

ESWATINI ENERGY REGULATORY AUTHORITY



REQUEST FOR TENDER

SUPPLY AND DELIVERY OF OFFICE FURNITURE

FOR ESWATINI ENERGY REGULATORY AUTHORITY

TENDER NUMBER: ESERA/05/2020-2021

OCTOBER 2020



1	INVITATION TO TENDER	5
2	TENDER COSTS	6
3	DOCUMENTARY REQUIREMENT	6
4	INSTRUCTION TO TENDERERS.....	7
5	MODIFICATION OR WITHDRAWALS OF TENDERS	8
6	SAMPLES AND LITERATURE FOR ASSESSMENT.....	8
7	ADDENDUM FOR CLARIFICATIONS AND AMENDMENTS OF TENDER DOCUMENTS	9
8	RIGHT TO REJECT BIDS	9
9	PREPARATION OF THE TENDER	10
10	PRICING.....	10
11	DEFINITIONS.....	15
12	APPLICATION	15
13	STANDARDS.....	15
14	USE OF CONTRACT DOCUMENTS AND INFORMATION	16
15	PATENT RIGHTS	16
16	PACKING	16
17	DELIVERY AND DOCUMENTS	16
18	INSURANCE	17
19	TRANSPORTATION	17
20	WARRANTY	17
21	PAYMENT.....	18
22	PRICES	18
23	CHANGE ORDERS.....	18
24	CONTRACT AMENDMENTS.....	19
25	ASSIGNMENT	19
26	SUBCONTRACTS	19
27	DELAYS IN THE SUPPLIER'S PERFORMANCE	19
28	LIQUIDATED DAMAGES	20
29	TERMINATION FOR DEFAULT	20
30	FORCE MAJEURE	20
31	TERMINATION FOR INSOLVENCY.....	21
32	RESOLUTION OF DISPUTES	21
33	APPLICABLE LAW.....	22



34 NOTICES22
35 TAXES AND DUTIES22
36 BID SUBMISSION FORM.....22
37 PRICE SCHEDULE.....24
38 DECLARATION OF ELIGIBILITY25



A. PREAMBLE

Eswatini Energy Regulatory Authority is a statutory Energy Regulatory Body established through the Energy Regulatory Act, 2007 (Act No.2 of 2007). The Mandate of is the administration of Electricity Act, 2007 (Act No.3 of 2007), with the primary and core responsibilities of exercising control over the Electricity Supply Industry (ESI) and regulation of generation, transmission, distribution, supply, use, import and export of electricity in Eswatini. It is also responsible for the regulation of electricity tariffs and quality of supply and services.

Under the Energy Regulatory Act (the “Act”), ESERA has the following powers, among others:

Issue licences with licence conditions to electricity undertakings

Regulate and approve tariffs, charges and conditions of services provided by licenced entities

Receive, investigate and adjudicate complaints

Set, monitor and enforce quality of supply and service standards in the electricity industry

Promote the interest of consumers whilst maintaining the integrity and sustainability of regulated entities



1 INVITATION TO TENDER

Invitation to Tender for the Supply and Delivery of Office Furniture to Eswatini Energy Regulatory Authority: Tender Number 05 of 2020-2021

Tenders are hereby invited from suitably qualified local suppliers to Supply and Deliver Office Furniture to Eswatini Energy Regulatory Authority (ESERA).

Terms of Reference of this tender may be accessed from the websites of Eswatini Public Procurement Regulatory Agency (ESPPRA) i.e. www.sppra.co.sz and ESERA, www.sera.org.sz

The closing date for submission of tenders is Friday, 30th October, 2020 at 11H00. Requests for clarifications close on 21st October, 2020

Late, incomplete, telephoned or telegraphic tenders will not be considered. Tenders should be submitted with original receipt as proof of payment of a non-refundable tender fee of E350.00.

Completed tenders should be delivered, in a sealed envelope, into the tender box at the Reception of Eswatini Energy Regulatory Authority located at the First floor, RHUS Office Park, Karl Grant Street, Mbabane, Eswatini and should be clearly marked with the words:

TENDER NUMBER 05 OF 2020-2021: SUPPLY AND DELIVERY OF OFFICE FURNITURE

Any actions or tendencies that will be interpreted as an attempt to interfere with or influence the tendering process will result in immediate disqualification of the Tenderer. All enquiries relating to this tender may be addressed to Mr Khethukuthula Mamba, email procurement@esera.org.sz

ESERA does not bind itself to accepting the lowest or any proposal



2 TENDER COSTS

The Authority will not be liable for any expense or loss, which may be incurred by any Tenderer in the preparation or submission of its Tender Response. The Tenderer is responsible for all costs associated with preparing a Tender Response.

Tenderers must, at their own expense, inform themselves of all circumstances and conditions relating to submitting a Tender Response and providing the Supplies. This includes compliance with all legislation and satisfying themselves as to the correctness and sufficiency of the Invitation to Tender documentation.

The Authority reserves the right not to accept any tender and to annul the selection process at any time prior to contract award, without thereby incurring any liability to the Tenderers.

Terms of Reference of this tender may be accessed from the websites of Eswatini Public Procurement Regulatory Agency (ESPPRA) i.e. www.sppra.co.sz and ESERA, www.sera.org.sz. Tenders should be submitted with original receipt as proof of payment of a non-refundable tender fee of E350.00.

3 DOCUMENTARY REQUIREMENT

Tenderers are required to submit one (1) original & one (4) copies of the tender document and the following documents:

- a) Certified Copy of a valid Trading License.
- b) Original of a valid Tax Compliance Certificate
- c) Form J
- d) Form C
- e) Certificate of incorporation
- f) Proof of ENPF Compliance
- g) Proof of Labour Compliance
- h) Copy of Authority Receipt for E 350
- i) Police Clearance or Affidavit of Non-Conviction for Company Directors (Shareholders)

The Authority does not bind itself to accept the lowest tender or any tender.



4 INSTRUCTION TO TENDERERS

- a) Tenderers attention is drawn to the general conditions of purchase and conditions of tender:
- b) This tender document constitutes the contract of engagement on award of the tender. Aspects of this tender shall be deemed as binding and part of the contract for award.
- c) Completed tender documents under sealed cover with tenderer's name and addresses on reverse side of the envelope must be made and addressed to the CEO, Eswatini Energy Regulatory Authority, 1st Floor, RHUS Office Park, Karl Grant Street, Mbabane, and delivered not later than 11H00 30th October, 2020. Tenders will be opened on the same day at 11H00. The Tender Number should be clearly marked on the front of the tender envelop being submitted.
- d) One original and four (4) copies are required. Mark clearly on the front, which is the original and which are the copies.
- e) All Tenders must be provided in English Language
- f) Late or telegraphic tenders will not be accepted.
- g) The Authority does not bind itself to accept any or the lowest tender.
- h) Tenderers shall, together with the complete tender documents, supply technical data, illustrations and/or leaflets which adequately describe the items offered including quality.
- i) If required by the Authority the tenderer shall supply sample items and these samples of the accepted tender will be retained by the Authority throughout the duration of the contract period. Any items supplied not in accordance with the approved samples will be rejected.
- j) Tenderers may submit prices in the form of standard manufacturer's price lists. However, such list must be supplementary to and not replace the Form of Tender.
- k) The validity period of the Tender shall be 120 days from the date of submission.
- l) Clarifications may be requested in writing by email, but not later than at least 10 days prior to deadline for submission. The e-mail address for clarification is: to Mr Khethukuthula Mamba, email procurement@esera.org.sz



- m) Any time before the submission deadline, the Authority may issue an addendum to the Tender document and notify all Tenderers who received the tender documents. The Tenderers will be allowed at least one week before the tender submission deadline, to effect the changes to bidding document. Where necessary, the deadline for submission would be extended. This will be applicable whenever there are major errors or omissions to tender documents noted by the Authority before the submission deadline.
- n) All Tenderers are required to provide contact email addresses to the procuring entity through which they will be notified of the intention to award on the day that the Intention is sent to the Eswatini Public Procurement Regulatory Agency (ESPPRA). The notice of intention to award will be sent and published to the ESPPRA and ESERA websites at least 10 days before the contract award.

5 MODIFICATION OR WITHDRAWALS OF TENDERS

- a) Tenderers may modify, or withdraw the tender prior to the deadline for the submission of Tenders.
- b) The modification or notice of the withdrawal shall be effective if it is received by Authority prior to the deadline for submission of tenders

6 SAMPLES AND LITERATURE FOR ASSESSMENT

- a) Tenderers may submit with their Tender specifications and/or brochures to enable full assessment of the product offered.
- b) To assist in product evaluation the Authority may call on the Tenderer to provide samples of the Goods offered. When samples are to be lodged with Tender, it will be specified in the Scope of Requirement.
- c) Samples shall be forwarded to the address, and within the time, specified in writing by the CEO at the Tenderer's risk and expense. Failure to provide samples (IF CALLED UPON TO DO SO IN WRITING) may disqualify the Tender from further assessment.
- d) The Authority shall be entitled to test the sample to ensure compliance with the supply requirements. Where specified, samples may be tested to destruction at the Tenderer's expense unless agreed otherwise in writing.
- e) If requested in writing by the Tenderer, samples will be returned to the Tenderer at their risk and expense.



7 ADDENDUM FOR CLARIFICATIONS AND AMENDMENTS OF TENDER DOCUMENTS

- a) The Authority may vary, update or clarify the Invitation to Tender document at any time before the stated time and date for closing of the Invitation to Tender through the issue of an Addendum as specified in 4.m above. Such variations, clarifications or updates may emanate from the Authority's own initiative or in response to a clarification requested by any Tenderer. Any amendment shall be communicated for the benefit of all potential tenderers. The Authority may, at her discretion, extend the deadline for the submission of Tenders if the amendment is substantial.
- b) No explanation or amendment to the Invitation to Tender will be binding unless in the form of an Addendum. Any Addendum issued under this clause will become part of this Invitation to Tender.
- c) It is the sole responsibility of Tenderers to ensure that the contact details provided are correct and up-to-date in order for them to receive an Addendum.
- d) All queries relating to the Tender, technical or otherwise, must either be in writing form of a letter or by email only and will be attended to by the Authority only in respect of the queries received up to (10) days before the submission date. The Authority will try to reply, without any obligation in respect thereof, every reasonable query raised by the Tenderers in the manner specified.
- e) Should the Tenderer find any discrepancy, error or omission in the RFT they shall notify the Authority in writing as early as possible but in any event before the closing of Tenders. Any clarification given pursuant to this clause may also be issued to all other prospective Tenderers.

8 RIGHT TO REJECT BIDS

The Authority reserves full and unconditional rights to reject the response to this tender if it is not in accordance with its requirements and no correspondence will be entertained by the Authority in that matter. The conditions for rejection shall be if:

- a) It is received after expiry of the due date and time.
- b) It is not in conformity with the instructions mentioned in this tender document.
- c) It is not properly or duly signed.
- d) It is received through Telex/Telegram/Fax/E-mail.
- e) It is incomplete including non-furnishing of the required documents.
- f) It is evasive or contains incorrect information.
- g) There is canvassing of any kind.
- h) It is submitted anywhere other than the place mentioned in the tender.



9 PREPARATION OF THE TENDER

- 9.1 The tender shall include any financial information.
- 9.2 While preparing the tender, Tenderers must give particular attention to the following;
- a) A brief description of the Tenderers organisation and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate inter alia; the profiles of the staff proposed, duration of the assignment and company's involvement.
 - b) Any comments or suggestions on the list of goods and facilities to be provided by the Tenderers.
 - c) Submission of the wrong type of Tender will be result in the tender being deemed non-responsive.
 - d) The tender must remain valid for 120 days after the closing date of submissions.
 - e) Tenderers are expected to consider the requirements and conditions outlined in the tender document.

10 PRICING

- 10.1 Tenderers shall express the price of their goods in Emalangení (E).
- 10.2 Tender prices shall be inclusive of:
- a) VAT (where applicable);
 - b) Any form of levy or charge such as customs and excise, tax, sales duty, surcharge or discount must be included in the tender price(s).
- 10.3 Tender prices shall be in the form of a company unit price for each item during the contract period of 12 months commencing on 1st of April 2020 to 31st of March 2021.
- 10.4 Price(s) quoted must include cost of supply, delivery, packing, and off-loading.
- 10.5 Unless otherwise indicated prices shall allow for labour, materials, transport, freight, overheads, profits and all other costs.
- 10.6 Any Schedule of Prices/Rates, which is included in the RFT shall be completed and lodged with the Tender.
- 10.7 Pricing shall be submitted for each item in the Schedule against which a price is offered AND SHALL BE VALID FOR AT LEAST 4 MONTHS (120 days).
- 10.8 Advance payment will not be made by the Authority. The supplier is expected to have the capacity to make delivery on all orders issued within 14 days without any advance payment.

B. EVALUATION OF TENDERS/ CRITERIA



Tenders shall be evaluated using, but not limited to the following tender evaluation criteria:
The Evaluation shall be staged into three:

a) Pre-qualification

At tender opening, tenders without the information detailed the Data Sheet below shall be deemed to be non-responsive.

b) Tender Evaluation

Partial tenders will not be accepted. Only complete tenders will be considered for evaluation. Non-responsive Tenderers will not be evaluated. The scoring to be used for technical evaluation shall be as follows:

i. Trading Premises Availability (25 marks)

A team from the Eswatini Energy Regulatory Authority will visit all company premises. The following should be in visible place; -

- a. Availability of Warehouse or Storeroom for goods to be supplied;
- b. Availability of stock mentioned in the tender document to check for quality of goods.

ii. Company experience (25 marks)

Company profile and list of similar work done in the last one year of operations.

iii. Past Performance of tenderer (10 Marks)

iv. Compliance to Specification and Standards (25 Marks)

v. Availability and Authenticity of Pre- Qualification Documents (15 Marks)

c) Pricing of the Items

To compare tender prices in order to determine Tenderer with the lowest price. Tenderers scoring below 60 points will be considered not to have the technical capacity or competence to complete the work. Only Tenderers achieving 60% or above will be ranked according to price. The most economically advantageous tender is the technically compliant tender with the lowest price.



C. TENDER LISTING

Tendering companies must quote on the following items and any other items on offer

	ITEM DESCRIPTION	Unit	Qty	Unit Price (per item)	Total Price
				(E)	(E)
1	Sabrina black executive extra high-back, with arms, adjustable lumbar support, Full reclining synchro mech, adjustable seat height and depth. In standard black frame and black netting back + fabric seat. Seat slide + polished Aluminium base, adjustable arms (height, angle, depth) and Headrest Fixed attachment		12		
2	Elite Ergo Human Executive Chair		8		
	Carried to Form of Tender			E	

Your Reference and their contacts

1	
2	
3	

INCLUDE A PHYSICAL ADDRESS WITH YOUR PROPOSAL. TENDER BIDS WITH NO SUCH PHYSICAL ADDRESS WILL NOT BE CONSIDERED AS SUCCESSFUL



D. DATA SHEET

Section No.	Section description.
1.	Name of the Client: Eswatini Energy Regulatory Authority (ESERA)
2.	Method of selection: Quality Basis
3.	Tender Description: Sources of Supplies 2020/2021
4.	Scope of work: Tenderers are to quote on the supply of material as per attached item list and the Tender Number per the list.
5.	A compulsory pre-tender meeting will be held: No
6.	Date of & Time of Submission: Friday, 30th of October 2020, 11H00
7.	Clarifications may be requested not later than 21st of October, 2020. The Contact Person for Clarifications and Samples is Mr Khethukuthula Mamba, email procurement@esera.org.sz
8.	Tenderers are required to submit one original and one copy of the tender document and following documents: <ul style="list-style-type: none"> <input type="checkbox"/> Certified Copy of a valid Trading License <input type="checkbox"/> Original of a valid Tax Compliance Certificate <input type="checkbox"/> Form J <input type="checkbox"/> Form C <input type="checkbox"/> Certificate of Incorporation <input type="checkbox"/> Proof of ENPF Compliance <input type="checkbox"/> Proof of Labour Compliance <input type="checkbox"/> Copy of Authority Receipt for purchase of Tender <input type="checkbox"/> Police Clearance or Affidavit of Non-Conviction for Company Directors
9.	Taxes: Prices quoted must be inclusive of VAT where applicable
10.	The currency to be used in the quotes is Eswatini Emalangeneni
11.	The tender submission address is: Eswatini Energy Regulatory Authority 1st Floor, RHUS Office Park Karl Grant Street, Mbabane
12.	Evaluation Criteria: <ul style="list-style-type: none"> <input type="checkbox"/> Trading Premises Availability 25 <input type="checkbox"/> Company Experience 25 <input type="checkbox"/> Past Performance of tenderer 10 <input type="checkbox"/> Compliance to Specifications & Standards 25



Section No.	Section description.
	<input type="checkbox"/> Availability & Authenticity of Documents 15 TOTAL 100
13.	Qualifying Score: 60% - Tenderers scoring below 60 points will be considered not to have the technical capacity or competence to complete the work. Only Tenderers achieving 60% or above will be ranked according to price. The most economically advantageous tender is the technically compliant tender with the lowest price.
14.	Successful tenderers will be included in the Eswatini Energy Regulatory Authority database and purchase orders will be issued to them as and when items are needed during the next 12 months from August 2020 to September 2021



E. CONTRACT TERMS AND CONDITIONS

11 DEFINITIONS

11.1 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 Supplier, as signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) “The Contract Price” means the price payable to the Suppliers under the Contract for the full and proper performance of its contractual obligations.
- c) “The Goods” means all of the equipment, machinery, and / or other materials which the Supplier is required to supply to the Procuring Entity under the Contract.
- d) “The Services” Means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- e) “The Procuring Entity” means the Eswatini Energy Regulatory Authority.
- f) “The Supplier” means the individual or firm supplying the Goods and Services under this Contract.

12 APPLICATION

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

13 STANDARDS

13.1 The Goods supplied under this Contract shall be new, unused and of the latest design and must conform to the highest standards and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods’ country of origin. Such standards shall be the latest issued by the concerned institution.



14 USE OF CONTRACT DOCUMENTS AND INFORMATION

- 14.1 The Supplier 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 Supplier 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.
- 14.2 The Supplier shall not, without the Procuring Entity's prior written consent, make use of any document or information enumerated in Clause 3 except for purposes of performing the Contract.
- 14.3 Any document, other than the Contract itself, enumerated in Clause 3 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.

15 PATENT RIGHTS

- 15.1 The Supplier shall indemnify and hold harmless the Procuring Entity against all third-party claims of infringement of patent, trademark, industrial design, or intellectual property rights arising from use of the Goods or any part thereof.

16 PACKING

- 16.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.
- 16.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in any subsequent instructions given by the Procuring Entity.

17 DELIVERY AND DOCUMENTS

- 17.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier shall be specified in the Contract.
- 17.2 For purposes of the Contract, the trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of Incoterms published by the International Chamber of Commerce, Paris.15



18 INSURANCE

18.1 The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the Contract.

19 TRANSPORTATION

19.1 Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Procuring Entity or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

19.2 Where the Supplier is required under the Contract to deliver the Goods CIP, transport of the Goods to the port of destination or such other named place of destination in Eswatini, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

19.3 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Eswatini, defined as the Project Site, transport to such place of destination in Eswatini, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and the related costs shall be included in the Contract Price.

20 WARRANTY

20.1 The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models and that incorporate all recent improvements in design materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Procuring Entity's specifications) or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in Eswatini.

20.2 This warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in the Special Conditions of Contract.

20.3 The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty.



20.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Procuring Entity.

20.5 If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in the Special Conditions of Contract, the Procuring Entity may proceed to take such remedial action as may be necessary at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under Contract.

21 PAYMENT

21.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the Contract document.

21.2 The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and upon fulfilment of other obligations stipulated in the Contract.

21.3 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 Supplier unless otherwise stated in the Contract.

22 PRICES

22.1 Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its tender.

22.2 All such prices shall be valid and fixed for a period of one (01) year.

23 CHANGE ORDERS

23.1 The Procuring Entity may at any time, by a written order given to the, make changes within the general scope of the Contract in any one or more of the following:

- a) drawings, designs or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity
- b) the method of shipment or packing;
- c) the place of delivery; and/or
- d) the Services to be provided by the Supplier.



23.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract. An equitable adjustment shall be made in the Contract price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Procuring Entity's change order.

24 CONTRACT AMENDMENTS

24.1 Subject to Clause 24, no variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties.

25 ASSIGNMENT

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

26 SUBCONTRACTS

26.1 The supplier 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 Supplier from any liability or obligation under the Contract.

27 DELAYS IN THE SUPPLIER'S PERFORMANCE

27.1 Delivery of the goods and performance of services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity.

27.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and Performance of Services, the supplier 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 Suppliers' notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier'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.

27.3 Except as provided under Clause 34, a delay by the Supplier in the Performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to Clause 28, unless an extension of time is agreed upon pursuant to Clause 27.2 without the application of liquidated damages.



28 LIQUIDATED DAMAGES

28.1 Subject to Clause 27, if the Supplier fails to deliver any or all of the Goods or perfume the services 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 delivery price of the delayed goods or 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.

29 TERMINATION FOR DEFAULT

29.1 The Procuring entity without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this contract in whole or in part:

- a) If the supplier fails to deliver any or all of the goods within the period specified in the contract, or within any extension thereof granted by the procuring entity pursuant to Clause 27; or
- b) If the supplier fails to perform any other obligation(s) under the contract.

In the event the Procuring entity terminates the contract in whole or in part, pursuant to Clause 28.1, the Procuring Entity may procure, upon such terms and in manner as it deems appropriate, goods or services similar to those undelivered, and the supplier shall be liable to the procuring Entity for any excess cost for such similar goods or services. However, the supplier shall continue performance of the contract to the extent not terminated.

30 FORCE MAJEURE

30.1 Notwithstanding the provision of Clause 27, 28 and 29, the supplier 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 perfume its obligation under the contract is the result of Force Majeure.

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.



If a Force Majeure situation arises, the Supplier 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 Supplier 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.

31 TERMINATION FOR INSOLVENCY

31.1 The procuring Entity may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, 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.

32 RESOLUTION OF DISPUTES

32.1 The Procuring entity and the Supplier 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.

32.2 If, after thirty (30) days from the commencement of such informal negotiations, the Procuring Entity and the Supplier 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, termination, or validity thereof, either party may require that the dispute be referred for resolution by final and binding arbitration.

32.3 The arbitrator shall determine the matters in dispute in accordance with the laws in effect in Eswatini.

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



33 APPLICABLE LAW

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

34 NOTICES

34.1 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 e-mail 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.

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

35 TAXES AND DUTIES

35.1 The Supplier 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.

36 BID SUBMISSION FORM

[>>state date>>>]

Tender No. [>>>tender number>>]

To: The [>>name of Procuring Entity>>]

Eswatini Energy Regulatory Authority

Having examined the Invitation to Tender document, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to Supply and Deliver [>>>insert the short description of goods and associated service, which this Tender is for>>>] in conformity with the said "Invitation to Tender" document for the sum of [>>>insert the sum first as a figure, then in words>>>] or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender and which are inclusive of all taxes.

We undertake, if our Tender is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Tender is accepted, and if required in the Special Conditions of Contract, we will obtain the performance security of a reputable bank or an insurance company in a sum equivalent to [>>>insert the value of the performance security first as a percentage, as stated in the Tender Data Sheet Section 09>>>] of the Contract Price for the due performance of the Contract, and in the form prescribed by the Procuring Entity.



We agree to abide by this Tender for a period 120 days from the date fixed for Tender opening, as stated in the Tender Data Sheet Section 06, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any tender you may receive.

(signature)

(in the capacity of)

Duly authorized to sign Tender for and on behalf of _____

[Seal of the Tenderer]



37 PRICE SCHEDULE

[The Procuring Entity shall before issue of the “Request For Tender” document adjust the Price Schedule below to fit to each situation, so that it reflects whether or not there are more lots]

	ITEM DESCRIPTION	Unit	Qty	Unit Price (per item)	Total Price
				(E)	(E)
1	Sabrina black executive extra high back, with arms, adjustable lumbar support, Full reclining synchro mech, adjustable seat height and depth. In standard black frame and black netting back + fabric seat. Seat slide + polished Aluminium base, adjustable arms (height, angle, depth) and Headrest Fixed attachment		12		
2	Elite Ergo Human Executive Chair		8		
	Carried to Form of Tender			E	

Prices shall include all taxes, sales tax and duty paid or to be paid in the event of an award of contract.

Signed:

.....

(signature)

(in the capacity of)

Duly authorized to sign the Tender for and on behalf of

Date:

[Seal of the Tenderer]



38 DECLARATION OF ELIGIBILITY

In accordance with the requirements of the Procurement Regulations issued in accordance with the terms of Section 26 of the Finance and Audit Act No. 18 of 1967 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 each their declaration.]

Dear Sirs

RE TENDER REFERENCE: TENDER NUMBER 05 OF 2020-2021

In accordance with the eligibility requirements of the tender documents we hereby declare that:

We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;

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 not the subject of legal proceedings for any of the foregoing;

We have fulfilled our obligations to pay taxes and social security contributions;

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

That we do not have a conflict of interest (1) in relation to the procurement requirement.

Signed:

Date:

Note: (1) Conflict of interest is defined in Section 4 of the Instructions to Tenderers.

