by the Purchaser.

18.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.

Documents Establishing the Qualifications of the Tenderer 19.1 To establish its qualifications to perform the Contract, the Tenderer shall submit the evidence indicated for each qualification criterion specified in Section III, Evaluation and Qualification Criteria.

Period of Validity of Tenders 20.1 Tenders shall remain valid for the period specified in the TDS after the Tender submission deadline date prescribed by the Purchaser. A Tender valid for a shorter period shall be rejected by the Purchaser as non-responsive.

20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Purchaser may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender security is requested in accordance with ITT Clause 21, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer



granting the request shall not be required or permitted to modify its Tender, except as provided in ITT Sub-Clause 20.3.

- 20.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Tender validity, the Contract price shall be adjusted as specified in the request for extension. Tender evaluation shall be based on the Tender Price without taking into consideration the above correction.

**Tender
Security**

- 21.1 Unless otherwise specified in the TDS, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount specified in the TDS.
- 21.2 The Tender Security shall be denominated in the currency of the Tender or in another freely convertible currency, and shall:
- (a) at the Tenderer's option, be in the form of either a certified check, or a bank guarantee from a banking institution, or a bond issued by an insurance or bonding institution;
 - (b) be issued by a reputable institution from an eligible country, and acceptable to the Purchaser whose acceptance may not be unreasonably withheld;
 - (c) be substantially in accordance with one of the forms of Tender security included in Section IV, Tender Forms, or other form approved by the Purchaser prior to Tender submission;
 - (d) be payable promptly upon written demand by the employer in the case of the conditions listed in ITT Clause 21.5 are invoked;
 - (e) be submitted in its original form; copies will not be accepted;
 - (f) remain valid for a period of 120 days beyond the original validity period of Tenders, or beyond any period of extension subsequently requested under ITT Clause 20.2;
- 21.3 If a Tender Security is required in accordance with ITT Sub-Clause 21.1, any Tender not accompanied by a substantially responsive Tender security in accordance with ITT Sub-Clause 21.2, shall be rejected by the Purchaser as nonresponsive.
- 21.4 The Tender security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's furnishing of the performance security pursuant to ITT Clause 44.
- 21.5 The Tender security may be forfeited:
- (a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Tender Submission Sheet, except as provided in ITT Sub-Clause 20.2; or
 - (b) if the successful Tenderer fails to:



- (i) sign the Contract in accordance with ITT Clause 43;
- (ii) furnish a performance security in accordance with ITT Clause 44.

21.6 The Tender Security of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted at the time of Tendering, the Tender Security shall be in the names of all future partners as named in the letter of intent mentioned in ITT Sub-Clause 16.1.

**Format and
Signing of
Tender**

22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT Clause 11 and clearly mark it “ORIGINAL.” In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

22.2 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written authorization and shall be attached to the Tenderer Information Sheet included in Section IV Tender Forms. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for unamended printed literature, shall be signed or initialed by the person signing the Tender.

22.3 Any interlineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

**Sealing and
Marking of
Tenders**

23.1 The Tenderer shall enclose the original and each copy of the Tender, including alternative Tenders, if permitted in accordance with ITT Clause 13, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. The Tenderer is also requested to separate Technical and Financial Bids in different envelopes.

23.2 The inner and outer envelopes shall:

- (a) Bear the name and address of the Tenderer;
- (b) be addressed to the Purchaser in accordance with ITT Sub-Clause 24.1;
- (c) bear the specific identification of this Tendering process indicated in ITT 1.1 and any additional identification marks as specified in the TDS; and
- (d) bear a warning not to open before the time and date for Tender opening, in accordance with ITT Sub-Clause 24.1.

23.3 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the Tender.

Deadline

24.1 Tenders must be received by the Purchaser at the address and no later than the date



- for Submission of Tenders** and time indicated in the TDS.
- 24.2 The Purchaser may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT Clause 8, in which case all rights and obligations of the Purchaser and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.
- Late Tenders** 25.1 The Purchaser shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 24. Any Tender received by the Purchaser after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.
- Withdrawal, Substitution, and Modification of Tenders** 26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT Sub-Clause 22.2, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
- (a) submitted in accordance with ITT Clauses 22 and 23 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
 - (b) received by the Purchaser prior to the deadline prescribed for submission of Tenders, in accordance with ITT Clause 24.
- 26.2 Tenders requested to be withdrawn in accordance with ITT Sub-Clause 26.1 shall be returned unopened to the Tenderers.
- 26.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Tender Submission Sheet or any extension thereof.
- Tender Opening** 27.1 The Purchaser shall conduct the Tender opening in the presence of Tenderers’ designated representatives who choose to attend, and at the address, date and time specified in the TDS.
- 27.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the



corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening. Only envelopes that are opened and read out at Tender opening shall be considered further.

- 27.3 All other envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the Tender Prices, including any discounts and alternative offers if permitted; the presence of a Tender security, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out at Tender opening shall be considered for evaluation. No Tender shall be rejected at Tender opening except for late Tenders, in accordance with ITT Sub-Clause 25.1.
- 27.4 The Purchaser shall prepare a record of the Tender opening that shall include, as a minimum: the name of the Tenderer and whether there is a withdrawal, substitution, or modification; the Tender Price, per lot if applicable, including any discounts and alternative offers; and the presence or absence of a Tender security, if one was required. The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Tenderers.

E. Evaluation and Comparison of Tenders

- Confidentiality** 28.1 Information relating to the examination, evaluation, comparison, and post qualification of Tenders, and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with such process until information on Contract award is communicated to all Tenderers.
- 28.2 Any effort by a Tenderer to influence the Purchaser in the examination, evaluation, comparison, and post qualification of the Tenders or Contract award decisions may result in the rejection of its Tender.
- 28.3 Notwithstanding ITT Sub-Clause 28.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Purchaser on any matter related to the Tendering process, it should do so in writing.
- Clarification of Tenders** 29.1 To assist in the examination, evaluation, comparison and post-qualification of the Tenders, the Purchaser may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Tenders, in accordance with ITT Clause 31.



- Responsive
ness of
Tenders**
- 30.1 The Purchaser's determination of a Tender's responsiveness is to be based on the contents of the Tender itself.
- 30.2 A substantially responsive Tender is one that conforms to all the terms, conditions, and specifications of the Tender Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
 - (b) limits in any substantial way, inconsistent with the Tender Documents, the Purchaser's rights or the Tenderer's obligations under the Contract; or
 - (c) if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.
- 30.3 If a Tender is not substantially responsive to the Tender Documents, it shall be rejected by the Purchaser and may not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.
- Non-
conformities
Errors, and
Omissions**
- 31.1 Provided that a Tender is substantially responsive, the Purchaser may waive any non-conformities or omissions in the Tender that do not constitute a material deviation.
- 31.2 Provided that a Tender is substantially responsive, the Purchaser may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Tender related to documentation requirements or waive such minor deviations or omissions. Such omission shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.
- 31.3 Provided that the Tender is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:
- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 31.4 If the Tenderer that submitted the lowest evaluated Tender does not accept



correction of errors, its Tender shall be disqualified and its Tender security shall be returned.

- | | | |
|--|------|---|
| Preliminary Examination of Tenders | 32.1 | The Purchaser shall examine the Tenders to confirm that all documents and technical documentation requested in ITT Clause 11 have been provided, and to determine the completeness of each document submitted. If any of these documents or information is missing, the offer shall be rejected. |
| Examination of Terms and Conditions; Technical Evaluation | 33.1 | The Purchaser shall examine the Tender to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Tenderer without any material deviation or reservation. |
| | 33.2 | The Purchaser shall evaluate the technical aspects of the Tender submitted in accordance with ITT Clause 18, to confirm that all requirements specified in Section VI, Schedule of Requirements of the Tender Documents have been met without any material deviation or reservation. |
| | 33.3 | If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Tender is not substantially responsive in accordance with ITT Clause 30, the Purchaser shall reject the Tender. |
| Conversion to Single Currency | 34.1 | For evaluation and comparison purposes, the Purchaser shall convert all Tender prices expressed in the amounts in various currencies into a single currency, using the selling exchange rate established by the source and on the date specified in the TDS. |
| Domestic Preference | 35.1 | Unless otherwise specified in the TDS, domestic preference shall be a factor in Tender evaluation in accordance with the procedures outlined in Section III of this Tender Document. |
| Evaluation of Tenders | 36.1 | The Purchaser shall evaluate each Tender that has been determined to be substantially responsive. |
| | 36.2 | To evaluate a Tender, the Purchaser shall only use all the factors, methodologies and criteria defined in the TDS and in Section III, Evaluation and Qualification Criteria. No other criteria or methodology shall be permitted. |
| | 36.3 | To evaluate a Tender, the Purchaser shall consider the following: <ul style="list-style-type: none">(a) the technical specification as listed in accordance to Section VI, the schedule of requirements(b) the Tender price as quoted in accordance with clause 14;(c) price adjustment for correction of arithmetic errors in accordance with ITT Sub-Clause 31.3;(d) price adjustment due to discounts offered in accordance with ITT Sub-Clause 14.4; |



- (e) as indicated in the TDS, the applicable factors of evaluation amongst those set out in Section III, Evaluation and Qualification Criteria;
- (f) adjustments due to the application of a margin of preference, in accordance with ITT Clause 35 if applicable.

36.4 The Purchaser's evaluation of a Tender will exclude and not take into account:

- (a) In the case of Goods manufactured in Eswatini or Goods of foreign origin already located in Eswatini, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Tenderer;
- (b) in the case of Goods to be supplied from outside Eswatini, customs duties and other similar import taxes and other duties and taxes which will be payable on the goods if the contract is awarded to the Tenderer;
- (c) in the case of Related Services, customs duties and sales and other similar taxes that will be payable on the Related Services if the contract is awarded to the Tenderer; and
- (d) any allowance for price adjustment during the period of execution of the contract, if provided in the Tender.

36.5 The Purchaser's cost evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT Clause 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors to be used and the method of application shall be indicated in the TDS from amongst those set out in Section III, Evaluation and Qualification Criteria.

36.6 If so indicated in the TDS, this Tender Document shall allow Tenderers to quote separate prices for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Tenderer. The methodology of evaluation to determine the lowest-evaluated lot combinations, including any discounts offered in the Tender Submission Sheet, as appropriate, is specified in Section III, Evaluation and Qualification Criteria.

Comparison of Tenders 37.1 The Purchaser shall compare all substantially responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 36.

Post qualification of the Tenderer 38.1 The Purchaser shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive Tender is qualified to perform the Contract satisfactorily.

38.2 The determination shall be based upon an examination of the documentary evidence



of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT Clause 19, to clarifications in accordance with ITT Clause 29 and the qualification criteria indicated in Section III, Evaluation and Qualification Criteria. Factors not included in Section III shall not be used in the evaluation of the Tenderer's qualification.

- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Purchaser shall proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

**Purchaser's
Right to
Accept Any
Tender,
and to
Reject Any
or All
Tenders**

- 39.1 The Purchaser reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to contract award, without thereby incurring any liability to Tenderers.

F. Award of Contract

**Award
Criteria**

- 40.1 The Purchaser shall award the Contract to the Tenderer whose offer has been determined to be the lowest evaluated Tender and is substantially responsive to the Tender Documents, provided the Tenderer is qualified to perform the Contract satisfactorily.

**Purchaser's
Right to
Vary
Quantities
at Time of
Award**

- 41.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VI, Schedule of Requirements, provided this does not exceed the percentages indicated in the TDS, and without any change in the unit prices or other terms and conditions of the Tender and the Tender Documents.



- Notification of Award**
- 42.1 Prior to the expiration of the period of Tender validity, the Purchaser shall notify the successful Tenderer, in writing, that its Tender has been accepted.
 - 42.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.
 - 42.3 Upon the successful Tenderer's furnishing of the performance security pursuant to ITT Clause 44, the Purchaser will promptly notify the name of the winning Tenderer to each unsuccessful Tenderer and will discharge its tender security, pursuant to ITT Clause 21
 - 42.4 The Purchaser shall promptly respond in writing to any unsuccessful Tenderer who, after notification of award in accordance with ITT Sub-Clause 42.1, requests the Purchaser in writing to explain on which grounds its Tender was not selected.
- Signing of Contract**
- 43.1 Promptly after notification, the Purchaser shall send the successful Tenderer the Agreement and the Special Conditions of Contract.
 - 43.2 Within twenty-eight (28) days of receipt of the Contract, the successful Tenderer shall sign, date, and return it to the Purchaser.
- Performance Security**
- 44.1 Within twenty-eight (28) days of the receipt of notification of award from the Purchaser, the successful Tenderer shall furnish the performance security in accordance with the GCC, using for that purpose the Performance Security Form included in Section IX Contract forms.
 - 44.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Purchaser may award the Contract to the next lowest evaluated Tenderer, whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily or call for new tenders.
- Protests or Claims**
- 45.1 Tenderers may submit a protest or claim to the Purchaser, in writing, at anytime but not later than ten (10) days after they have been informed that they are unsuccessful pursuant to ITT Clause 42.
- Intention to Award**
- 46.1 All Tenderers are required to provide their e-mail addresses to the Purchaser through which they will be notified on the intention to award on the day that the intention is sent to Eswatini Public Procurement Agency (ESPPRA). A notice of Intention to Award shall be sent to all Tenderers and also published to the ESPPRA website at least 10 days before the contract award.



**Revised
IFAD Policy
on
Preventing
Frauds and
Corruption
in its
Activities
and
Operations**

- 47.1 The Revised IFAD Policy on Preventing Frauds and Corruption in its Activities and Operations, Section D. Responsibilities, (iii) Responsibilities of recipients, (d) (i) – (vii), Section B. Prohibited practices, (a) – (e), Section C. Scope, (d) and IFAD General Conditions for Agricultural Development Financing, Section 7.05 Procurement, (b):

47.1.1 Corrupt or Fraudulent Practices

47.1.1.1 The Revised IFAD Policy on Preventing Fraud and Corruption in Its Activities and Operations (hereinafter, the "Revised Policy") applies to individuals and entities that receive, apply to receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of proceeds from IFAD financing or financing managed by IFAD, including, but not limited to, implementing partners, service providers, contractors, suppliers, subcontractors, sub-suppliers, bidders, consultant and any of their agents or personnel (all such individuals and entities are collectively referred to as "Third Parties" or "Third Party"). Pursuant to the Revised Policy, Third Parties shall refrain from engaging in the following practices, which are considered to be prohibited practices when engaged in connection with an IFAD-financed and/or IFAD-managed operation or activity:

- (i) a “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value in order to improperly influence the actions of another party;
- (ii) a “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation;
- (iii) a “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including improperly influencing the actions of another party;
- (iv) a “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of that or another party;
- (v) an “obstructive practice” is
 - a) deliberately destroying, falsifying, altering or concealing evidence that may be material to an investigation by IFAD or making false statements to investigators in order to materially impede an investigation by IFAD;
 - b) threatening, harassing or intimidating any party in order to prevent that party from disclosing its knowledge of matters relevant to an investigation by IFAD or from pursuing such an investigation; and/or;
 - c) the commission of any act intended to materially impede the exercise of IFAD’s contractual rights of audit, inspection and access to information provided for under sub-clause 47.1.1.2 below.



47.1.1.2 In pursuance of this policy:

- (i) Third Parties shall disclose, in the course of a procurement process or any time thereafter, information relating to themselves or any of their key personnel concerning:
 - (a) relevant criminal convictions, administrative sanctions and/or temporary suspensions;
 - (b) agents engaged in connection with a procurement process or the execution of a contract, including the commissions or fees paid or to be paid; and
 - (c) any actual or potential conflict of interest in connection with a procurement process or the execution of a contract;
- (ii) Third Parties shall promptly report to IFAD any allegations or other indications of prohibited practices that come to their attention by virtue of their involvement in an IFAD-financed and/or IFAD-managed operation or activity;
- (iii) IFAD possesses jurisdiction to investigate allegations and other indications of prohibited practises and to impose sanctions on Third Parties for such practices in connection with an IFAD-financed and/or IFAD-managed operation or activity;
- (iv) Third Parties shall fully cooperate with any investigation conducted by IFAD, including by making personnel available for interviews and by providing full access to any and all accounts, premises, documents and records (including electronic records) relating to the relevant IFAD-financed and/or IFAD-managed operation or activity and to have such accounts, premises, records and documents audited and/or inspected by auditors and/or investigators appointed by IFAD;
- (v) Third Parties shall maintain all accounts, documents and records relating to an IFAD-financed and/or IFAD-managed operation or activity for a period of 3 (three) years after completion of the bid;
- (vi) should IFAD determine that a Third Party has engaged in any of the prohibited practices defined under sub-clause 47.1.1.1 above, it may impose on the Third Party any of the administrative sanctions provided by the Revised Policy, Section F, (ii);
- (vii) during the course of an IFAD review or investigation, or pending the conclusion of a sanctioning process, IFAD may decide, at any time, to temporarily suspend payments to a Third Party or to temporarily suspend its eligibility to participate in IFAD-financed and/or IFAD managed operations and activities for an initial period of six (6) months, subject to a possible extension of that suspension for an additional period of six (6) months, as provided by the Revised Policy, Section F, (i);
- (viii) public entities receiving IFAD financing or financing managed by IFAD and any of their agents or personnel and private entities receiving IFAD financing or financing managed by IFAD and any of their agents or personnel shall terminate or suspend the contract if such termination or suspension is required as a consequence



temporary suspension or sanction imposed or recognized by IFAD;

- (ix) furthermore, Third Parties' attention is drawn to IFAD's policy of unilaterally recognizing debarments imposed by other International Financial Institutions if such debarments meet the requirements for mutual recognition under the Agreement for Mutual Enforcement of Debarment Decisions.¹

¹ The Agreement for Mutual Enforcement of Debarment Decisions, dated 9 April 2010, was signed by five of the leading International Financial Institutions, namely, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank and the World Bank Group.



Section II. Tender Data Sheet

	A. General
ITT 1.1	The Purchaser is: Eswatini Water & Agricultural Development Enterprise (ESWADE) of Ministry of Agriculture
ITT 1.1	The name of the NCB is: Supply and Delivery of Building Material for Ferro-Cement Tanks The identification number of the NCB is: ESWADE/ 0438 The number of lots: 1
ITT 2.1	Procurement Entity Name: Eswatini Water & Agricultural Development Enterprise (ESWADE) of Ministry of Agriculture under project name: Smallholder Market-Led Project/Climate Smart Agriculture for Resilient Livelihoods (SMLP/CSARL)
	B. Contents of Tender Document
ITT 7.1	For tender clarification purposes (no later than seven (7) days prior to the deadline for submission of Tenders) only, the Purchaser's address is: Attention: The Chairman of the Tender Board Address: <div style="text-align: center;">Eswatini Water & Agricultural Development Enterprise (ESWADE) Head Office, 3rd Floor, MVA Building Mbhibhi Street, Mbabane, Eswatini OR smlp-procurement@swade.co.sz</div>
	C. Preparation of Tenders
ITT 10.1	The language of the Tender is: ENGLISH
ITT 11.1 (i)	<ul style="list-style-type: none"> • Original and Valid Tax Compliance Certificate • A copy of valid Trading License • A copy of Form J endorsed by Register of Companies • A copy of Form C endorsed by Register of Companies • A copy of valid Labour Compliance Certificate • Police Clearance Certificates for Director's Listed in Form J • Certified Copies of National IDs of Company's Directors • Tender Bond of E20,000 • Original/Copy of ESWADE Receipt of Tender Purchase • A fully signed document providing Power of Attorney • A fully signed Declaration of Eligibility



ITT 13.1	Submission of Tender: Alternative Offers – Not Permissible
ITT 14.5	The delivery term shall be DDP as per below: Sithobeleni RDA Warehouse & ESWADE Damsite Office and shall be governed by the rules prescribed in the 2010 edition of Incoterms.
ITT 14.6 (a) (iii) 14.6(b) (iv)	The Tenderer shall quote the price of the inland transportation, insurance, and other local services required to convey the goods to their final destination as specified in TDS - ITT 14.5 above.
ITT 14.6 (b) (i)	DDP (Delivered Duty Paid)
ITT 18.3	The period for the proper and continuing functioning of the goods is: Two (2) years
ITT 20.1	The Tender validity period shall be 120 days after the tender submission deadline date.
ITT 21.1	A Tender Security of E20,000 of the total Tender Price strictly in accordance with the form provided under this solicitation document
ITT 22.1	In addition to the original of the Tender, the number of copies is: One (1)
	D. Submission and Opening of Tenders
ITT 23.2 (c)	The inner and outer envelopes shall bear the following additional identification marks: Supply and Delivery of Building Material for Ferro-Cement Tanks ESWADE/ 0438
ITT 24.1	For Tender submission purposes only, the Purchaser's address is: Attention: The Tender Board Address: Eswatini Water & Agricultural Development Enterprise (ESWADE) Head Office, 3rd Floor, MVA Building Mbhilibhi Street, Mbabane, Eswatini smlp-procurement@swade.co.sz <i>Location Mbhilibhi Street, Mbabane, Eswatini</i> The deadline for the submission of Tenders is: Date: 2nd December, 2019 Time : 10.00 am Local Time



ITT 27.1	<p>The Tender opening shall take place at: Conference Room, ESWADE Head Office, immediately after closing time on the 2nd December 2019</p> <p>Region: Hhohho, Eswatini</p>
	E. Evaluation and Comparison of Tenders
ITT 34.1	<p>The currency that shall be used for Tender evaluation and comparison purposes to convert all Tender prices expressed in various currencies into a single currency is: Eswatini Emalangen</p> <p>The source of exchange rate shall be: Central Bank of Eswatini</p> <p>The date for the exchange rate shall be: Date of Tender Opening</p>
ITT 35.1	Domestic preference SHALL NOT be a Tender Evaluation factor.
ITT 36.2	<p>Please see ITT 36.3(d) below in terms of SECTION III Evaluation and Qualification Criteria:</p> <p>Technical and Commercial Evaluation:</p> <p>The evaluation is conducted on a pass or fail basis, so no extra credit or benefit is given to tenders that exceed the standard, except where this is provided for by non-price criteria. Substantially responsive tenders may be considered to have passed the technical evaluation, with inclusion of the requirements below to have been fully met:</p> <ul style="list-style-type: none"> – acceptance of key contract terms and conditions – no material deviations – technical compliance to schedule of requirements – acceptable delivery/completion period <p>Financial Evaluation will be conducted by:</p> <ul style="list-style-type: none"> – correct arithmetic errors – quantify non-material deviations and/or non-price criteria – adjust for non-material non-conformity – adjust for any additional evaluation criteria – convert to a common currency (using exchange rate as per ITT 34.1) – compare total costs – rank prices with lowest price as No 1
ITT 36.3 (d)	<p>The applicable economic factors for evaluation shall be: SECTION III</p> <p>1.1 (a)(b)(g)(h)</p>
ITT 36.5	The factors to be used are described in ITT 36.3(d), and some of them shall be expressed in monetary terms, but others as decisive factors.

ITT 36.6	N/A
	F. Award of Contract
ITT 41.1	<p>The maximum percentage by which quantities may be increased is: 15 %</p> <hr/> <p>The maximum percentage by which quantities may be decreased is: 15%</p> <hr/>



Section III. Evaluation and Qualification Criteria

This section contains all the factors, methods and criteria that the Purchaser shall use to evaluate a Tender and determine whether a Tenderer has the required qualification. No other factor, method or criteria shall be used.

Table of Contents

1. Evaluation of Economic Factors
2. Evaluation of Multiple Contracts
3. Evaluation of Domestic Preference

4. Post-Qualification



1. Evaluation of Economic Factors (APPLICABLE)

1.1 The Purchaser's evaluation of a Tender will take into account, in addition to the Tender price quoted in accordance with ITT Clause 14.6, one or more of the following factors as specified in the Tender Data Sheet, and quantified in 1.2 below:

- (a) cost of inland transportation, insurance, and other costs within Eswatini incidental to delivery of the goods to their final destination (only if the price for these services has not been requested as part of the Tender price as per TDS- ITT 14.6(a)(ii), and ITT 14.6(b)(iv)).
- (b) delivery schedule offered in the Tender;
- (c) deviations in payment schedule from that specified in the Special Conditions of Contract;
- (d) the cost of components, mandatory spare parts, and service;
- (e) the availability in Eswatini of spare parts and after-sales services for the equipment offered in the Tender;
- (f) the projected operating and maintenance costs during the life of the equipment;
- (g) the performance and productivity of the equipment offered; and/or
- (h) other specific criteria indicated in the Technical Specifications.

1.2 For factors retained in 1.1 above, one or more of the following quantification methods will be applied, as specified in the Tender Data Sheet.

- (a) *Inland transportation from EXW/port of entry/border point, insurance, and incidentals.*

Inland transportation, insurance, and other incidental costs for delivery of the goods from EXW/port of entry/border point to Project Site named in the Tender Data Sheet will be computed for each Tender by the Purchaser on the basis of published tariffs by the rail or road transport agencies, insurance companies, and/or other appropriate sources. To facilitate such computation, Tenderer shall furnish in its Tender the estimated dimensions and shipping weight and the approximate EXW/CIF (or CIP border point) value of each package. The above cost will be added by the Purchaser to EXW/CIF/CIP border point price.

- (b) *Delivery schedule.*

- (i) The goods covered under this invitation are required to be delivered (shipped) within an acceptable range of weeks specified in the Schedule of Requirement. No credit will be given to earlier deliveries, and Tenders offering delivery beyond this range will be treated as nonresponsive. Within this acceptable range, an adjustment ~~per~~ *per* week, as



specified in the Tender Data Sheet, will be added for evaluation to the Tender price of Tenders offering deliveries later than the earliest delivery period specified in the Schedule of Requirements.

or

- (ii) The Purchaser requires that the goods under the Invitation for Tenders shall be delivered (shipped) at the time specified in the Schedule of Requirements. The estimated time of arrival of the goods at the Project Site will be calculated for each Tender after allowing for reasonable international and inland transportation time. Treating the Tender resulting in the earliest time of arrival as the base, a delivery “adjustment” will be calculated for other Tenders by applying a percentage, specified in the Tender Data Sheet, of the EXW/CIF/CIP price for each week of delay beyond the base, and this will be added to the Tender price for evaluation. No credit shall be given to early delivery.

or

- (iii) The goods covered under this invitation are required to be delivered (shipped) in partial shipments, as specified in the Schedule of Requirements. Tenders offering deliveries earlier or later than the specified deliveries will be adjusted in the evaluation by adding to the Tender price a factor equal to a percentage, specified in the Tender Data Sheet, of EXW/CIF/CIP price per week of variation from the specified delivery schedule.

(c) *Deviation in payment schedule.*

- (i) Tenderers shall state their Tender price for the payment schedule outlined in the SCC. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in Tender price they wish to offer for such alternative payment schedule. The Purchaser may consider the alternative payment schedule offered by the selected Tenderer.

or

- (ii) The SCC stipulate the payment schedule offered by the Purchaser. If a Tender deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the Tender will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the Tender as compared with those stipulated in this invitation, at the rate per annum specified in the Tender Data Sheet.

(d) *Cost of spare parts.*

- (i) The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the Tender Data Sheet, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each Tender, will be added to the Tender price.

or

- (ii) The Purchaser will draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in the Tender Data Sheet. The total cost of these items and quantities will be



computed from spare parts unit prices submitted by the Tenderer and added to the Tender price.

or

- (iii) The Purchaser will estimate the cost of spare parts usage in the initial period of operation specified in the Tender Data Sheet, based on information furnished by each Tenderer, as well as on past experience of the Purchaser or other purchasers in similar situations. Such costs shall be added to the Tender price for evaluation.

(e) *Spare parts and after sales service facilities in Eswatini.*

The cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in the Tender Data Sheet or elsewhere in the Tender Documents, if quoted separately, shall be added to the Tender Price.

(f) *Operating and maintenance costs.*

Operating and maintenance costs of the goods will be evaluated in accordance with the criteria specified in the Tender Data Sheet or in the Technical Specifications.

(g) *Performance and productivity of the equipment.*

- (i) Tenderers shall state the guaranteed performance or efficiency in response to the Technical Specification. For each drop in the performance or efficiency below the norm of 100, an adjustment for an amount specified in the Tender Data Sheet will be added to the Tender price, representing the capitalized cost of additional operating costs over the life of the plant, using the methodology specified in the Technical Specifications.

or

- (ii) Goods offered shall have a minimum productivity specified under the relevant provision in the Technical Specifications to be considered responsive. Evaluation shall be based on the cost per unit of the actual productivity of goods offered in the Tender, and adjustment will be added to the Tender price using the methodology specified in the Technical Specifications.

(h) *Specific additional criteria*

Other specific additional criteria to be considered in the evaluation and the evaluation method shall be detailed in the Tender Data Sheet and/or the Technical Specifications.

(i) *Applying non-price criteria*

The successful tender for goods is normally the lowest-priced tender, which has met the procuring entity's technical and commercial requirements, as determined by the technical evaluation. However, procuring entities are permitted to apply non-price criteria, as long as they are specified in the invitation document.



Non-price criteria must be given a relative weight or expressed in monetary terms wherever possible. Examples of non-price criteria might include:

- a penalty for late delivery and/or a bonus for early delivery, based on the delivery schedule stated in the invitation document. Penalties and bonuses could be expressed in monetary terms, by increasing or reducing the evaluated price by a specified amount for each day or week that delivery will be late or early. The amount could be calculated using the rates normally applied to liquidated damages for late deliveries;
- a penalty for payment terms, which require payment earlier than specified in the invitation document. The penalty could be expressed in monetary terms, by calculating the interest that would be earned on the money, using a defined interest rate;
- inclusion of the estimated cost of spare parts and/or consumable items for a specified period of operation. This could be expressed in monetary terms, by requiring bidders to provide prices for a specified list of items, which would be added to the evaluated price;
- inclusion of the costs of operating and maintaining equipment during its projected lifetime;
- a penalty or bonus for productivity or performance of equipment below or above a specified level;
- inclusion of the estimated cost of spare parts and/or consumable items for a specified period of operation. This could be expressed in monetary terms, by requiring bidders to provide prices for a specified list of items, which would be added to the evaluated price;
- inclusion of the costs of operating and maintaining equipment during its projected lifetime;
- a penalty or bonus for productivity or performance of equipment below or above a specified level.

2. Evaluation of Multiple Contracts (NOT APPLICABLE)

2.1. Evaluation of Multiple Contracts

G. Since in accordance with ITT Sub-Clause 36.6 the Purchaser is allowed to award one or multiple lots to more than one Tenderer, the following methodology shall be used for award of multiple contracts.

To determine the lowest-evaluated lot combinations, the Purchaser shall:

- (a) evaluate only lots or contracts that include at least the percentages of items per lot and quantity per item as specified in ITT 14.9
- I.
- (b) take into account:
 - (i) the lowest-evaluated Tender for each lot that meets the requirement of Evaluation Criteria (EC);
 - (ii) the price reduction per lot and the methodology for their application as offered by the Tenderer in its Tender; and



- (iii) the contract-award sequence that provides the most optimum economic combination taking into account any limitations due to constraints in supply or execution capacity determined in accordance with the post-qualification criteria, as set in EC Clause 4. Post Qualification

3. Evaluation of Domestic Preference – (NOT APPLICABLE)

If the **Tender Data Sheet** so specifies, the Purchaser will grant a margin of preference to goods manufactured in Eswatini for the purpose of Tender comparison, in accordance with the procedures outlined in subsequent paragraphs:

Tenders will be classified in one of three groups, as follows:

- (b) **Group A:** Tenders offering goods manufactured in Eswatini, for which (i) labor, raw materials, and components from within Eswatini account for more than thirty (30) percent of the EXW price; and (ii) the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of Tender submission.
- (b) **Group B:** All other Tenders offering goods from within Eswatini.
- (c) **Group C:** Tenders offering goods of foreign origin to be imported by the Purchaser directly or through the Supplier's local Agent.

To facilitate this classification by the Purchaser, the Tenderer shall complete whichever version of the Price Schedule furnished in the Tender Documents is appropriate provided, however, that the completion of an incorrect version of the Price Schedule by the Tenderer will not result in rejection of its Tender, but merely in the Purchaser's reclassification of the Tender into its appropriate Tender group.

The Purchaser will first review the Tenders to confirm the appropriateness of, and to modify as necessary, the Tender group classification to which Tenderers assigned their Tenders in preparing their Tender Forms and Price Schedules.

All evaluated Tenders in each group will then be compared among themselves to determine the lowest evaluated Tender of each group. The lowest evaluated Tender of each group will next be compared with the lowest evaluated Tenders of the other groups. If this comparison results in a Tender from Group A or Group B being the lowest, it will be selected for contract award.

If, as a result of the pricing comparison, the lowest evaluated Tender is from Group C, all Group C Tenders will then be further compared with the lowest evaluated Tender from Group A, after adding to the evaluated Tender price of the imported goods offered in each Group C Tender, for the purpose of this further comparison only:



- (a) the amount of customs duties and other import taxes that a nonexempt importer would have to pay for the importation of goods offered in each Group C Tender;
- or**
- (b) twenty-five (25) percent of the CIF (or CIP border point or CIP named place of destination, as the case may be) Tender price of such goods, if the customs duties and taxes exceed twenty-five (25) percent of the CIF (or CIP border point or CIP place of destination) price of such goods.

If the Group A Tender in the further comparison is the lowest, it will be selected for award. If not, the lowest evaluated Tender from Group C, as determined from the comparison under ITT Clause 37, will be selected for award.

4. Post-Qualification Criteria (NOT APPLICABLE)

After determining the lowest-evaluated Tender in accordance with ITT Sub-Clause 37.1, the Purchaser shall carry out the post-qualification of the Tenderer in accordance with ITT Clause 38, using only the factors, methods and criteria specified herein, as shown in the following table. Factors not included in this Section shall not be used in the evaluation of the Tenderer's qualification.

4.1 Financial Capability

The Tenderer shall furnish documentary evident that it meets the following financial requirement: Tenderers shall provide three (3) years most current **Audited Accounts** with balance sheets, Cash flow Statements etc.

4.2 Experience and Technical Capacity

The Tenderer shall furnish documentary evidence to demonstrate that it meets the following experience and capacity requirement.

- (i) At least two (2) years' experience records in similar supplies
- (ii) Availability of a locally well-equipped workshop for After Sales Service throughout the country
- (iii) Qualified Personnel

The Tenderer shall furnish documentary evidence to demonstrate that the goods it offers meet the following quality requirement.

Refer to Technical Specification. (**Pages 59-60**)



Section IV. Tender Forms

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Instructions for Completing the Tender Forms

The Tenderer shall fill in and complete all the blank spaces in the Tender Forms in accordance with the instructions for each form indicated below. The Tenderer shall note that the forms included here are for guidance purposes only and that the Tenderer shall prepare its Tender using the corresponding blank forms.



Tenderer Information Sheet

Date: _____
 Invitation for Tender No.: _____
 Page _____ of _____ pages

1. Tenderer's Legal Name [insert Tenderer's legal name]
2. In case of JV, legal name of each party: [insert legal name of each party in JV]
3. Tenderer's actual or intended Country of Registration: [insert actual or intended Country of Registration]
4. Tenderer's Year of Registration: [insert Tenderer's year of registration]
5. Tenderer's Legal Address in Country of Registration: [insert Tenderer's legal address in country of registration]
6. Tenderer's Authorized Representative Information Name: [insert Authorized Representative's name] Address: [insert Authorized Representative's Address] Telephone/Fax numbers: [insert Authorized Representative's telephone/fax numbers] Email Address: [insert Authorized Representative's email address]
7. Attached are copies of original documents of: [check the box(es) of the attached original documents] Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITT Sub-Clauses 4.1 and 4.2. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT Sub-Clause 4.1. <input type="checkbox"/> In case of government owned entity from Eswatini, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITT Sub-Clause 4.4.



Party to JV Information Sheet

Date: _____
 Invitation for Tender No.: _____
 Page _____ of _____ pages

1. Tenderer's Legal Name: [insert Tenderer's legal name]
2. JV's Party legal name: [insert JV's Party legal name]
3. JV's Party Country of Registration: [insert JV's Party country of registration]
4. JV's Party Year of Registration: [insert JV's Part year of registration]
5. JV's Party Legal Address in Country of Registration: [insert JV's Party legal address in country of registration]
6. JV's Party Authorized Representative Information Name: [insert name of JV's Party authorized representative] Address: [insert address of JV's Party authorized representative] Telephone/Fax numbers: [insert telephone/fax numbers of JV's Party authorized representative] Email Address: [insert email address of JV's Party authorized representative]
7. Attached are copies of original documents of: [check the box(es) of the attached original documents] Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITT Sub-Clauses 4.1 and 4.2. In case of government owned entity from Eswatini, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITT Sub-Clause 4.4.



Tender Submission Sheet Form

The Tenderer shall fill in and complete all the blank spaces in the **Tender Submission Sheet** in accordance with the instructions indicated here. No alterations to its format shall be permitted and no substitutions shall be accepted.

Input of Information to be completed by Tenderer

Tender Submission Sheet

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

Invitation for Tender No.: **[insert Tender No]**

Alternative No.: **[insert identification No if this is a Tender for an alternative]**

To: **[insert complete name of Purchaser]**

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Tender Documents, including Addenda No.: **[insert the number and issuing date of each Addenda]**;
- (b) We offer to supply in conformity with the Tender Documents and in accordance with the site arrival dates specified in the Schedule of Requirements the following Goods and Related Services **[insert a brief description of the Goods and Related Services]**;
- (c) The total price of our Tender, excluding any discounts offered in item (d) below, and including VAT is: **[insert the total Tender price in words and figures, indicating the various amounts and the respective currencies]**;
- (d) The discounts offered and the methodology for their application are:

Discounts. If our Tender is accepted, the following discounts shall apply. **[Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies.]**

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

- (e) Our Tender shall be valid for the period of time specified in ITT Sub-Clause 20.1, from the date fixed for the Tender submission deadline in accordance with ITT Sub-Clause 24.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;



- (f) If our Tender is accepted, we commit to obtain a performance security in accordance with ITT Clause 44 and GCC Clause 17 for the due performance of the Contract;
- (g) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries **[insert the nationality of the Tenderer, including that of all parties that comprise the Tenderer, if the Tenderer is a JV, and the nationality each subcontractor and supplier]**
- (h) We have no conflict of interest in accordance with ITT Sub-Clause 4.3;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the Bank, under Eswatini Laws or official regulations, in accordance with ITT Sub-Clause 4.7;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the Tendering process or execution of the Contract: **[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]**

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If none has been paid or is to be paid, indicate “none.”)

- (k) We understand that this Tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (l) We understand that you are not bound to accept the lowest evaluated Tender or any other Tender that you may receive.

Signed: **[insert signature of person whose name and capacity are shown]** In the capacity of **[insert legal capacity of person signing the Tender Security]**

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

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

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



Price Schedule Forms

The Tenderer shall fill in and complete all the blank spaces in the **Price Schedule** forms in accordance with the instructions indicated below. The list of items in column 1 of the **Price Schedules** shall coincide with the List of Goods and Related Services specified by the Purchaser in the Schedule of Requirements.



Price Schedule for Goods to be Supplied from Outside Eswatini- NOT APPLICABLE

Date: [insert day, month and year of Tender submission]

(Group C Tenders) Currencies in accordance with ITT Sub-Clause 14.6(b)

Invitation for Tender No: [insert Tender No]

Alternative No: [insert identification No if this is a Tender for an Alternative]

Page N° ____ of ____

1	2	3	4	5	6	7	8	9	10
Item N°	Description of Goods	Country of origin	Quantity and physical unit	Unit price CIF [insert named port of destination] or CIP [insert named place of destination] in accordance with ITT 14.6(b)(i)	Unit price FOB [insert named port of embarkation] or FCA [insert named place of loading] in accordance with ITT 14.6(b)(ii)	Unit price CFR [insert named port of destination] or CPT [insert named place of loading] in accordance with ITT 14.6(b)(iii)	Total CIF or CIP price per item (col. 4×5)	Price per item for inland transportation and other services required in Eswatini to convey the goods to their final destination (if required in TDS-ITT14.6(b)(iv))	Total price per item (col. 8+9) at DDP (ESWADE Lubovane Damsite Offices, Siphofaneni)
[insert number of item]	[insert name of good]	[insert country of origin of this item]	[insert number of units to be supplied and name of the physical unit]	N/A	N/A	N/A	N/A	[when this optional item has been specified in the Schedule of Requirements, insert the corresponding price per item]	[insert corresponding total price of this item]
Total Tender Price									[insert total of this column]

Name of Tenderer [insert complete name of Tenderer] Signature of Tenderer [insert signature of person signing the Tender]

Date [insert date]



Price Schedule for Goods to be Supplied from Inside Eswatini-APPLICABLE

(Group A and B Tenders)

Currencies in accordance with ITT Sub-Clause 14.6(a)

Date: [insert day, month and year of Tender submission]

Invitation for Tender No: [insert Tender No]

Alternative No: [insert No if this Tender is for an Alternative]

Page N° ____ of ____

1	2	3	4	5	6	7	8	9	10	11
Item N°	Description of Goods	Country of origin	Quantity and physical unit	Unit price EXW	Total EXW price per item (col. 4×5)	Price per item for inland transportation and other services required in Eswatini to convey the goods to their final destination (if required in TDS-ITT14.6(a)(iii))	Cost per item of local labor, raw material and components from within Eswatini % of col. 7	Total price of item (col. 6+7)	Sales and other taxes payable per item if Contract is awarded (in accordance with ITT 14.6(a)(ii))	Total Price per item (col. 9+10) at DDP (ESWADE Lubovane Damsite Offices, Siphofaneni)
[insert number of item]	[insert name of good]	[insert country of origin of this item]	[insert number of units to be supplied and name of the physical unit]	N/A	N/A	N/A	N/A	N/A	N/A	[insert total Contract Price of item]
Total Tender Price										[insert total of this column]

Name of Tenderer [insert complete name of Tenderer] Signature of Tenderer [insert signature of person signing the Tender]
Date [insert date]



Price and Completion Schedule for Related Services – NOT APPLICABLE

Date: [insert day, month and year of Tender submission]

Invitation for Tender No: [insert Tender No]

Alternative No: [insert identification No if this is a Tender for an Alternative]

Currencies in accordance with ITT Clause 14.6(c)

Page N° ____ of ____

1	2	3	4	5	6	7
Item	Description of Services (excludes inland transportation and other services required in Eswatini to convey the goods to their final destination)	Country of origin	Delivery Date	Quantity and physical unit	Unit price	Total price per item (col. 7+8)
[insert number of item]	[insert description of services (excludes inland transportation and other services required in Eswatini to convey the goods to their final destination)]	[insert country of origin of the goods or nationality of the firm providing the services]	[insert Delivery Date]	[insert quantities of services and name of the physical unit. Insert Lump Sum, if appropriate]	[insert unit price of services, where applicable, or insert price on a lump sum basis]	[insert total contract price of item]
Total Tender Price						insert total for this column]

Name of Tenderer [insert complete name of Tenderer] Signature of Tenderer [insert signature of person signing the Tender]
Date [insert date]



Tender Security Form (Bank Guarantee) NOT APPLICABLE

The Tenderer shall fill in and complete all the blank spaces in the Tender Security Form in accordance with the instructions indicated below:

Input of Information to be completed by Tenderer

Tender Security

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

Invitation for Tender No: **[insert Tender No]**

To: **[insert complete name of Purchaser]**

Whereas **[insert complete name of Tenderer]** (hereinafter “the Tenderer”) has submitted its Tender dated **[insert date (as day, month and year) of Tender submission]** for NCB No. **[insert NCB No]** for the supply of **[insert brief description of the Goods and Related Services]**, hereinafter called “the Tender.”

KNOW ALL PEOPLE by these presents that **WE [insert complete name of bank issuing the Tender Security]**, of **[insert city of domicile and country of nationality]** having our registered office at **[insert full address of the issuing institution]** (hereinafter “the bank”), are bound unto **[insert complete name of the Purchaser]** (hereinafter “the Purchaser”) in the sum of **[specify in words the amount and currency of the Tender security (specify the amount and currency in figures)]**, for which payment well and truly to be made to the aforementioned Purchaser, the Guarantor binds itself, its successors or assignees by these presents. Sealed with the Common Seal of this bank, this **[insert day in numbers]** day of **[insert month]**, **[insert year]**.

THE CONDITIONS of this obligation are the following:

1. If the Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Tender Submission Sheet, except as provided in ITT Sub-Clause 20.2; or
2. If the Tenderer, having been notified of the acceptance of its Tender by the Purchaser, during the period of Tender validity, fails or refuses to:
 - (a) execute the Contract; or
 - (b) furnish the Performance Security, in accordance with the ITT Clause 44; or
 - (c) accept the correction of its Tender by the Purchaser, pursuant to ITT Clause 31.

We undertake to pay the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser



state that the amount claimed by it is due to it, owing to the occurrence of one or more of the above conditions, specifying the occurred conditions.

This guarantee shall remain in force up to and including twenty-eight (28) days after the period of Tender validity, and any demand in respect thereof should be received by the Guarantor no later than the above date.

Name: **[insert complete name of person signing the Tender Security]** In the capacity of **[insert legal capacity of person signing the Tender Security]**

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

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

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



Tender Security Form (Tender Bond) APPLICABLE

BOND NO. _____

BY THIS BOND **[insert name of Tenderer]** as Principal (hereinafter called “the Principal”), and **[insert name, legal title, and address of surety]**, authorized to transact business in **[insert name of country of Purchaser]**, as Surety (hereinafter called “the Surety”), are held and firmly bound unto **[insert name of Purchaser]** as Obligee (hereinafter called “the Purchaser”) in the sum(*) of **[insert amount of Bond]** **[insert amount in words]**, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Tender to the Purchaser dated the ____ day of _____, 20____, for the supply of **[insert name and/or description of goods]** (hereinafter called the “Tender”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (1) withdraws its Tender during the period of Tender validity specified by the Tenderer on the Tender Form; or
- (2) refuses to accept the correction of errors in its Tender Price in accordance with the Instructions to Tenderers; or
- (3) having been notified of the acceptance of its Tender by the Purchaser during the period of Tender validity;
 - (a) fails or refuses to execute the Contract Form in accordance with the Instructions to Tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Tenderers;

then the Surety undertakes to immediately pay to the Purchaser up to the above amount upon receipt of the Purchaser's first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and affect up to and including the date 30 days after the date of expiration of the Tender validity as stated in the Invitation to Tender. Any demand in respect of this Bond should reach the Surety not later than the above date.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ____ day of _____ 20__.



Principal: _____

Surety: _____

Corporate Seal (where appropriate)

(Signature)_____
(Signature)_____
(Printed name and title)_____
(Printed name and title)

(*) The amount of the Bond shall be denominated in the currency of the Employer's country or the equivalent amount in a freely convertible currency



Manufacturer's Authorization Form (NOT APPLICABLE)

The Tenderer shall fill in and complete all the blank spaces in the Manufacturer's Authorization form in accordance with the instructions indicated here.

II.

Input of Information to be completed by Tenderer

Manufacturer's Authorization

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

Invitation for Tender No: [insert Tender No]

To: [insert complete name of Purchaser]

WHEREAS

III.

We [insert complete name of Manufacturer], who are official manufacturers of [insert type of goods manufactured], having factories at [insert full address of Manufacturer's factories], do hereby authorize [insert complete name of Tenderer] to submit a Tender in relation to the Invitation for Tenders indicated above, the purpose of which is to provide the following Goods, manufactured by us [insert name and or brief description of the Goods], and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 27 of the General Conditions of Contract, with respect to the Goods offered by the above firm in reply to this Invitation for Tenders.

IV.

[insert complete name of person] [insert legal capacity of person]
Name ___signing the authorization] In the Capacity of ___signing the authorization]

H.

Signed___[insert signature of person name and capacity are shown]___

Duly authorized to sign the authorization for and on behalf of ___[insert complete name of Manufacturer]_____

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

Note: This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Tenderer in its Tender shall include it, if so indicated in the TDS.



Declaration of Eligibility (APPLICABLE)

In accordance with the requirements of the Procurement Regulations issued in accordance with the terms of Section 26 of the Finance and Audit Act No. 18 of 1967 and Part 5, Procurement Principles, Methods and Rules of the Procurement Act, 2011 all Tenderers must meet the following criteria, to be eligible to participate in public procurement.

[All Tenderers must meet the following criteria, to be eligible to participate in public procurement. Tenderers must provide a signed declaration on their company letterhead in the following format. If the tender is being presented by a joint venture or consortium all members must sign the declaration]

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

**To: The Chief Executive Officer
Eswatini Water & Agriculture Development Enterprise (ESWADE)
Sincephetelo MVA Fund Building, 3rd Floor
P.O. Box 5836
Mbabane**

Dear Sir,

RE: Tender Reference – ESWADE/0438

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

- (a) We, have a legal capacity to enter into the contract (*confirmed by the company's current & valid Trading License*);
- (b) We, are not insolvent, in receivership, bankrupt or being wound up, its affairs are not being administered by a court or a judicial officer, its business activities have not been suspended, and it is not the subject of legal proceedings for any of the foregoing (*confirmed by fully signed Power of Attorney*);
- (c) We do not have a conflict of interest in relation to the procurement requirement (*confirmed by Declaration of Eligibility*);
- (d) We have fulfilled its obligations to pay taxes and social security contributions (*confirmed by Tax Compliance Certificate*);
- (e) We adhere to basic labour legislation (*confirmed by Labour Compliance Certificate*);



- (f) We, or any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of five years preceding the commencement of procurement proceedings; (*confirmed by Affidavit or Police Clearance Certificates*);
- (g) it is 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 (*confirmed by Declaration of Eligibility*);

Authorized Signature:

Date:



Section V. Eligible Countries

Public Procurement Board of the Government of Eswatini

Eligibility for the Provision of Goods, Works and Services financed from the Public Funds of the Government of Eswatini

As of April 2019.

For the information of Tenderers, and in accordance with ITT Clause 4, set forth below is a list of countries from which Tenderers, goods and services are not eligible to participate in procurement financed from the public funds of the Government of Eswatini (GoE) from a loan received from the International Fund for Agricultural Development (IFAD).

Pursuant to Section E. "Eligibility" of the IFAD Project Procurement Guidelines, IFAD financing proceeds are disbursed exclusively for expenditures of goods, works and services produced in or supplied from the territory of any country.



PART 2 – Supply Requirements



V.

Section VI. Schedule of Requirements

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Schedule of Items and Delivery

The delivery schedule expressed as 30 days stipulates hereafter a delivery date which is the date of delivery to the final destination when the contract is placed on **DDP - Eswatini Water & Agricultural Development Enterprise (ESWADE)** terms.

Materials for Constructing 1,000 Ferro-cement Tanks				
Description		Quantity	Unit Cost (SZL)	Total Cost (SZL)
Cement 50 kg bags, 42.5N	bag	10, 000		
13mm x 1800 mm x 50 m Netting wire	rolls	50		
Corrugated iron 6 m x 0.5 mm	each	450		
Roof screws 90 mm	each	100		
Plastic float	each	25		
Mortar board/hawk	each	25		
Trowel	each	25		
Builders brush	each	25		
Hack saw 300 mm	each	5		
SUBTOTAL COST				
15% VAT				
TOTAL COST				



Delivery Schedule

ITEM	MONTH							Total Bags
	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	
50 Kg bags of cement, 42.5N	1, 500	1, 500	1, 500	1,500	1,500	1, 500	1,000	10,000

DELIVERY PLACE: Sithobeleni Regional Development Area (RDA) Warehouse, Lubombo Region

Delivery: 1500 bags per month (over 7 months' period)

Description	Quantity	
13mm x 1800 mm x 50 m Netting wire	50	DELIVERY PLACE: ESWADE Siphofaneni Damsite Office, Lubombo Region DELIVERY: Within 30 days after contract signature
Corrugated iron 6 m x 0.5 mm	450	
Roof screws 90 mm	100	
Plastic float	25	
Mortar board/hawk	25	
Trowel	25	
Builders brush	25	
Hack saw 300 mm	5	



PART 3 - Contract



Section VII. General Conditions of Contract

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Section VII. General Conditions of Contract

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- (a) “Contract” means the Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (b) “Contract Documents” means the documents listed in the Agreement, including any amendments thereto.
- (c) “Contract Price” means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (d) “Day” means calendar day.
- (e) “Delivery” means the transfer of ownership of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the Contract.
- (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- (g) “Eligible Countries” means the countries and territories eligible as listed in Section V.
- (h) “GCC” means the General Conditions of Contract.
- (i) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (j) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the SCC.
- (k) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
- (l) “SCC” means the Special Conditions of Contract.
- (m) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.
- (n) “Supplier” means the natural person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been



accepted by the Purchaser and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Supplier.

(o) “The Site,” where applicable, means the place named in the SCC.

2. Contract Documents

2.1 Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.

3. Corrupt Practices

3.1 The Government of Eswatini (GoE) requires that all Procurement Entities as well as Tenderers, Suppliers, Contractors and Consultants participating in contracts financed from the public funds of the Government of Eswatini, adhere to the highest ethical standards, both during the tendering process and throughout the execution of such contracts. The list of definitions set forth below involves the most common types of corrupt practices, but is not exhaustive. For this reason, the Public Procurement Board will also consider claims of similar nature involving alleged acts of corruption, in accordance with the established procedure.

(a). “Bribery” means the act of unduly offering, giving, receiving or soliciting anything of value to influence the process of procuring goods or services, selecting consultants, or executing contracts.

(b). “Extortion” or “Coercion” means the act attempting to influence the process of procuring goods or services, selecting consultants, or executing contracts by means of threats of injury to person, property or reputation.

(c) “Fraud” means the misrepresentation of information or facts for the purpose of influencing the process of procuring goods or services, selecting consultants, or executing contracts, to the detriment of the Procurement Entity/Purchaser or other participants.

(d). “Collusion” is an agreement between tenderers designed to result in tenders at artificial prices that are not competitive.

3.2 If, in accordance with the administrative procedures of the Public Procurement Board, it is demonstrated that a government/public official, or anyone acting on his or her behalf, and/or a Tenderer in a procurement process or supplier/contractor during the execution of the contract carried out in connection with a project financed from the public funds of the Government of Eswatini has committed corrupt practices, the Public Procurement Board or the appropriate Tender Board will:

(a) reject a proposal to award a contract in connection with the respective procurement process; and/or

(b) declare a firm and/or its personnel directly involved in corrupt practices, temporarily or permanently ineligible to be awarded future contracts financed from the public funds of the Government of Eswatini.

3.3 The Tenderer shall 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 tendering process or execution of the contract. The information disclosed must include at the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. The information must be included in the Tender Submission Sheet. Furthermore, Tenderers shall be aware of the provision stated in Sub-Clause 3.2 and Sub-Clause 35.1 (c) of the General Conditions of Contract.

3.4 Any communications between the Tenderer and the Purchaser related to matters of alleged fraud or corruption must be made in writing

4. Interpretation

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

(a) Unless otherwise specified in the SCC, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.

(b) The terms EXW, FOB, FCA, CIF, CIP, and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce at the date of the Invitation for Tenders or as specified in the SCC.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

4.5 Nonwaiver

(a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

(b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.



4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

5. Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the SCC, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.



- 6. Joint Venture, Consortium or Association**
- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.
- 7. Eligibility**
- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country, in accordance with Section V, Eligible Countries. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract and financed from the public funds of the Government of Eswatini shall have their origin in Eligible Countries.
- 7.3 For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components
- 8. Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.
- 9. Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of Eswatini, unless otherwise specified in the SCC.
- 10. Settlement of Disputes**
- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight (28) days from the commencement of such consultation, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC. These mechanisms may include, but are not restricted to, conciliation mediated by a third party, adjudication in an agreed national or international forum, and/or international arbitration.
- 11. Scope of Supply**
- Subject to the SCC, the Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
- Unless otherwise stipulated in the Contract, the Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract



as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in the Contract.

- 12. Delivery and Documents** Subject to GCC Sub-Clause 32.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.
- 13. Supplier's Responsibilities** The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.
- 14. Contract Price** The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorized in the SCC.
- 15. Terms of Payment** The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC.
- The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all the obligations stipulated in the Contract.
- Payments shall be made promptly by the Purchaser, no later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it.
- The currency in which payments shall be made to the Supplier under this Contract shall be those in which the Tender price is expressed.
- In the event that the Purchaser fails to pay the Supplier any payment by its respective due date or within the period set forth in the SCC, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been made in full, whether before or after judgement or arbitration award.
- 16. Taxes and Duties** For goods supplied from outside Eswatini, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Eswatini.
- For goods supplied from within Eswatini, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Eswatini, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.



17. Performance Security

The Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the due performance of the Contract in the amount specified in the SCC.

The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the following forms:

a bank guarantee or an irrevocable letter of credit issued by a reputable located in Eswatini or abroad, acceptable to the Purchaser, in using the form included in Section IX Contract Forms; or

a cashier's certified check.

The performance security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

18. Copyright

The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party

19. Confidential Information

The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 19.

The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

The obligation of a party under GCC Sub-Clauses 19.1 and 19.2 above, however, shall not apply to information that:

the Purchaser or Supplier need to share with the Public Procurement Board of the Government of Eswatini or other institutions participating in the financing of the Contract;



now or hereafter enters the public domain through no fault of that party;

can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

The above provisions of GCC Clause 19 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

The provisions of GCC Clause 19 shall survive completion or termination, for whatever reason, of the Contract.

- 20. Subcontracting** The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the Tender. Subcontracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

- 21. Specifications and Standards** Technical Specifications and Drawings

The Supplier shall ensure that the Goods and Related Services comply with technical specifications and other provisions of the Contract.

The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the goods' country of origin.

Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 32.

- 22. Packing and Documents**

22.1 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. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, 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.

22.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other



instructions ordered by the Purchaser.

- 23. Insurance** 23.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the SCC.
- 24. Transportation** 24.1 Unless otherwise specified in the SCC, responsibility for arranging transportation of the Goods shall be in accordance with the Incoterms specified in the Schedule of Requirements.
- 25. Inspections and Tests** 25.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the Schedule of Requirements.
- 25.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in Eswatini as specified in the SCC. Subject to GCC Sub-Clause 25.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 25.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 25.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 25.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 25.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 25.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 25.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary



to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 25.4.

- 25.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 25.6, shall release the Supplier from any warranties or other obligations under the Contract.

26. Liquidated Damages

- 26.1 Except as provided under GCC Clause 31, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 34.

27. Warranty

- 27.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 27.2 Subject to GCC Sub-Clause 21.1, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 27.3 Unless otherwise specified in the SCC, the 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 SCC, or for eighteen (18) months after the date of shipment or loading in the country of origin, whichever period concludes earlier.
- 27.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 27.5 Upon receipt of such notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 27.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the SCC, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

28. Patent

- 28.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 28.2, indemnify and hold harmless the Purchaser and its employees and officers from and



Indemnity

against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

- 28.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 28.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 28.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 28.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 28.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

29. Limitation of Liability

- 29.1 Except in cases of criminal negligence or willful misconduct,
 - (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and



- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement

30. Change in Laws and Regulations

- 30.1 Unless otherwise specified in the Contract, if after the date of the Invitation to Tender, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in the particular area of Eswatini where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 14.

31. Force Majeure

- 31.1 The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 31.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 31.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

32. Change Orders and Contract Amendments

- 32.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to 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 Purchaser;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Supplier.
- 32.2 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 in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

- 32.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33. Extensions of Time

- 33.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 33.2 Except in case of Force Majeure, as provided under GCC Clause 31, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.

34. Termination

34.1 Termination for Default

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by notice of default sent to the Supplier, may terminate the Contract in whole or in part:
- (i) 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 Purchaser pursuant to GCC Clause 33; or
 - (ii) if the Supplier fails to perform any other obligation under the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 34.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.
- (c) if the Supplier, in the judgment of the Purchaser has engaged in corrupt or fraudulent practices, as defined in GCC Clause 3, in competing for or in executing the Contract.

34.2 Termination for Insolvency.



- (a) The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser

34.3 Termination for Convenience.

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
 - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

35. Assignment

- 35.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

36. Revised IFAD Policy on Preventing Frauds and Corruption in its Activities and Operations

36.1 The Revised IFAD Policy on Preventing Frauds and Corruption in its Activities and Operations, Section D. Responsibilities, (iii) Responsibilities of recipients, (d) (i) – (vii), Section B. Prohibited practices, (a) – (e), Section C. Scope, (d) and IFAD General Conditions for Agricultural Development Financing, Section 7.05 Procurement, (b):

36.1.1 Corrupt or Fraudulent Practices

36.1.1.1 The Revised IFAD Policy on Preventing Fraud and Corruption in Its Activities and Operations (hereinafter, the "Revised Policy") applies to individuals and entities that receive, apply to receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of proceeds from IFAD financing or financing managed by IFAD, including, but not limited to, implementing partners, service providers, contractors, suppliers, subcontractors, sub-suppliers, bidders, consultant and any of their agents or personnel (all such individuals and entities are collectively referred to as "Third Parties" or "Third Party"). Pursuant to the Revised Policy, Third Parties shall refrain from engaging in the following practices, which are considered to be prohibited practices when engaged in connection with an IFAD-financed and/or IFAD-managed operation or activity:

- (i) a "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly,



of anything of value in order to improperly influence the actions of another party;

(ii) a “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation;

(iii) a “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including improperly influencing the actions of another party;

(iv) a “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of that or another party;

(v) an “obstructive practice” is

- (a) deliberately destroying, falsifying, altering or concealing evidence that may be material to an investigation by IFAD or making false statements to investigators in order to materially impede an investigation by IFAD;
- (b) threatening, harassing or intimidating any party in order to prevent that party from disclosing its knowledge of matters relevant to an investigation by IFAD or from pursuing such an investigation; and/or;
- (c) the commission of any act intended to materially impede the exercise of IFAD's contractual rights of audit, inspection and access to information, provided for under sub-clause 36.1.1.2 below.

36.1.1.2 In pursuance of this policy:

(i) Third Parties shall disclose, in the course of a procurement process or any time thereafter, information relating to themselves or any of their key personnel concerning:

- (a) relevant criminal convictions, administrative sanctions and/or temporary suspensions;
- (b) agents engaged in connection with a procurement process or the execution of a contract, including the commissions or fees paid or to be paid; and
- (c) any actual or potential conflict of interest in connection with a procurement process or the execution of a contract;

(ii) Third Parties shall promptly report to IFAD any allegations or other indications of prohibited practices that come to their attention by virtue of their involvement in an IFAD-financed and/or IFAD-managed operation or activity;

(iii) IFAD possesses jurisdiction to investigate allegations and other indications of prohibited practises and to impose sanctions on Third Parties for such practices in connection with an IFAD-financed and/or IFAD-managed operation or activity;

(iv) Third Parties shall fully cooperate with any investigation conducted by IFAD, including by making personnel available for interviews and by providing full access to any and all accounts, premises, documents and records (including electronic records) relating to the relevant IFAD-financed and/or IFAD-managed operation or activity and to have such accounts, premises, records and documents audited and/or inspected by auditors and/or



investigators appointed by IFAD;

(v) Third Parties shall maintain all accounts, documents and records relating to an IFAD-financed and/or IFAD-managed operation or activity for a period of 3 (three) years after completion of the bid;

(vi) should IFAD determine that a Third Party has engaged in any of the prohibited practices defined under sub-clause 36.1.1.1 above, it may impose on the Third Party any of the administrative sanctions provided by the Revised Policy, Section F, (ii);

(vii) during the course of an IFAD review or investigation, or pending the conclusion of a sanctioning process, IFAD may decide, at any time, to temporarily suspend payments to a Third Party or to temporarily suspend its eligibility to participate in IFAD-financed and/or IFAD managed operations and activities for an initial period of six (6) months, subject to a possible extension of that suspension for an additional period of six (6) months, as provided by the Revised Policy, Section F, (i);

(viii) public entities receiving IFAD financing or financing managed by IFAD and any of their agents or personnel and private entities receiving IFAD financing or financing managed by IFAD and any of their agents or personnel shall terminate or suspend the contract if such termination or suspension is required as a consequence of a temporary suspension or sanction imposed or recognized by IFAD;

(ix) furthermore, Third Parties' attention is drawn to IFAD's policy of unilaterally recognizing debarments imposed by other International Financial Institutions if such debarments meet the requirements for mutual recognition under the Agreement for Mutual Enforcement of Debarment Decisions.²

² The Agreement for Mutual Enforcement of Debarment Decisions, dated 9 April 2010, was signed by five of the leading International Financial Institutions, namely, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank and the World Bank Group.



Section VIII. Special Conditions of Contract

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

GCC 1.1(j)	The Purchaser is: Eswatini Water & Agricultural Development Enterprise (ESWADE), Ministry of Agriculture
GCC 1.1 (o)	The Delivery Site is: ESWADE Damsite Offices in Siphofaneni, Lubombo Region
GCC 4.2 (b)	The delivery term shall be DDP – Sithobeleni RDA Warehouse & ESWADE Damsite Offices, Siphofaneni , and shall be governed by the rules prescribed in the 2010 edition of Incoterms.
GCC 5.1	The language shall be: English
GCC 8.1	For notices , the Purchaser's address shall be: Attention: National Project Director, ESWADE/SMLP P.O. Box 198 Area: Siphofaneni Region: Lubombo Country: Eswatini Telephone: 23441906/1873 Facsimile number: 2344 1953 Email: For notices, the Supplier's address shall be: (To be filled at the time of award)
GCC 9.1	The governing law shall be the laws of Eswatini
GCC 10.2	The formal mechanism for the resolution of disputes shall be as follows: (a). For contracts entered into with Foreign Suppliers: In case of a dispute between the Purchaser and the supplier, the dispute shall be settled by arbitration in accordance with the provisions of the United Nations Commission on International Trade Law (UNCITRAL) arbitration Rules. (b). For contracts entered into with suppliers from Eswatini In the case of a dispute between the Purchaser and a Supplier from Eswatini, the dispute shall be referred to adjudication or arbitration in accordance with the laws of Eswatini.
GCC 11.1	The scope of supply for the Goods and Related Services to be supplied shall be as specified in: The Schedule of Requirements

GCC 12.1**Delivery and Documents****For Goods supplied from abroad:**

Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by cable or email the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.

- (i) copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) delivery note;
- (iii) copies of the packing list identifying contents of each package;
- (iv) insurance certificate;
- (v) Manufacturer's or Supplier's warranty certificate;
- (vi) inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and
- (vii) certificate of origin.

For Goods from within the Purchaser's country:

Upon delivery of the Goods to the transporter, the Supplier shall notify the Purchaser and mail the following documents to the Purchaser:

- (i) copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) delivery note, railway receipt, or truck receipt;
- (iii) Manufacturer's or Supplier's warranty certificate;
- (iv) inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and
- (v) certificate of origin.

The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.



GCC 14.2	The prices charged for the Goods delivered and the related Services performed Shall Not be adjustable.
GCC 15.1	The method and conditions of payment to be made to the Supplier under this Contract shall be as follows: Payment of 100% of the contract sum shall be made within 30 days after delivery and acceptance of the cement ordered
GCC 15.5	In the event that the Purchaser fails to make any payment to the Supplier within 30 days after its respective due date, the Purchaser shall pay to the Supplier interest at the annual rate: 2 %
GCC 17.1	The amount of performance security, as a percentage of the Contract Price, shall be: 10% of the contract sum
GCC 17.4	After delivery and acceptance of the Goods, the performance security shall be reduced to two (2) percent of the Contract Price to cover the Supplier's warranty obligations in accordance with Clause GCC 27.3. The Performance Security shall be valid until the end of warranty period.
GCC 22.2	The packing, marking and documentation within and outside the packages shall be: To be decided at the time of award
GCC 23.1	Insurance It is in principle the Supplier's entire responsibility to ensure that the goods are duly received by the Purchaser under DDP, and therefore it is the Supplier's prerogative to decide whether to insure or not. Under this contract, however, the Supplier is required to arrange for an insurance policy for All Risk covering 110% of the DDP price, addressed to both the Supplier and the Purchaser.
GCC 26.1	The liquidated damage shall be: 0.01% per week
GCC 26.1	The maximum amount of liquidated damages shall be: 5%
GCC 27.3	The period of validity of the Warranty shall be: N/A For purposes of the Warranty, the place of final destination shall be: Sithobeleni RDA & ESWADE Damsite Office, Lubombo Region
GCC 27.5	The period for repair or replacement shall be: Two weeks



Section IX. Contract Forms

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Tender-Securing Declaration (Applicable)

[The Tenderer shall fill in this Form in accordance with the instructions indicated]

Date:

Tender No.:

To:

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for tendering in any contract with the Procuring Entity for the period of time determined by the Authority, if we are in breach of our obligation(s) under the Tender conditions, because we:

- (a) have withdrawn or modified our Tender during the period of tender validity specified in the Form of Tender;
- (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (ITT); or
- (c) having been notified of the acceptance of our Tender by the Procuring Entity during the period of tender validity, (i) fail or refuse to execute the Contract, if required, failure to sign the contract if required by Procuring Entity to do so or (ii) fail or refuse to furnish the Performance Security or to comply with any other condition precedent to signing the contract specified in the tendering documents., in accordance with the ITT.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight (28) days after the expiration of our Tender.

Signed: In the capacity of

Name:

Duly authorized to sign the bid for and on behalf of:

Dated on _____ day of _____, _____
Corporate Seal (where appropriate)



Contract Form

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter “the Purchaser”), of the one part, and _____ of _____ (hereinafter “the Supplier”), of the other part:

WHEREAS the Purchaser invited Tenders for certain Goods and Related Services, viz., _____ and has accepted a Tender by the Supplier for the supply of those Goods and Related Services in the sum of _____ (hereinafter “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) the Special Conditions of Contract;
 - (b) the General Conditions of Contract;
 - (c) the Schedule of Requirements
 - (d) the Technical Specifications
 - (f) the Minutes of Negotiation
 - (g) the Purchaser’s Notification to the Supplier of award of Contract; and
 - (h) the Tender Submission Sheet and the Price Schedules submitted by the Supplier;

The Agreement shall prevail over all other Contract documents which shall be interpreted in the order of priority shown above.”

3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Eswatini on the day, month and year indicated above.

For the Purchaser:



Name _____

Signature _____

Witnessed by _____

For the Supplier:

Name _____

Signature _____

Witnessed by _____



Performance Security (Performance Security)

Date: _____

NCB No.: _____

To: _____

WHEREAS _____ (hereinafter “the Supplier”) has undertaken, pursuant to Contract No. _____ dated _____, _____ to supply _____ (hereinafter “the Contract”).

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Supplier shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Supplier’s performance obligations in accordance with the Contract.

AND WHEREAS the undersigned _____, legally domiciled in _____, (hereinafter “the Guarantor”), have agreed to give the Supplier a security:

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

This guarantee is valid until the _____ day of _____, _____.

Signed _____ in the capacity of _____

Seal of the Guarantors:

Name _____

Address _____

Duly authorized to sign the authorization for and on behalf of _____

Dated on _____ day of _____, _____.



Bank Guarantee for Advance Payment

Date: _____

NCB No.: _____

To: _____

In accordance with the payment provision included in the Special Conditions of Contract, which amends Clause 15 of the General Conditions of Contract to provide for advance payment, _____ (hereinafter called “the Supplier”) shall deposit with the Purchaser a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of _____.

We, the _____, as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Purchaser on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding _____.

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

This guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until _____.

Yours truly,

Signature and seal of the Guarantors

Name_____
Address_____
Date

Power of Attorney (Applicable)

Signatories for companies must establish their authority by attaching a copy of the relevant resolution of the board of directors, duly signed by the chairman of the board, and dated, to this form. An example is shown below:

“By resolution of the board of directors at a meeting held

at _____

on: _____ 2019,

Mr. /Mrs. /Ms.: _____

has been duly authorised to sign all documents in connection with contract No. ESWADE/
on behalf of

(Name of tenderer):

(Block capitals)

Signed on behalf of board of directors (chairman):

Date: _____

Signature of assignee: _____

Date: _____

