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- The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
- 3.2.3 Prohibition of Conflicting Activities
- Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any business or professional activity that would conflict with the activities assigned to them under this Contract. The Service provider has an obligation and shall ensure that its Service Provider's Personnel and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Employer, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 3.3 Confidentiality
- The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Employer's business or operations without the prior written consent of the Employer.
- 3.4 Insurance to be Taken Out by the Service Provider
- The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be specified in the SCC; and (b) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- 3.5 Service Provider's Actions Requiring
- The Service Provider shall obtain the Employer's prior approval in writing before taking any of the following actions:



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Employer's Prior Approval

- (a) entering into a subcontract for the performance of any part of the Service
- (b) changing the Program of activities; and
- (c) any other action that may be specified in the SCC.

Submission by the Contractor for the Employer's approval, for addition of any Subcontractor not named in the Contract, shall also include the Subcontractor's declaration to abide by the Fund's code of conduct

3.8.1 Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to the Employer at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Employer may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected.

#### 4. Quality Control

Identifying Defects

The principle and modalities of Inspection of the Services by the Employer shall be as indicated in the SCC. The Employer shall check the

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Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Employer may instruct the Service Provider to search for a Defect and to uncover and test any service that the Employer considers may have a Defect. Defect Liability Period is as defined in the SCC.

Correction of Defects,  
and  
Lack of Performance  
Penalty

(a) The Employer shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.

(b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Employer's notice.

(c) If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

Settlement of Dispute

8.1 Amicable  
Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

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### Special Conditions of Contract

Number	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.	<b>The Contract shall be construed in accordance with the law of Eswatini.</b>
2.	<b>The language of bidding is English</b>
3.	<b>The addresses are:</b> Client :     Ingamu Building Mhlamabnyatsi Road Mbabane Attention : Chairman of the Tender Committee  Consultant : _____ _____ Attention : _____ Facsimile : _____ E-mail (where permitted) : _____
4.	<i>If the Consultant is a Joint Venture consisting of more than one entity, the JV the address of the person with Power of Attorney is directed here.</i>  .....
5	<b>Termination of Contract for Failure to Become Effective:</b>  <b>The time period shall be 30 days</b>
6	<b>Commencement of Services:</b>  <b>The number of days shall be ten working days .</b>

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	Confirmation of staff to work with Client shall be within those days.
7.	<p>The following limitation of the Consultant's Liability towards the Client can be subject to the Contract's negotiations:</p> <p><b>"Limitation of the Consultant's Liability towards the Client:</b></p> <p>(a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client's property, shall not be liable to the Client:</p> <ul style="list-style-type: none"><li>(i) for any indirect or consequential loss or damage; and</li><li>(ii) for any direct loss or damage that exceeds [insert a multiplier, e.g.: one, two, three] times the total value of the Contract;</li></ul> <p>(b) This limitation of liability shall not</p> <ul style="list-style-type: none"><li>(i) affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services;</li></ul>
10	<p><b>Any indirect local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall be paid by the service provider</b></p>

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11	<b>Price adjustments shall not be applicable for the first twelve months of the contract</b>
12	<b>The currency for the payment shall be denominated in either South African Rand (ZAR) or Eswatini Lilangeni (SZL)</b>
13	<p>The following provisions shall apply if ever the advance payment is agreed to the advance payment and the bank payment guarantee:</p> <p>(1) No Advance payment shall be permitted.</p>
14	<b>The Consultant shall submit to the Client itemized statements at time intervals of one month</b>
15	<p><b>Disputes shall be settled by arbitration in accordance with the following provisions:</b></p> <ol style="list-style-type: none"><li>1. <u>Selection of Arbitrators.</u> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator who could either be:<ol style="list-style-type: none"><li>(a) The Law Society of Eswatini</li><li>(b) Eswatini Institute of Accountants</li><li>(c) Conciliation and Arbitration Commission of</li></ol></li></ol>

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