

FORM TECH-7: DECLARATION OF ELIGIBILITY

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

[>>>Name of Security Company, Address, and Date>>>]

To: CHIEF EXECUTIVE OFFICER

NAMBOARD

P.O. Box 426

Manzini

Dear Sir,

(1) RE: TENDER NUMBER: 3 OF 2019

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; and

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

Authorised Representative

Date



SECTION 3

FINANCIAL PROPOSAL - STANDARD FORMS

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal in accordance with instructions provided under paragraph 10 of the 'Instructions to Security Company s' section. FIN-1 Financial Proposal Submission Form FIN-2 Summary of Proposal or Activity Costs

FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM

[Note to Security Company s: This Financial Proposal Submission Form should be on the letterhead of the Security Company(s) and should be signed by a person with the proper authority to sign documents that are binding on the entity. It should be included by the Security Company in its financial proposal.]
[>>>Location>>>] [>>>Date>>>] Procurement Reference No: [>>>insert Proposal Reference number>>>]

To: [>>>Name and address of Procuring Entity>>>] Dear Sirs: We, the undersigned, declare that: (a) We offer to provide the consulting services for [>>insert a brief description of the Services>>] in conformity with your Request for Proposals and our technical and financial proposals; (b) The schedule of prices of our proposal is attached. (c) Our proposal shall be valid for a period of [>>specify the number of calendar days>>] days from the date fixed for the proposal submission deadline in accordance with the Request for Proposals, and it shall remain binding upon us, subject to any modifications resulting from negotiations, and may be accepted at any time before the expiration of that period; (d) We understand that you are not bound to accept any proposal that you receive; Dated on _____ day of _____, _____ [insert date of signing] Name: [insert



complete name of person signing the proposal] In the capacity of [insert legal capacity of person signing the proposal] Signed: [signature of person whose name and capacity are shown above] Duly authorised to sign the proposal for and on behalf of: [insert complete name of Tenderer]

FORM FIN-2: Summary of Proposal or Activity Cost

[Note to Security Company s: Security Company(s) 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 Security Company(s) and related to the assignment should be listed]

Cost item

Cost (SZL)

Fees (provide detailed rates and descriptions)

Reimbursable costs¹ (provide detailed rates and descriptions)

% fee increases in subsequent years, describe basis for increase (if applicable)

Local taxes (provide detailed rates and descriptions)

Total

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



1 Local transportation costs are not to be included, if local transportation is being made available by the Company. Similarly, the project site, office rent/accommodations/clerkal assistance costs are not to be included if being made available by the Company.

GENERAL CONDITIONS OF CONTRACT

1. Law Governing Contract

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

2. 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.

3. Notices

3.1 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.

3.2 Change of 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.

4. Location The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in Eswatini or elsewhere, as NAMBOARD may approve.



5. Authority of Member in Charge In case the Security Company 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 Security Company's rights and obligations towards NAMBOARD under this Contract, including without limitation the receiving of instructions and payments from NAMBOARD.

6. Authorized Representatives Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by NAMBOARD or the Security Company may be taken or executed by the officials specified in the SCC.

7. Taxes and Duties The Security Company, Sub-Security Companies, 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.

8. Fraud and Corruption Security Company(s) should be aware that a Security Company who engages in corrupt, collusive or fraudulent practices will have their proposals rejected or Contract terminated in accordance with Clause 12 GCC (c), and may further be subject to prosecution under the laws of Eswatini.

9. Commission and Fees It is required that the successful Security Company 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.

10. Commencement, Completion, Modification and Termination of Contract
10.1 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.

Start Date: _____ Expiry Date: _____

(Two years after start date)

10.2 Commencement of Services; The Security Company shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

10.3 Expiration of Contract; Unless terminated earlier pursuant to Clause GCC 8, this Contract shall expire at the end of the time period after the Effective Date, as specified in the SCC.

10.4 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.

11. Force Majeure

11.1 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.

11.2 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.

11.3 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.

11.4 Payments: During the period of their inability to perform the Services as a result of an event of Force Majeure, the Security Company 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.

12. Termination: NAMBOARD may terminate this Contract in case of the occurrence of any of the events specified in paragraphs:

(a) through (f) of this Clause GCC 12. In such an occurrence NAMBOARD shall give not less than thirty (30) days' written notice of termination to the Security Company, and sixty (60) days' in the case of the event referred to in (e).

a) If the Security Company 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 NAMBOARD may have subsequently approved in writing.

b) If the Security Company becomes insolvent or bankrupt.

c) If the Security Company, in the judgment of NAMBOARD has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

d) If, as the result of Force Majeure, the Security Company are unable to



perform a material portion of the Services for a period of not less than sixty (60) days.

e) If NAMBOARD, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

f) If the Security Company fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 8 hereof.

13. By the Security Company: The Security Company(s) may terminate this Contract, by not less than thirty (30) days' written notice to NAMBOARD, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GCC 12:

a) If NAMBOARD fails to pay any money due to the Security Company pursuant to this Contract and not subject to dispute pursuant to Clause GCC 8 hereof within forty-five (45) days after receiving written notice from the Security Company that such payment is overdue.

b) If, as the result of Force Majeure, the Security Company is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

c) If NAMBOARD fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 8 hereof.

14. Payment Upon Termination: Upon termination of this Contract pursuant to Clauses GCC 10.3 or GCC 10.4, NAMBOARD shall make the following payments to the Security Company:

a) Payment pursuant to Clause GCC 10.3 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 12 GCC, reimbursement of any reasonable cost incidental to



the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

15. Obligations of the Security Company

15.1 Standard of Performance: The Security Company 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 Security Company shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to NAMBOARD, and shall at all times support and safeguard NAMBOARD's legitimate interests in any dealings with Sub-Security Company(s) or third Parties.

15.2 Conflict of Interests: The Security Company shall hold NAMBOARD's interests' paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

16. Security Company is Not to Benefit from Commissions, Discounts, etc. The payment of the Security Company pursuant to Clause GCC 10 shall constitute the Security Company 's only payment in connection with this Contract or the Services, and the Security Company 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 Security Company shall use their best efforts to ensure that the Personnel, any Sub-Security Company s, and agents of either of them similarly shall not receive any such additional payment.

17. Security Company and Affiliates Not to be Otherwise Interested in Project. The Security Company agrees that, during the term of this Contract and after its termination, the Security Company and any entity affiliated with the Security



Company, as well as any Sub-Security Company(s) and any entity affiliated with such Sub-Security Company s, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Security Company's Services for the preparation or implementation of the project.

18. Prohibition of Conflicting Activities; The Security Company shall not engage, and shall cause their Personnel as well as their Sub-Security Company(s) 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.

19. Confidentiality Except with the prior written consent of NAMBOARD, the Security Company 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 Security Company and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

20. Insurance to be Taken Out by the Security Company: The Security Company

(a) shall take out and maintain, and shall cause any Sub Security Company(s) to take out and maintain, at their (or the Sub-Security Company s', as the case may be) own cost but on terms and conditions approved by NAMBOARD, insurance against the risks, and for the coverage, as shall be specified in the SCC; and

(b) at NAMBOARD's request, shall provide evidence to NAMBOARD showing that such insurance has been taken out and maintained and that the current premiums have been paid.



21. Security Company's Actions Requiring Agency's Prior Approval: The Security Company shall obtain NAMBOARD'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 in Appendix C, and
- (c) Any other action that may be specified in the SCC.

22. Reporting Obligations

- (a) The Security Company shall submit to NAMBOARD the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
- (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.
- (c) The consultant will work closely and report periodically to the Town Clerk and Heads of Department when necessary.

23. Documents Prepared by the Security Company's to be the Property of NAMBOARD

- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Security Company under this Contract shall become and remain the property of NAMBOARD, and the Security Company shall, not later than upon termination or expiration of this Contract, deliver all such documents to NAMBOARD, together with a detailed inventory thereof.
- (b) The Security Company 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.



24. Security Company's Personnel

24.1 Description of Personnel: The Security Company shall employ and provide such qualified and experienced Personnel and Sub-Security Company(s) 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 Security Company's Key Personnel are described in Appendix C. The Key Personnel and Sub-Security Company(s) listed by title as well as by name in Appendix C are hereby approved by NAMBOARD.

24.2 Removal and/or Replacement of Personnel:

(a) Except as NAMBOARD may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Security Company, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Personnel, the Security Company shall provide as a replacement a person of equivalent or better qualifications.

(b) If NAMBOARD 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 Security Company shall, at NAMBOARD's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to NAMBOARD.

(c) The Security Company shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

25.

25.1 Assistance: NAMBOARD shall use its best efforts to provide the Security Company such assistance as specified in the SCC.



25.2 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 Security Company in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Security Company 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 14 (a) or (b), as the case may be.

25.3 Contract Unit Prices and Reimbursable:

(a) The unit prices and reimbursable payable in the currency is set forth in the SCC.

(b) The unit price and reimbursable payable in local currency is set forth in the SCC.

25.4 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 reimbursable is provided in Appendices D and E.

25.5 Terms and Conditions of Payment: Payments will be made to the account of the Security Company 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 Security Company 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 NAMBOARD 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 Security Company has submitted an invoice to NAMBOARD specifying the amount due.



25.6 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.

25.7 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.

25.8 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.

For Namboard:

Security Company:

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

Witness:

Name & Signature: _____

Name & Signature: _____

