

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 Party Address

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

1.5 Location

The Services shall be performed at SEDCO offices and, 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 in 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 and may further be subject to prosecution under the laws of Eswatini.

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 Contract 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

The Consultant shall begin carrying out the Services not later than the number of Services 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.

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 fulfill any of its obligations under the contract shall of Contract 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 (e).

- (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.



- (c) 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.
- (e) 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.

2.6.2 By the Consultant

The Consultants 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 of Performance

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 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 additional members of the Personnel not initially 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 specific to the audit within the time periods set forth in the contract.
- b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in the said contract.

3.7 Documents Prepared by the Consultant to be the Property of the Client

- a) All reports and documents 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 Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C 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.
- c) 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 and Exemptions

The Client shall use its best efforts to ensure that SEDCO shall provide the Consultant such assistance and exemptions 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.

PAYMENTS TO THE CONSULTANT

6.1 Lump-Sum Payment

The total payment due to the Consultant shall not exceed the Contract Price which is an all-inclusive fixed lump-sum covering all costs required to carry out the Services of the audit. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

6.2 Contract Price

- a) The price payable in foreign currency/currencies is set forth in the SCC.
- b) The price 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 lump-sum price 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 set forth in Appendix G hereto, or in such other form, as the Client shall have approved in writing. Any other payment shall be made after the conditions listed in the SCC for such payment have been met, and the 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 of 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 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.



SPECIAL CONDITIONS OF CONTRACT (SCC)

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. The corresponding clause number of the GCC is indicated in parentheses.

Definitions (GCC Clause 1)

- GCC 1.1 (e)—The Employer is: The Small Enterprises Development Company
- GCC 1.1 (f)—The Service Provider is: [*This will be completed after award*]

Inspections and Tests (GCC Clause 10)

GCC 10 .1—Audit will take place at place or places of service delivery.

Payment (GCC Clause 14)

GCC 14.1—the method and conditions of payment to be made to the Service Provider under this Contract shall be as follows: Payment shall be made within 30 days on completion of delivery upon submission of a tax invoice to the employer's headquarters.

Notices (GCC Clause 29)

GCC 29.1—Employer's address for notice purposes:

**The Small Enterprises Development Company
Government Stores Road, Industrial Site
P.O. Box A186
Mbabane
Swaziland**

Tel: 2404 2811/2

Email: business@sedco.co.sz

Service Provider address for notice purposes:

[*Will be completed when contract awarded*]



DECLARATION OF ELIGIBILITY

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.

Dear Sirs

Re Tender Reference

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

- a) We, including any joint venture partners or consortium partners are a legal entity and have the legal capacity to enter into the contract;
- b) Having examined the Invitation to Tender and any other documents released by SEDCO (or issued in support thereof) for the supply of external audit Services, hereby offers to supply the Services, in conformity with the said Conditions and to the reasonable satisfaction of SEDCO;
- c) We further declare that we are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended and we are not the subject of legal proceedings for any of the foregoing;
- d) We declare that we have fulfilled our obligations to pay taxes and social security contributions;
- e) We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- f) We do not have a conflict of interest in relation to the procurement requirement.
- g) We also hereby warrants and undertakes to SEDCO the accompanying information has been diligently prepared to conform to the instructions for bidders
- h) The amount or approximate amount of the Tender has not been communicated to a person other that the person calling for Tenders.
- i) We have not entered into any agreement with any other person that s/he shall refrain from tendering or as to the amount of any other tenders to be submitted.
- j) We understand that the lowest Tender will not necessarily be accepted.

Signed Date.....

BID SUBMISSION FORM



**FORENSIC AUDIT SERVICES FOR REHABILITATION OF
SEDCO ESTATES**

TENDER NUMBER: SEDCO RFP/02/2021-22

REHABILITATION OF THE SEDCO ESTATES

Submission Deadline: 30th November 2021 @ 10:00 am

Name	Organisation	Contact Number (Cell)	Date of Submission	Time of Submission	Signature

