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SUMMARY OF PROPOSAL OR ACTIVITY COST**

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

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

<b>Cost item</b>	<b>Cost (SZL)</b>	<b>Cost (other currency) (if applicable)</b>	<b>Cost (other currency) (if applicable)</b>
Fees (provide detailed rates and descriptions)			
Reimbursable costs <sup>1</sup> (provide detailed rates and descriptions)			
Local taxes (provide detailed rates and descriptions)			
<b>Total</b>			

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

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<sup>1</sup> Local transportation costs are not to be included, if local transportation is being made available by the Client. Similarly, the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Client.

## PART 4: THE DRAFT CONTRACT

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## SECTION 1: GENERAL CONDITIONS OF CONTRACT

### 1. GENERAL PROVISIONS

#### 1.1 Definitions

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

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

#### 1.2 Law Governing Contract

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

#### 1.3 Language

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

#### 1.4 Notices

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- 1.4.1 Delivery of Notice Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.
- 1.4.2 Change of Address A Party may change its address for notice hereunder by giving the other Party notice in writing change to the address specified in the SCC.
- 1.5 Location The Services shall be performed at such locations specified in this contract, where the location of a particular task is not so specified, at such locations, whether in Eswatini or elsewhere, as the Client may approve.
- 1.6 Authority of Member in Charge In case the Consultant consists of a joint venture/ consortium/ association of more than one entity, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.
- 1.7 Authorized Representatives Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SCC.
- 1.8 Taxes and Duties The Consultant, Sub-Consultants, and their Personnel shall pay such indirect taxes, duties, fees, and other impositions levied under the Applicable Law as specified in the SCC, the amount of which is deemed to have been included in the Contract Price.
- 1.9 Fraud and Corruption Consultants should be aware that a Consultant who engages in corrupt, collusive or fraudulent practices will have their proposals rejected or Contract terminated in accordance with Clause GCC 2.6.1©, and may further be subject to prosecution under the laws of Swaziland.
- 1.9.1 Commission and Fees It is required that the successful Consultant will disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

## 2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 2.1 Effectiveness of Contract This Contract shall come into effect on the date the Contract is signed by both Parties or at such other later date as may be stated in the SCC. The date the Contract comes into effect is defined as the Effective Date.
- 2.2 Commencement of Services The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.
- 2.3 Expiration of Contract Unless terminated earlier pursuant to Clause GCC 2.6, this Contract shall expire at the end of the time period after the Effective Date, as specified in the SCC.

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- 2.4 Modifications or Variations** Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the Scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- 2.5 Force Majeure**
- 2.5.1 Definition For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach of Contract The failure of a Party to fulfil any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3 Extension of Time Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 2.5.4 Payments During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.
- 2.6 Termination**
- 2.6.1 By the Client The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GCC 2.6.1. In such an occurrence the Client shall give not less than thirty (30) days’ written notice of termination to the Consultant, and sixty (60) days’ in the case of the event referred to in €.
- (a) If the Consultant does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing.
  - (b) If the Consultant becomes insolvent or bankrupt.
  - © If the Consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
  - (d) If, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days.
  - © If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
  - (f) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 8 hereof.

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

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC 7 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 8 hereof.

2.6.3 Payment upon Termination Upon termination of this Contract pursuant to Clauses GCC 2.6.1 or GCC 2.6.2, the Client shall make the following payments to the Consultant:

- (a) Payment pursuant to Clause GCC 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) Except in the case of termination pursuant to paragraphs (a) through (c), and (f) of Clause GCC 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

### 3. OBLIGATIONS OF THE CONSULTANT

#### 3.1 General

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

3.2 Conflict of Interests The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

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

3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing

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goods, works or services (other than consulting services) resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

- 3.2.3 Prohibition of Conflicting Activities The Consultant shall not engage and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Contract.
- 3.3 Confidentiality Except with the prior written consent of the Client, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services.
- 3.4 Insurance to be Taken Out by the Consultant The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as shall be specified in the SCC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- 3.5 Consultant's Actions Requiring Client's Prior Approval The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:
- (a) Entering into a subcontract for the performance of any part of the Services,
  - (b) Appointing such members of the Personnel not listed by name,
  - (c) Any other action that may be specified in the SCC
- 3.6 Reporting Obligations
- (a) The Consultant shall submit to the Client the reports and documents, hereto, in the form, in the numbers and within the time periods set forth in the scope of work.
  - (b) Final reports shall be delivered in CD ROM/Flash Disc in addition to the hard copies.
- 3.7 Documents Prepared by the Consultant to be the Property of the Client
- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultant under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof.
  - (b) The Consultant may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SCC.

#### 4. CONSULTANT'S PERSONNEL

- 4.1 Description of Personnel The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services. The titles agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the

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Services of the Consultant's Key Personnel. The Key Personnel and Sub-Consultants listed by title as well as by name are hereby approved by the Client.

- 4.2 Removal and/or Replacement of Personnel**
- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
  - (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
  - © The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

## 5. OBLIGATIONS OF THE CLIENT

- 5.1 Assistance** The Client shall use its best efforts to provide the Consultant such assistance as specified in the SCC.
- 5.2 Change in the Applicable Law Related to Taxes and Duties** If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses GCC 6.2 (a) or (b), as the case may be.

## 6. PAYMENTS TO THE CONSULTANT

- 6.1 Payment** Payments under this unit price contract shall be for the actual quantity delivered or performed, using fixed unit prices for different items specified in the Services. Payment shall be based on agreed fee rates for nominated personnel and certain type or grade of personnel and reimbursable items, such as transportation and subsistence, using either actual expenses or the agreed unit prices.
- 6.2 Contract Unit Prices and Reimbursables**
- (a) The unit prices and reimbursables payable in foreign currency/currencies is set forth in the SCC.
  - (b) The unit price and reimbursables payable in local currency is set forth in the SCC.
- 6.3 Payment for Additional Services** For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the unit prices and reimbursables is provided in Appendices D and E.
- 6.4 Terms and Conditions of Payment** Payments will be made to the account of the Consultant and according to the payment schedule stated in the SCC. Unless otherwise stated in the SCC, the first payment shall be made against the provision by the Consultant of an advance payment guarantee for the same amount and shall be valid for the period stated in the SCC. Such guarantee shall be in the form, or in such other form, as the Client shall have approved in writing. Any other payment

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shall be made after the conditions listed in the SCC for such payment have been met, and the Consultant has submitted an invoice to the Client specifying the amount due.

## 7. GOOD FAITH

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

## 8. SETTLEMENT OF DISPUTES

- 8.1 Amicable Settlement** The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
- 8.2 Dispute Resolution** Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SCC.

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**SECTION 2: SPECIAL CONDITIONS OF CONTRACT (SCC)**

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<p><b>1.4.1</b></p> <p><b>And</b></p> <p><b>1.4.2</b></p>	<p><b>The Notice to both parties shall be sent to the addresses below:</b></p> <p><u>Client:</u>                      Attention: The Chief Executive Officer                      Telephone: 25187432                      Facsimile: 25184461                      Physical address: Plot 11<sup>th</sup> Street                      P.O. Box 1775                      Matsapha, Eswatini</p> <p><u>Consultant:</u>                      To be completed at contract stage.</p>
<p><b>1.6</b></p>	<p><b>Authority of Member in Charge (in case of Joint Venture etc.)</b>                      To be completed at contract stage</p>
<p><b>1.7</b></p>	<p><b>The authorized officials of both parties are:</b></p> <p><u>Client:</u>                      The Chief Executive Officer                      NMC</p> <p><u>Consultant:</u>                      To be completed at contract stage</p>
<p><b>1.8</b></p>	<p><b>Taxes and Duties:</b> Indirect taxes, duties, fees and other impositions shall be paid by the Consultant, the amount of which is deemed to have been included in the Contract Price.</p>
<p><b>1.5</b></p>	<p><b>Location:</b> At NMC Offices located at 11<sup>th</sup> Street, Matsapha.</p>
<p><b>2.1</b></p>	<p><b>The Effectiveness of Contract</b> will be the date the contract is signed by both parties.</p>
<p><b>2.3</b></p>	<p><b>Expiration of Contract:</b></p> <p>The Contract shall remain in force for the duration of two (2) calendar months after the effective date of the contract. The General and Special Conditions of Contract shall apply at all levels of the execution of duties.</p>
<p><b>2.5.3</b></p>	<p><b>Extension of Time:</b></p> <p>Any requests pertaining to contract extension due to unforeseen circumstances to be made by either party at any stage of this contract, will be at No Cost.</p>

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<p><b>3.4</b></p>	<p><b>Insurance:</b> Not Applicable</p>
<p><b>3.5</b></p>	<p><b>Consultant’s Action Requiring Clients Prior Approval</b></p> <ul style="list-style-type: none"> <li>a) Entering into a sub-contract for the performance of any part of the Services</li> <li>b) Taking procurement actions in accordance with the Client's thresholds.</li> <li>c) Appointing such members of the Key Personnel listed by name and CVs</li> </ul>
<p><b>5.1</b></p>	<p><b>Assistance:</b> Not Applicable</p>
<p><b>6.1 and 6.2</b></p>	<p><b>Contract Price:</b> To be determined at contract stage</p>
<p><b>6.4</b></p>	<p><b>Terms and Conditions of Payment:</b>  The Consultant shall submit invoices as per the payment schedule after the client has approved the specified works in the form of respective reports. The Client shall make electronic funds transfer (EFT) payment to the Consultant within 30 calendar days following receipt of invoice.</p>
<p><b>8.2</b></p>	<p><b>Dispute Resolu0tion</b></p> <p>The Parties shall exercise their best efforts to settle amicably any claim, controversy or dispute (the “Dispute”) arising out of or relating to this Contract. In the event the Parties fail to reach a resolution of the Dispute within thirty (30) days after a Party’s initial request for resolution, either Party may submit the Dispute for arbitration in accordance with the arbitration rules of the Kingdom of Eswatini then in effect. In any such arbitration, the Parties agree that each shall bear its own costs, including without limitation the costs and fees of attorneys, except in cases when the arbitrator allocates all or a portion of the prevailing party’s costs to the non-prevailing Party. The language used during arbitration shall be English and the arbitration ruling shall be final and binding on the Parties.</p>

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