

In the capacity of [insert legal capacity of person signing the proposal]

Signed: [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 Tenderer]

FORM C: DECLARATION OF ELIGIBILITY

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

**To: The Managing Director
Eswatini National Industrial Development Corporation
P. O. BOX 9458
Mbabane**

Dear Sirs,

**RE: REQUEST FOR PROPOSAL NO: 2 OF 2024/2025 for Development of an
online Loan Management System.**

We hereby declare that:

- a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract.
- b) I/We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we are not the subject of legal proceedings for any of the foregoing.
- c) I/We have fulfilled our obligations to pay taxes and social security contributions.
- d) I/We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into

a contract within a period of five years preceding the commencement of the procurement proceedings.

- e) I/We do not have a conflict of interest in relation to the procurement requirement.
- f) I/We do not have 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.
- g) I/We are 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.

Signed
Authorized

Representative Date
.....

Form E- FINANCIAL TENDERSUBMISSION FORM

[The Financial Tender Submission Form should be included in the financial proposal.]

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The bidder must provide a signed declaration in the following format in company letterheads:

[Name of Bidder, Address, and Date]

To: The Managing Director Eswatini National Industrial Development Corporation PO Box 9458 Mbabane H100 Eswatini

Dear Sir,

RE: Tender No: 2 of 2024/25 for Development of an online Loan Management System.

I, the undersigned declare that:

- (a) I, offer to provide the above services in conformity with the Request for Tender and to technical and financial tenders; (b) A detailed financial tender is attached;
- (c) The tender will be valid for a period of _____ (numerical) / _____ (words) calendar days from the date fixed for the tender submission deadline in accordance with the Request for Proposal, and it shall remain binding upon myself, subject to any modifications resulting from negotiations, and may be accepted at any time before the expiration of that period.
- (d) I, understand that you are not bound to accept any tender that you receive;

Yours Sincerely,

Authorized Signature : _____

Full Name : _____

Title of Signatory : _____

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CONTRACT TERMS AND CONDITIONS

1. DEFINITIONS

1.1 In this Contract, the following terms shall be interpreted as indicated:

- a) "The Contract" means the agreement entered into between the Procuring Entity and the Tenderer, as signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) "Services" means the work to be performed by the consultant pursuant to this Contract.
- c) "The Contract Price" means the price payable to the Tenderer under the Contract for the full and proper performance of its contractual obligations.
- d) "Local Currency" means Lilangeni (SZL).
- e) "The Procuring Entity" means the Eswatini National Industrial Development Corporation, an organization requesting for the proposal.
- f) "Supplier" means any private or public entity that will provide the Services to the fund under the Contract.
- g) "Effective Date" means the date on which this Contract comes into force and effect

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2. APPLICATION

- 2.1 These Contract Terms and Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.

3. STANDARDS

The Consultant shall perform the consulting work and carry out their obligations here under 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 Procuring Entity, and shall at all times support and safeguard the Corporation's legitimate interests in any dealings with Sub consultancies or third Parties

4. USE OF CONTRACT DOCUMENTS AND INFORMATION

- 4.1 The Consultant shall not, without the Procuring Entity's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity in connection therewith, to any person other than a person employed by the Consultant, in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so as may be necessary for purposes of such performance.
- 4.2 The Consultant shall not, without the Procuring Entity's prior written consent, make use of any document or information enumerated in Clause 4.1 except for purposes of performing the Contract.
- 4.3 Any document, other than the Contract itself, enumerated in Clause 4.1 shall remain the property of the Procuring Entity and shall be returned (in all copies) to the Procuring Entity on completion of the Supplier's performance under the Contract if so required by the Procuring Entity.
- a. Collaboration, Partnerships with Foreign Firms & Subcontracting**
1. The local Vendor is free to go into long term partnerships with reputed international firms based on resource sharing and transfer of technology.
 2. The Consultants who wished to enter the partnerships with foreign firms must ensure proper transfer of technology to the

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extent of building the local capacity for long term sustainability of the local vendor. Project based tie ups and short term partnerships are not encouraged because it doesn't ensure the long term sustainability of the project.

3. A vendor, who wishes to terminate partnerships with foreign firms due to unavoidable circumstances, must ensure that there is competent local capacity already built, so that the development of the system including the change management is not hampered.
4. The local vendor, who wishes to partner with foreign firms, must have adequate local staffs working with the staffs of the foreign firms, so that there is better transfer of experiences, knowledge & technology. This is done, so as to enhance the capacity & competitiveness of the local firms, who can confidently undertake similar projects in the future without partnerships.
5. Presence of local staff as key members in the project team is necessary conditions to accept the proposal for evaluation.
6. The vendor awarded the contract shall not subcontract the awarded work partly or in full to any National/International Firms. This clause nullifies all the clauses pertaining to subcontracting that contradict with this one, in any part of the document.

b. Quality of Work

The Vendor must ensure quality while implementing the system at all times. This will be evaluated by ENIDC in the long run and this will have a bearing on awarding similar Projects that are in pipeline and also those projects that will be taken in the future.

c. Confidentiality of offer

The details of the offer proposed by the Vendor or its acceptance thereof with or without modifications by ENIDC shall not be passed in part or full to any third party without prior written approval of the parties involved. This applies to both client as well as the vendor.

5. PATENT AND COPY RIGHTS

- i. The Vendor represents that the Solution or any product/component, supplied by the Vendor does not infringe any patents and copyright. If, however, a third party claims that the Solution or any product/component thereunder, supplied by the Vendor under this Contract, infringes a patent or copyright ("IP Claim"), the Vendor will defend the Client against the IP Claim at the Vendor's expense and pay all costs, damages and legal fees that a constitutional court finally awards.
- ii. If the Vendor determines that no alternative is reasonably available, and the Client agrees to return the Product/Component/Solution to the Vendor on the Vendor's written request, an appropriate compensation has to be proposed and be acceptable to the client.
- iii. The Vendor has and will have no obligation to the Client regarding any "IP Claim" based on:
 - the Client's modification of a Product/Component under the Solution unilaterally;
 - use of the program other than its specified operating environment;
 - the combination, operation or use of a product/component under the Solution with any other product, program, data or apparatus, not furnished by the Vendor, provided that the use of such product, program, data or apparatus has not been envisaged in this Contract and such product, program, data or apparatus is solely responsible for such infringement.

6. DELIVERY OF DOCUMENTS

- 6.1 Delivery of the documents shall be made by the Consultant in accordance with the terms specified in the tender documents.

7. PAYMENT

- 7.1 The method and conditions of payment to be made to the Consultant under this Contract shall be specified in the Contract document.

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- 7.2 The Consultant request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Services performed, and upon fulfilment of other obligations stipulated in the Contract.
- 7.3 Payment shall be made promptly by the Procuring Entity, but in no case later than thirty (30) days after submission of an invoice or claim by the Consultant unless otherwise stated in the Contract.

8. PRICES

- 8.1 Prices charged by the Consultant for Services performed under the Contract shall not vary from the prices quoted by the Consultancy in its tender.

9. CONTRACT AMENDMENTS

- 9.1 Subject to Clause 13, no variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties.

10. ASSIGNMENT

- 10.1 The Consultant may not assign, in whole or in part, its obligation to perform under this Contract except with the Procuring Entity's prior written consent.

11. SUBCONTRACTS

- 11.1 The Consultant may not enter into any subcontract for performance hereunder unless the Procuring Entity shall have previously consented in writing to such consent or in the Contract, relieve the Consultant from any liability or obligation under the Contract.

12. DELAYS IN THE CONSULTANT PERFORMANCE

- 12.1 Performance of services shall be made by the Consultant in accordance with the time schedule prescribed by the Procuring Entity.
- 12.2 If at any time during performance of the contract, the consultant or its subcontractor(s) should encounter conditions impeding timely delivery of the Performance of Services, the consultant shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of Consultant' notice, the Procuring Entity shall evaluate the situation and may at its discretion

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extend the Consultant's time of performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of the contract.

- 12.3 Except as provided under Clause 12, a delay by the Consultant in the Performance of its delivery obligations shall render the Consultant liable to the imposition of liquidated damages pursuant to Clause 13, unless an extension of time is agreed upon without the application of liquidated damages.

13. LIQUIDATED DAMAGES

- 13.1 Subject to Clause 17, if the Consultant fails to deliver the work within the period(s) specified in the contract, the Procuring Entity shall, without prejudice to its other remedies under the Contract, deduct from the contract price, as liquidated damages, a sum equivalent to the 20% (percent) of the proposed cost of unperformed services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of 60% (percent). Once the maximum is reached, the Procuring Entity may consider termination of Contract.

14. TERMINATION FOR DEFAULT

- 14.1 The Procuring entity without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Consultant, may terminate this contract in whole or in part:
- 14.1.1 If the Consultant fails to deliver the work within the period specified in the contract, or within any extension thereof granted by the procuring entity pursuant to Clause 17; or
- 14.1.2 If the Consultant fails to perform any other obligation(s) under the contract.
- 14.2 In the event the Procuring entity terminates the contract in whole or in part, pursuant to clause 13.1, the Procuring Entity may procure, upon such terms and in manner as it deems appropriate, goods or services similar to those undelivered, and the consultant shall be liable to the procuring Entity for any excess cost for such similar services. However, the consultant shall continue performance of the contract to the extent not terminated.

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15. FORCE MAJEURE

- 15.1 Notwithstanding the provision of Clause 12, 13 and 14, the consultant shall not be liable for liquidated damages or termination for default if and to the extent that it's delay in performance or other failure to perform its obligation under the contract is the result of Force Majeure.
- 15.2 For purposes of this Clause, "Force Majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include but are not restricted to, acts of Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes
- 15.3 If a Force Majeure situation arises, the Consultant shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Consultant shall continue to perform its obligation 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.

16. TERMINATION FOR INSOLVENCY

- 16.1 The procuring Entity may at any time terminate the Contract by giving written notice to the Consultant if the Consultant becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Consultant, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity.

17. RESOLUTION OF DISPUTES

- 17.1 The Procuring entity and the Consultant shall make every effort to resolve amicably by direct informal negotiation any disagreement, disputes, or claim arising out of or in connection with the contract or the breach, termination, or validity thereof.
- 17.2 If, after thirty (30) days from the commencement of such informal negotiations, the Procuring Entity and the Consultancy have failed to negotiate such an amicable settlement, any dispute, controversy, or claim arising out of or in connection with this contract, or the breach,

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termination, or validity thereof, either party may require that the dispute be referred for resolution by final and binding arbitration.

17.3 The arbitrator shall determine the matters in dispute in accordance with the laws in effect in the Kingdom of Eswatini.

17.4 All notices to be given in connection with the arbitration shall be in writing and shall be effective upon receipt.

18. APPLICABLE LAW

18.1 The contract shall be interpreted in accordance with the laws and regulations in effect in the Kingdom of Eswatini.

19. NOTICES

19.1 Any notice given by one party to the other pursuant to this contract shall be sent to the other party in writing by personal delivery, mail, or e-mail of facsimile and, if by email or facsimile, confirmed in writing to the other party's address specified in the special conditions of contract. Each party may change such address by notice to the other party.

19.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

20. TAXES AND DUTIES

20.1 The Consultant shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies incurred or imposed until delivery of the contracted Goods to the Procuring Entity.

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