



public works & infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTHAFRICA

BID DOCUMENT

**PROJECT DESCRIPTION: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES:
PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24)
MONTHS MAGISTRATE OFFICE**

BID NO: PEH 01/2023

Closing Date: Tuesday, 17 October 2023
Closing Time: 11:00

Bid Briefing Meeting Date: N/A

Bid Briefing Meeting time: N/A

Tenderers CSD No:

Name of the Tenderer:

Bid Box Address

Department of Public Works & Infrastructure
Eben Donges Building
Corner Robert & Hancock Street
Gqeberha
6001

SCM SPECIFIC ENQUIRIES:

Enquires: BONGIWE NDABA
Tel No: 041 408 2015 during office hours
Cell No: NONE
Email Address: Bongiwe.ndaba@dpw.gov.za

TECHNICAL / PROJECT SPECIFIC ENQUIRIES

Enquires: SAKHILE MDA
Tel No: 041 408 2357 during office hours
Cell No: 081 0322 528
Email Address: Sakhile.mda@dpw.gov.za

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SUMMARY OF BID INFORMATION

Bid Number	PEH 01/2023	
Bid/ Project Description	MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE	
Bid Closing date & Time	Tuesday, 17 October 2023	11:00
Bid Briefing Date & Time (If applicable)	N/A	N/A
Venue	N/A	
SCM SPECIFIC ENQUIRIES:	BONGIWE NDABA	Bongiwe.ndaba@dpw.gov.za
	041 408 2015	NONE
TECHNICAL / PROJECT SPECIFIC ENQUIRIES	SAKHILE MDA	Sakhile.mda@dpw.gov.za
	041 408 2357	081 0322 528
Bid Document Price	R 200.00	
Procurement Plan Reference Number	1347	
Points to be allocated for an area for work to be done or services to be done in that area	Eastern Cape Province	

PA-04 (GS): NOTICE AND INVITATION TO BID

THE DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE INVITES TENDERS FOR:

Project title:	MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE		
Bid no:	PEH 01/2023	Procurement Plan Reference no:	1347
Advertising date:	Friday, 22 September 2023	Closing date:	Tuesday, 17 October 2023
Closing time:	11:00	Validity period:	120 calendar days

1. FUNCTIONALITY CRITERIA APPLICABLE

1.1. The Bid will not be evaluated on Functionality

Functionality criteria ¹ :	Weighting factor:
TOTAL	Choose an item.

(Weights for functionality must add up to 100. Weightings will be multiplied by the scores allocated during the evaluation process to arrive at the total functionality points)

Minimum functionality score to qualify for further evaluation:	
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(Total minimum qualifying score for functionality is 50 Percent, any deviation below or above the 50 Percent, provide motivation below)

2. EVALUATION METHOD FOR RESPONSIVE BIDS

<input type="checkbox"/> Method 1 (Financial offer)	<input checked="" type="checkbox"/> Method 2 (Financial and Preference offer)
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2.1 The 80/20 Preference points scoring system will be applicable for this bid

¹The points allocated to each functionality criterion should not be generic but should be determined separately for each tender on a case by case basis.

RESPONSIVENESS CRITERIA

2.1. Indicate substantive responsiveness criteria applicable for this tender. Failure to comply with the criteria stated hereunder shall result in the tender offer being disqualified from further consideration:

1	<input checked="" type="checkbox"/>	Only those tenderers who satisfy the eligibility criteria stated in the Tender Data may submit tenders.
2	<input checked="" type="checkbox"/>	Tender offer must be properly received on the tender closing date and time specified on the invitation, fully completed either electronically (if issued in electronic format), or by writing legibly in non-erasable ink. (All as per Standard Conditions of Tender).
3	<input checked="" type="checkbox"/>	All parts of tender documents submitted must be fully completed in ink and signed where required
4	<input checked="" type="checkbox"/>	Use of correction fluid is prohibited.
5	<input checked="" type="checkbox"/>	Submission of a signed bid offer as per the DPW-07
6	<input checked="" type="checkbox"/>	There will be no bid briefing meeting.
7	<input checked="" type="checkbox"/>	Any addendums or erratums to the bid will be published in the original advertising media, at least 10 working days before the bid closing date. Bids will be evaluated in accordance with the published addendums or erratums.
8	<input checked="" type="checkbox"/>	Bidders must comply with DPW-21: Record of Addenda to tender documents, if any.
9	<input checked="" type="checkbox"/>	Bidders will be evaluated as per Special Conditions of the Bid(SCB-01)
10	<input checked="" type="checkbox"/>	The minimum labour rates tendered by the bidder must not be less than the Basic hourly rate per groundsman as published in terms of the Sectoral Determination 1, Contract Cleaning of South Africa as at closing date for Metropolitan Area and other Local Municipality.
11	<input checked="" type="checkbox"/>	The tenderer shall submit his fully priced Bills of Quantities / Lump Sum Document (complete document inclusive of all parts) together with his tender.

2.2. Indicate administrative requirements applicable for this tender. Tenderers may be required to submit the below documents where applicable.

The Employer reserves the right to request further information regarding the undermentioned criteria. Failing to submit further clarification and/or documentation within seven (7) calendar days from request or as specifically indicated, will disqualify the tender offer from further consideration.

1	<input checked="" type="checkbox"/>	Any correction to be initialled by the person authorised to sign the tender documentation as per PA 15.1 or PA 15.2 resolution of board/s of directors / or PA15.3 Special Resolution of Consortia or JV's .
2	<input checked="" type="checkbox"/>	Submission of applicable (PA-15.1, PA-15.2, PA-15.3): Resolution by the legal entity, or consortium / joint venture, authorising a dedicated person(s) to sign documents on behalf of the firm / consortium / joint venture.
3	<input checked="" type="checkbox"/>	Submission of (PA-11): Bidder's disclosure.
4	<input checked="" type="checkbox"/>	Submission of (PA 40): Declaration of Designated Groups for Preferential Procurement.
5	<input checked="" type="checkbox"/>	Submission of proof of Registration on National Treasury's Central Supplier Database (CSD) or insert the Supplier Registration Number on the form of offer
6	<input checked="" type="checkbox"/>	Upon request, submission of a fully completed security clearance application form with supporting documentation and information as required. The security clearance form will be provided by the Employer for projects requiring a security clearance.
7	<input checked="" type="checkbox"/>	Submission of DPW-21: Record of addenda to tender documents: Bidder maybe requested to confirm receipt and or compliance with the "Record of Addenda" if the record of Addenda" was not submitted with the bid at the closing date.
8	<input checked="" type="checkbox"/>	PA 10: FM GENERAL CONDITIONS OF CONTRACT
9	<input type="checkbox"/>	Bidders will be evaluated as per Special Conditions of the Bid(SCB-01)
10	<input type="checkbox"/>	<i>Specify other responsiveness criteria</i>

11	<input type="checkbox"/>	Specify other responsiveness criteria
12	<input type="checkbox"/>	Specify other responsiveness criteria

2.3. **Indicate administrative requirements applicable for specific goals, Tenderers will not be required to submit the below document if not provided in the original tender proposals, Failure to comply with the criteria stated hereunder shall result in the tenderer not allocated points for specific goals.**

1	<input checked="" type="checkbox"/>	Submission of (PA-16): Preference Points Claim Form in terms of the Preferential Procurement Regulations 2022
2	<input checked="" type="checkbox"/>	A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Certificate issued by a SANAS accredited service provider

3. BID EVALUATION METHOD

3.1. This bid will be evaluated according to the preferential procurement model in the PPPFA and the 80/20 preference point scoring system will be applicable

4. EVALUATION METHOD FOR RESPONSIVE BIDS

<input type="checkbox"/> Method 1 (Financial offer)	<input checked="" type="checkbox"/> Method 2 (Financial and Preference offer)
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5. METHOD TO BE USED TO CALCULATE POINTS FOR SPECIFIC GOALS

5.1. **For procurement transaction with rand value greater than R1 Million and up to R50 Million (Inclusive of all applicable taxes) the specific goals listed below are applicable.**

Serial No	Specific Goals	Preference Points allocated out of 20	Documentation to be submitted by bidders to validate their claim for points
1.	An EME or QSE or any entity which is at least 51% owned by black people	10	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or sworn affidavit where applicable.
2.	Located in Eastern Cape Province for work to be done or services to be rendered in the Eastern Cape Province area	2	<ul style="list-style-type: none"> Official Municipal Rates Statement which is in the name of the bidder. Or Any Account or statement which is in the name of the Bidder. Or Permission To Occupy from local chief in case of rural areas (PTO) which is in the name of the bidder. Or Lease Agreement which is in the name of the bidder.
3.	An EME or QSE or any entity which is at least 51% owned by black women	4	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or sworn affidavit where applicable.
4.	An EME or QSE or any entity which is at least 51% owned by black people with disability	2	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or sworn affidavit where applicable. and Medical Certificate indicating that the disability is permanent or

Serial No	Specific Goals	Preference Points allocated out of 20	Documentation to be submitted by bidders to validate their claim for points
			<ul style="list-style-type: none"> South African Social Security Agency (SASSA) registration indicating that the disability is permanent Or National Council for Persons with Physical Disability in South Africa registration (NCPDASA)
5.	An EME or QSE or any entity which is at least 51% owned by black youth	2	<ul style="list-style-type: none"> ID Copy and SANAS Accredited BBBEE Certificate or sworn affidavit where applicable.

6. COLLECTION OF TENDER DOCUMENTS

- Bid documents are available for free download on e-Tender portal www.etenders.gov.za
- Alternatively; Bid documents may be collected during working hours at the following address NDPWI, Eben Donges Building, Cnr Robert and Hancock street, Gqeberha, 6056.
- A non-refundable bid deposit of R 200.00 is payable (cash only) on collection of the bid documents.

7. COMPULSORY BID BRIEFING/ CLARIFICATION/ SITE INSPECTION MEETING

Details of Compulsory Bid Briefing/ Clarification / Site Inspection Meeting (if any):

Venue:	N/A		
Virtual meeting link:	(Type link here or indicate "N/A")		
Date:	N/A	Starting time:	N/A

8. ENQUIRIES

8.1. Technical enquiries may be addressed to:

DPWI Project Manager	SAKHILE MDA	Telephone no:	041 408 2357
Cellular phone no	081 0322 528	Fax no:	Indicate
E-mail	Sakhile.mda@dpw.gov.za		

8.2. SCM enquiries may be addressed to:

SCM Official	BONGIWE NDABA	Telephone no:	041 408 2015
Cellular phone no	NONE	Fax no:	None
E-mail	Bongiwe.ndaba@dpw.gov.za		

9. DEPOSIT / RETURN OF TENDER DOCUMENTS

Telegraphic, telephonic, telex, facsimile, electronic and / or late tenders will not be accepted.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

All tenders must be completed in non-erasable ink and submitted on the official forms – (forms not to be re-typed).

Closing Date: Tuesday, 17 October 2023

Closing Time: 11:00

<p>Tender documents may be posted to: The Director-General Department of Public Works and Infrastructure Private Bag X 3193 Gqebergha 6001 Documents must be deposited in The Bid Box before the closing date of the bid</p>	<p>OR</p>	<p>Deposited in the tender box at: The Bid Box Department of Public Works & Infrastructure Eben Donges Building Corner Robert & Hancock Street</p>
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EVALUATION ON FUNCTIONALITY

1. The Bid will not be evaluated on Functionality



public works
& infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTHAFRICA

TERMS OF REFERENCE/ SPECIFICATIONS

Bid no: PEH 01/2023

Bid/ Project Description: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE



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Department:
Public Works and Infrastructure
REPUBLIC OF SOUTHAFRICA

TERMS OF REFERENCE

(Scope of Work)

MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE :

HORTICULTURAL MAINTENANCE FOR A PERIOD OF 24 MONTHS

**DEPARTMENT OF PUBLIC WORKS & INFRASTRUCTURE
EBEN DONGES BUILDING
CNR HANCOCK & ROBERTS STREETS
NORTH END
GQEBERHA
6056**



August 2023

A1. LEGISLATIVE COMPLIANCE & STANDARD SPECIFICATIONS

The following standards, specifications, regulations, By-Laws and guidelines, but not limited to, are applicable to this service:

- A1.1. The Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act 36 of 1947), Conservation of Agricultural Resources Act, 1993 (Act. No. 43 of 1983)
- A1.2. Government Notice R1048, 1984 (R1048 of 25 May 1984 Part 2)
- A1.3. Environmental Conservation Act, 1989 (Act No. 73 of 1989)
- A1.4. Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
- A1.5. Regulations for Hazardous Biological Agents (Issued in terms of: Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
- A1.6. Basic Conditions of Employment Act, 1997 (No. 75 of 1997)
- A1.7. Water Services Act (Act. 108 of 1997)
- A1.8. National Environmental Management Act, 1998 (Ac No. 107 of 1998)
- A1.9. National Environmental Management: Biodiversity Act (Act No. 10 of 2004)
- A1.10. National Environmental Management: Waste Act (Act No. 10 of 2004)
- A1.11. National Regulator for Compulsory Specifications Act (Act 5 of 2008) and Compulsory Specification for Chemical Disinfectants – VC 8054
- A1.12. ISO 9001 – Quality Management System
- A1.13. ISO 14001 – Environmental Management Systems
- A1.14. Local Municipality By-Laws and Regulations (Especially with regard to waste management / sewage disposal)
- A1.15. South African Bureau of Standards (SABS) / South African National Standards (SANS)
- A1.16. Agrément South Africa Act (Act No. 11 of 2015)



1. SERVICE DESCRIPTION

PROJECT TITLE:	MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE: HORTICULTURAL MAINTENANCE FOR A PERIOD OF 24 MONTHS
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2. BROAD DESCRIPTION OF SERVICE

Provide a comprehensive, good quality horticultural maintenance service of garden (Lawn, grass, beds, trees, etc.) and hard surfaces (paved, concrete areas, etc.) inclusive of all necessary labour, supervision, material, consumables for employees, equipment and tools, transport, fuel, licensing where required and comply with statutory requirements for the duration of the contract.

3. CONTRACT DURATION AND OPTION FOR RENEWAL

3.1. **Duration:** 24 months

3.2. **Renewal Option of Contract**

3.2.1. **Option 1:** Renew for a period of six (6) months based on good performance, **OR**

3.2.2. **Option 2:** Renew for a period of twelve (12) months based on excellent performance.

3.3. **Bona Fide Negotiations**

3.2.1. The Department reserves the right to consider the renewal of the contract or portions thereof, in consultation with the appointed Service Provider for a further period of six (6) months (Option 1) or for a maximum period of twelve (12) months (Option 2), without going to an open bidding process.

4. CONDITIONS OF CONTRACT

4.1. The Conditions of contract are the: FACILITIES MANAGEMENT CONDITIONS OF CONTRACT (DPW), SEPT. 2005 VERSION 1;

4.2. The Supplementary document, where applicable is: THE SPECIAL CONDITIONS OF CONTRACT.

4.3. Bidders **MUST** populate "**Annexure A: Demonstration & Calculation of Groundsman salaries**" and attach as a returnable document.

4.4. The Terms of Reference (ToR) / Scope of Works (SoW) should be studied in full and read in conjunction with the Pricing schedule. Pricing should be done on "**Annexure B: Pricing Schedule**" **NOT** on the ToR / SoW.

5. CONTRACTUAL PRICE ADJUSTMENTS AND ESCALATION CAP

5.1. Pursuant to this contract, the rates shall be subject to an **annual escalation cap limited to five percent (5%)** per annum, excluding labour rates;

5.2. Irrespective of the date of award, no price adjustment will be allowed in the first twelve (12) months after the date of award of the tender, excluding labour rates;



- 5.3. Bidders must at the closing date comply with the minimum Gazetted labour rates as per the Government Notice under Sectorial Determination: Contract Cleaners of South Africa for that particular area and the Department of Labour. In the event that adjustments and or amendments and or additions to the rates are Gazetted (by the Department of Labour and or Sectorial Determination: Contract Cleaners of South Africa for that particular area) the rates of the contracted bidder will be adjusted accordingly. Therefore adjustments on Labour cost will be done “as and when the need arises”.
- 5.4. Rates / prices must be priced for risk and will be escalated in accordance with the competitive escalation rate tendered, not exceeding the escalation cap above. The escalation percentage shall not change throughout the term of the contract, including the renewal period;
- 5.5. The rates for year two (2) and subsequent years (should the contract be renewed based on performance) shall be escalated as follows:
- 5.5.1. Rates for year 2 (per item) = Tendered rates per the bid for year 1 plus the tendered percentage (%) escalation;
- 5.5.2. Rates for year 3 (per item) = Tendered rates per the bid for year 2 plus the tendered percentage (%) escalation.
- 5.6. Notwithstanding the Service Provider’s escalation rate, the Department of Public Works shall adjust the basic salary rate of the groundsman with the relative percentage increase, published in terms of **Government Notice under Sectorial Determination1: Contract Cleaners of South Africa for that particular area.**
- 5.7. The contract escalation rate offered by the Service Provider throughout the duration of the contract is the following:
- 5.7.1. Annual escalation rate..... (%) **[To Pricing Schedule]**

6. SITE INFORMATION

- 6.1. Service providers must familiarise themselves with the site prior to submitting a final tender offer to enable pricing for all risks, costs and demonstrate the ability to make reasonable profit in relation to the size and requirements of the site(s) as follows: and numbers of groundsman required on each site
- 6.1.1. **Nerina Once Off Child Justice Centre X 3 groundsman**
- 6.1.2. **Gelvandale Magistrate Office x 3 groundsman**
- 6.1.3. **North End Magistrate Court x 3 groundsman**
- 6.1.4. **Motherwell Magistrate Court x 3 groundsman**

7. SCOPE

The Service Provider is responsible for maintenance as follows per respective site:

- 7.1. Lawn and Grass areas= 40 000 m²
- 7.2. Bedding plants= 10 000 m²
- 7.3. Tree maintenance
- 7.4. Hard Surfaces = 45000 m²
- 7.5. Pest Control on plants 10 000 m²
- 7.6. Refuse removal
- 7.7. Verge=2000 m²



8. SERVICE TIMES

The services must be provided daily and the respective site must have its own groundsman.

9. SERVICE PROVIDER'S RESPONSIBILITIES

9.1. Management / Supervision of operations

The Service Provider **must allow costs for** management / supervision of duties in the maintenance of grounds, including **costs for the Administration of the contract** (telephones and Stationery and other back office or overheads) and shall interact with the Service Manager to receive any additional guidance or co-ordination necessary to ensure tasks are performed in a manner consistent with the industry best practice as follows:

- 9.1.1. Management / Supervision of Services.....(Month) **[To Pricing Schedule]**
- 9.1.2. Administration of Contract.....(Month) **[To Pricing Schedule]**

9.2. The responsibilities of the Service Provider are to:

- 9.2.1. Ensure fair labour practices are complied with;
- 9.2.2. Indemnify, protect, defend and hold harmless the Department from and against any and all claims, demands, actions and proceedings whatsoever including all fees, costs and expenses incurred in respect thereof and arising out of any claim in respect of the Compensation for Occupational Injuries and Diseases Act 1997 or for any loss for which the Service Provider is liable;
- 9.2.3. Ensure compliance with Unemployment Insurance Act;
- 9.2.4. Supply the labour force to render the service in terms of the specification. This labour force is to conduct itself in an efficient and professional manner in carrying out their duties and keep disturbances to the occupants of the building to a minimum;
- 9.2.5. Ensure that EPWP labour reports and registers are submitted monthly together with invoice;
- 9.2.6. Ensure that a meeting between the service provider and a project leader of the DPW takes place once a month;
- 9.2.7. Ensure that replacement staff is available at all times (for e.g. absences, industrial actions etc.) and ensure the contracted staff adhere to the daily starting and ending times for the specified services;
- 9.2.8. Keep the facilities provided by the DPWI clean and tidy;
- 9.2.9. Comply with the facility / site's security and emergency policies and procedures;
- 9.2.10. Ensure that all staff employed are issued with protective clothing with the company's logo embroidery on work suit, as well as nametags;
- 9.2.11. Accept responsibility and liability for the safekeeping of its equipment on the premises provided by the DPWI;
- 9.2.12. Not store or use poisons, flammable chemicals and materials on the property without the written consent of the department.

9.3. Insurance

The service provider **must allow costs for** and is responsible to assess risks on the project, obtain and maintain adequate insurances to cover such risks for the duration of the contract. The Service Provider shall provide comprehensive insurance and maintain during the entire period of this contract as follows:

- 9.3.1. Public Liability Insurance / General liability insurance:



Operations, maintenance and application hazard, collapse hazard, products, completed operations, contractual, independent contractors, broad form property damage and personal injury wherein the limit of liability required under the Service Provider's **Public Liability insurance must be a minimum R 2'000'000 any one occurrence.**

9.3.2. Damage to electronic equipment and furniture, theft of materials and equipment:

The Service Provider shall provide where applicable, adequate insurance for the damage to electric and electronic equipment, furniture, theft of materials and equipment.

9.3.3. Government of RSA as additional insured

The general liability policy required of the Service Provider shall name "the Republic of South Africa, acting by and through the Presidency", as an additional insured with respect to operations performed under this contract.

9.3.4. Insurance cover for all risks.....(Month) **[To Pricing Schedule]**

10. MAINTENANCE PERSONNEL

10.1. The Service Provider **must cost and provide** a minimum number of **groundsmen** per respective site and shall not use the same / allocated groundsman on various sites;

10.2. Service Providers must adhere to the Basic Conditions of Employment Act No.75 of 1997 and the basic salary paid to the groundsman must not be less than the published rate in terms of **Government Notice under Sectoral Determination1: Contract Cleaners of South Africa for that particular area** for the duration of the contract;

10.3. The guideline for the calculation of groundsman salaries is as follows:

Table 1: Groundsman salaries calculation guideline :... groundsman required

Item	Description	Calculation	Total
T.1.1.	Basic Salary	hourly rate x 8 hours per day x 5 days per week x 4,33 weeks per month	A
T.1.2.	Annual leave provision (Pro rata per month) based on minimum determined days per year.	15 days per year ÷ 12 months x hourly rate x 8 hours per day	B
T.1.3.	Sick leave (Pro rata per month) based on minimum determined days per year.	10 days per year ÷ 12 months x hourly rate x 8 hours per day	C
T.1.4.	Family responsibility leave (Pro rata per month) based on minimum determined days per year.	3 days per year ÷ 12 months x hourly rate x 8 hours per day	D
T.1.5.	Unemployment Insurance Fund (UIF) (1% contribution by employer, 1% contribution by employee)	2% of basic monthly salary	E
T.1.6.	Workman's Compensation (COIDA) (Class J: Sub-class 0501 Tariffs of Assessment)	2.65% of basic monthly salary	F
T.1.7.	Bonus (Payment of bonus by is subject to good / excellent performance by the Service Provider)	Annual bonus ÷ 12 months	G
T.1.8.	Monthly salary cost per groundsman (A+B+C+D+E+F+G)		10.3.1.

10.3.1. Groundsman salary.....**[To Pricing Schedule]**



- 10.4. All employees on site shall wear safety clothing (continental suit branded with company name and safety shoes) at all times while on duty, be presentable and clearly identifiable. Non-compliance will result in the employee being immediately removed from site by Service Manager or DPWI Delegated Official.

11. HORTICULTURAL MAINTENANCE REQUIREMENTS

11.1. Lawn and Grass Maintenance

- 11.1.1. A single mowing cycle shall comprise of mowing, edging, raking all grassed surfaces on the facility and removal of the clippings from the mown areas;
- 11.1.2. All foreign objects shall be removed from the turf before starting operation;
- 11.1.3. The blades of the turf are to be cut at a height of 10mm-20mm using a rotary mower. The above height stipulation may be altered due to specie requirements;
- 11.1.4. The turf shall be cut at regular intervals of once (1) every week from the period 1 September to 30 April, and once (1) every second (2nd) week from 1 May to 31 August.
- 11.1.5. The edges shall be neatly trimmed in conjunction with the mowing programme using a line to keep the edges straight in sections requiring so;
- 11.1.6. The equipment used in edging shall be limited to equipment ensuring even, neat and vertical edges avoiding the widening of gaps along sidewalks, bedding or roads;
- 11.1.7. Clippings may not remain on mown surface overnight and shall be removed on the same day of operation;
- 11.1.8. All areas to be cut are to be cut within three (3) days of beginning the mowing cycle;
- 11.1.9. The grasses area shall be maintained to the satisfaction of the Service Manager;
- 11.1.10. Equipment used in the mowing programme shall be in good working condition to give a professional cut;
- 11.1.11. An acceptable lawn shall be free of ridges, have an even surface, no lines and clippings;
- 11.1.12. After all maintenance work has been carried out the surface shall be well drenched with water;
- 11.1.13. Irrigation: The lawn is to be watered once (1) a week, the soil should be moist and not drenched, to a depth of 10mm-15mm below soil surface. During rainfall no irrigation should be done. The Service Provider must adhere to water restriction requirements by the Local Authority.
- 11.1.14. Top-dressing: Medium shall be a mixture of compost and fine river sand free of stones and weeds. Top dressing shall be applied as a complete 8mm cover, once a year over the surface of lawn and levelled off to even out surfaces.
- 11.1.15. Transplanting of lawn: All damaged areas on turf shall be replaced with sods or stolons of the same species and quality of turf as soon as they appear.
- 11.1.16. Fertilizing of lawn: The Service Provider is to ensure the area to be fertilized is watered before and after fertilizing sufficiently to avoid burning the plants:
- 11.1.17. Granules: granular controlled release or slow release fertilizer shall be applied at a rate of 30g per m² on the lawn every third (3rd) month (four (4) times per year).

11.2. Bedding

- 11.2.1. Transplanting of bedding:



- 11.2.1.1. Plants requiring transplanting shall be done so as per their season and species requirements, pertaining to groundcovers perennials and shrubs;
- 11.2.1.2. The Service Provider shall communicate with the Service Manager before transplanting any plants, including reporting on a monthly basis;
- 11.2.1.3. Transplanting shall be carried out to control overgrowth and bare patches where plants have died. Dead plants will need to be replaced with the same / similar species included in the maintenance cost as part of the contract.
- 11.2.2. Planting of bedding:
 - 11.2.2.1. Plants provided shall be kept in good condition until such time as they are planted, after which they shall form part of the maintenance contract and cared for accordingly.
 - 11.2.2.2. Well-composed soil must be applied in beds before planting;
 - 11.2.2.3. Planting shall be carried out in empty beds or where it is required by the Service Manager and also types / species required;
 - 11.2.2.4. Plant material for new areas and changing of annual plants shall not include the replacing of plants which have died due to negligence of the service provider. The Service Provider shall remedy at own expense;
 - 11.2.2.5. Planting shall be carried out at the Service Manager's request and plants shall be to the requirements and approval of the Service Manager. Only healthy, pest and disease free plants will be accepted for planting and are to display:
 - 11.2.2.5.1. Vigour in growth within bags;
 - 11.2.2.5.2. Bags free of weeds and stones;
 - 11.2.2.5.3. Specified size;
 - 11.2.2.5.4. True to species.
 - 11.2.2.6. All areas for planting shall be demarcated and prepared beforehand with required fertilizers and composts with holes 70% larger than planting bag
 - 11.2.2.7. All planting shall meet the time frames specified by the Service Manager for the duration of the contract.
- 11.2.3. Composting
 - 11.2.3.1. The compost shall be spread as a cover over the planting area/required area comprising of a layer 30mm, and shall not cause damage to plants.
 - 11.2.3.2. The compost shall be dug into the soil to a depth of 250mm-300mm to mix thoroughly with the soil.
 - 11.2.3.3. This is to be done twice yearly i.e. once every six (6) months of the duration of the contract.
- 11.2.4. Vegetation in bedding:
 - 11.2.4.1. Weeds shall be removed mechanically / manually from the affected area, with no use of any harmful chemicals / herbicides on bedding areas;
- 11.2.5. Pruning of bedding plants:
 - 11.2.5.1. The plants shall be pruned in accordance to season and plant species. Healthy plants are not to be cut unless otherwise instructed by the Service Manager;
 - 11.2.5.2. The equipment used is to be in good working condition with sharp blades and sterilized so as to be free of pathogens;
 - 11.2.5.3. Plants and perennials with vigorous growth shall be pruned to maintain good shape and encourage growth;
 - 11.2.5.4. All refuse generated from the pruning shall be removed from site immediately after operations.



11.2.6. Irrigation of bedding plants:

11.2.6.1. The bedding areas are to be watered three (3) times a week the soil should be moist and not be drenched/ too wet, to a depth of 25mm-40mm below soil surface. During rainfall no irrigation to be done.

11.2.7. Fertilizing of bedding plants:

11.2.7.1. The Service Provider must ensure the area to be fertilized is watered before and after fertilizing sufficiently to avoid burning the plants;

11.2.7.2. Organic fertilizer (pellets) shall be applied 30g per m² for bedding plants every third (3rd) month. Pricing for fertilizers elsewhere in this document.

11.2.8. Mulching of bedding plants:

11.2.8.1. Mulch supplied must be bark chips 30mm-50mm for planting areas and must be free of stones, disease / virus and weeds and to the Service Manager's satisfaction;

11.2.8.2. The mulch shall be spread as a cover over the required area comprising of a layer 20mm, at regular intervals of twelve (12) months and watered thoroughly.

11.2.8.3. The Service Provider shall avoid having the mulch touch up against the stems of any plants where possible.

11.3. Tree Maintenance

11.3.1. Shrubs and perennials with vigorous growth shall be pruned to maintain good shape and encourage growth.

11.3.2. Quality of trees required:

11.3.2.1. All trees growing on the property shall be maintained by the Service Provider to display a good quality specimen and shall have the following traits:

11.3.2.1.1. Single main stem growing from the ground;

11.3.2.1.2. Depending on the size, the lower 25-40% shall be free of lateral branches;

11.3.2.1.3. No multi stems or water shoots arising from the soil shall be accepted and are to be pruned as soon as they emerge;

11.3.3. Staking:

11.3.3.1. Trees shall be supported with an appropriate wooden stake(s) which shall be:

11.3.3.2.1. 30mm-40mm wider than the stem girth, and tied with a rubber tie or wire strung through a hose to the approval of the Service Manager;

11.3.3.2.2. Stakes are to be 10mm-15mm higher than the apex of the specimen;

11.3.3.2.3. The stake shall be sturdy enough to support the tree in heavy winds and ensure the tree is positioned straight in calmer days;

11.3.3.2.4. The staking shall cause no harm to the tree at any point, and the trees will be inspected once every month, although the Service Provider will remedy any stakes coming undone as soon as they appear.

11.3.4. Tree Pits / Basins:

11.3.4.1. Tree pits shall be maintained at 300mm around trunk/stem around the younger trees and 70mm-100mm deep, the soil around the stem shall not form a mound around stem and roots shall not be exposed unnecessarily;



11.3.5. Mulching of tree pits: mulch supplied must be bark chips 40mm-60mm for tree pits and must be free of stones, disease / virus and weeds and to the Service Manager's satisfaction and be applied at 12 months intervals;

11.3.6. Pruning of trees:

11.3.6.1. Pruning shall include trees, hedge and shrubs;

11.3.6.2. The Service Provider shall communicate with the Service Manager for approval as a control measure to avoid excessive pruning of plants. Pruning shall be carried out once (1) every three (3) months depending on the species;

11.3.6.3. All trees requiring pruning shall be done so as not to damage property and furthermore, the actual plant or specimen itself.

11.3.6.4. Trees growing on the property which are accessible with a pole pruner or equivalent implement, not in excess of height of 5 m and a diameter of 40 mm, shall be maintained using a pole pruner by the Service Provider to display a good quality specimen;

11.3.6.5. The pruned appendage shall not:

11.3.5.4.1. Have jagged edges;

11.3.5.4.2. Tears in the bark;

11.3.5.4.3. Die back from improper pruning technique;

11.3.5.4.4. Disease from improper pruning and subs standard equipment.

11.3.6.6. The pruned appendages shall be treated immediately with a tree sealer or an approved solution to prevent exposure of the wound to disease and virus. The solution shall be applied as per the product label;

11.3.6.7. Broken and dead branches shall be pruned as soon as they are noticed;

11.3.6.8. Hedge height shall be kept between 1.5 m to 2m;

11.3.6.9. Palm trees where present, are to be pruned so as to produce a "V" shaped crown and remove all the dead fronds/palm leaves as close as possible to the trunk;

11.3.6.10. All refuse generated from the pruning shall be removed from site immediately after operations.

11.3.7. Tree Replacement

11.3.7.1. In the event where trees need to be replaced due to negligence on the Service Provider's part, this shall be recorded and communicated with the Service Manager to approve the specie, condition and size of the tree to be replaced.

11.4. **Hard Surfaces Maintenance**

11.4.1. All hard surfaces areas and drainage channels must be swept of all debris and remain clean at all times;

11.4.2. Vegetation/ Weed control on hard surfaces:

11.4.2.1. A non-selective herbicide shall be used to control all weeds on hard surfaces once approval has been received from Service Manager, otherwise mechanical removal shall be the only acceptable method;

11.4.3. Litter from hard surfaces:

11.4.3.1. All loose objects (papers, plastic, glass pieces, stones, leaves droplets etc.) shall be collected and removed from site.

11.4.4. Refuse from hard surfaces:



- 11.4.4.1. The service provider must remove all refuse generated from the site **within five (5) days** to a disposal site approved by the Local Authority (Municipality);
- 11.4.4.2. Dumping is not allowed on site;
- 11.4.4.3. Where refuse is temporarily stored on site for collection, it should be temporarily kept in a concealed place that will not be hazardous to the clients, shall not be detrimental to the environment.
- 11.4.4.4. **The refuse bins on site are at no point to be used for garden refuse**; gardening refuse should be collected and placed in gardening refuse bags.

11.5. Pest Control on Plants

- 11.5.1. Vegetation: weeds shall be removed mechanically from the affected areas without use of herbicides.
- 11.5.2. Pest control services must be carried by an accredited Pest Control Agent;
- 11.5.3. The Service Provider **must cost** and appoint a pest control agent / sub-contract services for pest control if not accredited for pest control;
- 11.5.4. The Service Provider must provide the registration details of the pest control officer / agent for confirmation and approval by the Service Manager before carrying out the service;
- 11.5.5. Pest Control must be in terms of "The Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act 36 of 1947), which includes, but is not limited to Pesticides, Herbicides and Fungicides;
- 11.5.6. Pest control services shall be excluded from monthly invoices and shall be paid on a quotation to be approved by the Service Manager, based on a comprehensive pest control plan, which must be supported by the identified pest, chemicals to be utilised, risk management, handling and disposal, supplier's purchase invoice / sub-contractor's detailed invoice;
- 11.5.7. All the chemicals to be used for pest control must be SABS approved;
- 11.5.8. Fungal / Viral:
 - 11.5.8.1. The Service Provider shall inspect all plants and lawn regularly for any signs of a pests;
 - 11.5.8.2. The Service Provider must promptly (on the same day) inform the Service Manager on notification of any type of pest on the plants. An approval on the suitable method to control the pest will be provided, based on the pest control plan;
 - 11.5.8.3. The Service Provider must cost the provisional amount for pest control in the pricing schedule as follows:
 - 11.5.8.4. Pest Control Service.....(Provisional) **[To Pricing Schedule]**

11.6. Verge Maintenance

- 11.6.1. Vegetation: weeds shall be removed mechanically from the affected areas;
- 11.6.2. The verge, sometimes referred to as the municipality territory up to the roadway shall form part of this Service;
- 11.6.3. The verge to be maintained shall be defined by a distance of two (2) metres outside the fence / perimeter of the enclosed grounds;
- 11.6.4. The quoted price for maintenance of the internal grounds shall include the maintenance of the verge and the verge shall be maintained in accordance with the type of surface on site;
- 11.6.5. Additional costs for maintenance of the verge are not applicable under this contract.



12. GARDEN MATERIAL AND CONSUMABLES

12.1. Compost Material

12.1.1. Service provider must **cost and supply approved Compost** at intervals required by the Service Manager and the compost must be free of stones, disease / virus, weeds and odours regarded as noxious or posing nuisance. A sample of compost must be provided for approval by the Service Manager prior to delivery to site:

12.1.2. Compost.....(m³) **[To Pricing Schedule]**

12.2. Fertilizer Material

12.2.1. Service provider must **cost and supply approved slow release / organic fertilizer** at intervals required by the Service Manager. A sample of fertilizer must be provided for approval by the Service Manager prior to delivery to site:

12.2.2. Fertilizer.....(kg) **[To Pricing Schedule]**

12.3. Mulch Material

12.3.1. Service Provider must **cost and supply approved mulch** of bark chips 40mm–60mm for tree pits and 30mm–50mm for planting areas and must be free of stones, disease/virus and weeds. A sample of mulch must be provided for approval by the Service Manager prior to delivery to site:

12.3.2. Mulch.....(m³) **[To Pricing Schedule]**

12.4. Top Dressing / Lawn Dressing

12.4.1. Service Provider must **cost and supply approved top dressing medium** of a mixture of compost and fine river sand, free of stones and weeds. A sample of top dressing must be provided for approval by the Service Manager prior to delivery to site:

12.4.2. Top Dressing..... (m³) **[To Pricing Schedule]**

12.5. Plants

12.5.1. Service Provider must provisionally **cost and supply approved specified size plants** of a good condition, displaying vigour in growth within bags, free of pests and diseases, in bags free of weeds and stones, true to species.

12.5.2. The quality, quantity of plants and sample must be provided for approval by the Service Manager as per the list(**to be made available to service provider during the term of contract as per site requirements**), prior to delivery to site:

12.5.3. Plants..... (Provisional) **[To Pricing Schedule]**

12.6. Consumable Material

12.6.1. Service Provider must cost and supply all consumable items (including plastic refuse bags, hand soap, toilet paper, etc.) that are necessary for the provision of an effective service on site as follows:

12.6.2. Consumables.....(Month) **[To Pricing Schedule]**



13. OCCUPATIONAL HEALTH AND SAFETY

The Service Provider **must cost and comply with all the aspects of the Occupational Health and Safety Act**, 1993 (Act 85 of 1993) including the safety file and additionally perform medical surveillance of employees, provide suitable Personal Protective Equipment (PPE) and Signage as follows:

13.1. Medical Surveillance and Certificates

The Service Provider **must allow costs for and perform base medical examinations** and obtain medical certificates of all employees prior to their employment, during employment and at the exit of employment. The Service Provider must ensure protection of workers by identifying all risks associated with the maintenance of grounds, eliminating or minimising such risks through proper medical, legislative and engineering measures;

13.1.1. Medical examinations.....(Sum) **[To Pricing Schedule]**

13.2. Personal Protective Equipment (PPE)

The Service Provider **must cost and provide PPE for the employees** made of a durable, safe design and suitable for Horticultural maintenance, comfortable when worn under the working conditions and fit snugly to not interfere with the movements of the groundsman as follows:

13.2.1. Personal Protective Equipment.....(Sum) **[To Pricing Schedule]**

The PPE shall comprise of a set allocated per employee as follows:

- 13.2.1.1. Minimum 2 x continental suits per year with company and EPWP logo
- 13.2.1.2. Gloves (for all work)
- 13.2.1.3. Rain coat
- 13.2.1.4. Safety shoes (steel toe)
- 13.2.1.5. Shin pads
- 13.2.1.6. Protective ear muffs
- 13.2.1.7. Visor (facial protection)

13.3. Signage

The Service Provider **must cost and supply neat warning** signs of a size and design to be easily recognisable to the general public. The signs must be used wherever work is in progress, more especially hazardous work to alert all persons using the facility and surrounds.

The warning signs are to be made in English and another local language, and shall be used for the term of the contract as follows:

13.3.1. Warning signage.....(No) **[To Pricing Schedule]**

13.4. Hazardous Chemicals and Tasks

13.4.1. The Service Provider shall not store or use poisons, flammable chemicals and materials on the property without the written consent of the department.

13.4.2. In the event that some tasks are deemed hazardous to the wellbeing of occupants as well as visitors to facility; such tasks will be avoided until the risk can be averted. Measures used to mitigate risk shall not pose further financial implication to the department.

14. EQUIPMENT FOR HORTICULTURAL MAINTENANCE



14.1. Machinery for mowing / cutting

The Service Provider **must cost, provide and maintain machinery** inclusive of running costs (fuel) of equipment for the mowing / cutting of lawn / grass and trimming comprising of, but not limited to rotary lawn mower(s), brush cutter(s), trimmer(s) and blowers at the standard required by the department as follows:

14.1.1. Machinery.....(Sum) [To Pricing Schedule]

14.2. Tools

The Service Provider **must cost, provide and maintain tools** for the effective and efficient maintenance of the grounds at the required standard wherein the department has the right to accept or reject any of the items as follows:

14.2.1. Tools.....(Sum) [To Pricing Schedule]

The equipment and tools utilised for any part of the service shall be in compliance with the Occupational Health and safety Act (Act 85 of 1993) and shall be **allocated per site** as follows:

- 14.2.1.1. Bow saw(s)
- 14.2.1.2. Broom(s)
- 14.2.1.3. Garden fork(s)
- 14.2.1.4. Hose pipe(s) (suitable length)
- 14.2.1.5. Lopper(s)
- 14.2.1.6. Nozzle sprayer(s)
- 14.2.1.7. Pick-axe(s)
- 14.2.1.8. Planters spade(s)
- 14.2.1.9. Pole pruner(s)
- 14.2.1.10. Secateurs(s)
- 14.2.1.11. Spray can(s)
- 14.2.1.12. Sprinkler head(s)
- 14.2.1.13. Steel rake and fan rake(s)
- 14.2.1.14. Tap & hose connectors(s)
- 14.2.1.15. Watering can(s)
- 14.2.1.16. Wheel-barrow(s)

- 14.2.1. The department can where possible provide storage space for storage of equipment free of charge to the Service Provider;
- 14.2.2. Should there be an unavailability of space, then the Service Provider will be required to remove their equipment from the site;
- 14.2.3. The department has the right to inspect the allocated space and upon discretion cancel the arrangement.

14.3. Power and water supply

- 14.3.1. Electricity shall NOT be provided to the Service Provider for the operation of equipment;
- 14.3.2. The department shall as available at existing points supply water for operational purposes to the Service Provider free of charge;
- 14.3.3. The Service Provider is to consult with the local municipality to establish the status of water restrictions and in the event that restrictions are in place they are to convey the information to the Service Manager within two (2) days;
- 14.3.4. In the event of water restrictions, the Service Provider may upon own discretion make its own arrangements in supplying water without the right of recourse against the department.



15. TRANSPORT

The Service Provider **must cost and provide suitable transport for conveying employees** to site, travelling for contract management / supervision, delivery of material to site and carting away garden refuse to an approved site as follows:

15.1. Transport for personnel

The Service Provider must employ local personnel to reduce transport costs and **must allow costs for conveying employees to site** to perform garden maintenance and make provision for attending monthly site visits and meetings with the Service Manager and for contract management / supervision throughout the duration of the contract as follows;

15.1.1. Personnel Transport.....(Km) [To Pricing Schedule]

15.2. Transport for material & cartage

The Service Provider **must cost and provide suitable transport for material** comprising of delivery of garden material to site including, but not limited to new plants, compost, fertilizer, mulch, top-dressing, consumables, etc. and carting away / collection of garden refuse a minimum four (4) times a month to an approved site as follows:

15.2.1. Material Cartage / Transport.(Sum) [To Pricing Schedule]

15.2.2. Disposal Transport.....(Sum) [To Pricing Schedule]

Refuse management must be adhered to as follows:

- 15.2.1.1. The Service Provider must collect and remove all refuse (includes all foreign objects such as paper, plastic, glass, stones, leaves) site on a weekly basis;
- 15.2.1.2. Refuse unattended beyond the stipulated timeframe, not in bags and not in the allocated refuse area shall be regarded as dumping;
- 15.2.1.3. All costs of refuse disposal at an approved municipal dump site must be included in the quoted price;
- 15.2.1.4. Where refuse is stored on site for collection, it shall be out of site and not cause any nuisance;
- 15.2.1.5. The Service Provider must communicate with the Service Manager regarding an area for allocation for refuse storage;
- 15.2.1.6. **The refuse bins on site are at no point to be used for garden refuse unless provided by the service provider;**

16. CESSION AND DELEGATION OF CONTRACT

16.1. The Department of Public Works and Infrastructure (DPWI) is in the process of devolving the Horticultural / Garden Services functions to the Department of Justice and Constitutional Development (DOJ&CD);

16.2. This contract has been identified as one of the Services to be devolved by DPWI to DOJ&CD through cession;

16.3. The DPWI shall cede, assign, or transfer any of its rights and / or obligations in terms of this Agreement (whether in part or in whole) or delegate any of its obligations in terms of this Agreement to DOJ&CD;

16.4. Wherein the DOJ&CD shall accept the cession and assume such obligations;



- 16.5. By signing this Agreement and delivering this service, the DPWI appointed Service Provider consents to such cession and delegation;**
- 16.6.** All the parties (DPWI, DOJ&CD and Service Provider) undertake to co-operate in good faith with the other parties to give practical effect to the cession and delegation of this contract;
- 16.7.** The cession and delegation of this contract shall take effect from the effective date to be agreed by all the parties;
- 16.8.** Notwithstanding the Agreement Date, with effect from the Effective Date the Cedent (DPWI) hereby cedes, transfers and makes over, as an out and out cession, the Ceded Rights and assign the Assigned Obligations unto and in favour of the Cessionary (DOJ&CD), who accepts such as an out and out cession with effect from the Effective Date.



17. PRICING GUIDELINE

17.1. The Groundsman salary pricing guideline

17.1.1. Rate = Monthly Salary Cost per Groundsman (Item **10.3.1**)

17.1.2. Amount = No. of Groundsman x Months x Rate = 3 x 12 x R15 000 = **R180 000**

Item No.	Brought Forward			Quantity	Rate	Amount
					R	Not priced
	10. MAINTENANCE PERSONNEL					
5	10.3.1.	Groundsman salary	No. 3 Month	12	5 000.00	180 000.00

17.2. Annual escalation and contract amount pricing guideline

17.2.1. A maintenance service contract is an annual contract repeated over the number of years for the duration of the contract. E.g.;

17.2.2. The Service Provider must provide an escalation rate to ensure the price increase as a result of inflation does not affect the ability of the Service Provider to make profit and perform in terms of the contract;

17.2.3. A 24 month contract = 1 year contract x 2, i.e. = 12 x 2 = 24 months. Similarly,

17.2.4. A 36 month contract = 1 year contract x 3; i.e. = 12 x 3 = 36 months.

17.2.5. Say the Service Provider has provided an escalation rate of 3% and the year 1 total is **R100'000**;

17.2.5.1. Year 2 = Year 1 amount + escalation rate

17.2.5.2. Year 2 = R100'000 + 3% = **R103 000**. i.e. **R100 000 x (1 + (3/100)) = R100 00 x 1.03**

17.2.5.3. The Bid Offer for the 24 month is therefore = Year 1 + Year 2 (escalated) = R100' 000 + R103 000 = **R203 000**.

17.3. Renewal of contract pricing guideline

17.2.1. If the contract is renewed for a further 12 months, the Year 2 amount will be escalated as follows: Year 3 = R103 000 +3% i.e. R103 000 x (1+(3/100)) = R103 000 x 1.03 = R106 090.

17.2.2. The contract amount for Year 3 = R100 000 + R103 000 + R106 090 = R309 090.



DEMONSTRATION & CALCULATION OF GROUNDSMAN SALARIES

Table 2: Demonstration and Calculation of Groundsman Salaries for 12 groundsman

Item	Description	Departmental Guide	Bidder's Offer (Rate)
T.2.1.	Basic Salary	hourly rate x 8 hours per day x 5 days per week x 4,33 weeks per month	Rate per hour R...../hour
T.2.2.	Annual leave provision (Pro rata per month) based on minimum determined days per year.	15 days per year ÷ 12 months x hourly rate x 8 hours per day	R...../ month
T.2.3.	Sick leave (Pro rata per month) based on minimum determined days per year.	10 days per year ÷ 12 months x hourly rate x 8 hours per day	R...../ month
T.2.4.	Family responsibility leave (Pro rata per month) based on minimum determined days per year.	3 days per year ÷ 12 months x hourly rate x 8 hours per day	R...../ month
T.2.5.	Unemployment Insurance Fund (UIF) (1% contribution by employer, 1% contribution by employee)	2% of basic monthly salary	R...../ month
T.2.6.	Workman's Compensation (COIDA) (Class J: Sub-class 0501 Tariffs of Assessment)	2.65% of basic monthly salary	R...../ month
T.2.7.	Bonus (Payment of bonus by is subject to good / excellent performance by the Service Provider)	Annual bonus ÷ 12 months	R...../ month
T.2.8.	Monthly salary cost per groundsman carried to Schedule No. 2 of Pricing Schedule: Labour – Groundsman (10.3.1) (T2.8. = T.2.1.+T2.2.+T2.3.+T2.4.+T2.5.+T2.6+T2.7)		R...../ month

Carry over T2.8. (Monthly salary cost per groundsman) to the Pricing Schedul



PRICING SCHEDULE/ BILL OF QUANTITIES

Bid no: PEH 01/2023

Bid/ Project Description: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE



Item No.		Quantity	Rate	Amount
	<p><u>GENERAL NOTES</u></p> <p>i</p> <p>(I) The agreement is to be the Facilities Management Conditions of Contract (DPW) SEPT. 2005 VERSION 1</p> <p>(II) Pursuant to this contract, the rates shall be subject to an annual escalation cap limited to five percent (5%) per annum, the base rate being the date of an award of tender.</p> <p>(iii) Tenderers are referred to the abovementioned documents for the full intent and meaning of each clause thereof (hereinafter referred to by heading and clause number only) for which such allowance must be made as may be considered necessary.</p> <p>(iv) Where standard clauses or alternatives are not entirely applicable to this contract such modifications, corrections or supplements as will apply are given under each relevant clause heading.</p> <p>(v) Where any item is not relevant to this specific contract such item is marked N/A (signifying "not applicable").</p> <p>(vi) Grouping of items necessitating the completion of works is allocated per type of service to be executed.</p> <p>(vii) The Service Provider is expected to familiarise themselves with the site and condition of the respective SITE to accurately estimate the resources required for the successful Horticultural Maintenance Services</p>			
	Carried Forward		R	Not priced



FACILITIES MANAGEMENT: HORTICULTURAL SERVICES						
Item No.	Brought Forward			Quantity	Rate	Amount
					R	
14. EQUIPMENT FOR MAINTENANCE						
14	14.1.1. Machinery		Sum	1		
15	14.2.1. Equipment and tools		Sum	1		
15. TRANSPORT						
16	15.1.1. Personnel Transport	Km	Month	12		
17	15.2.1. Material Cartage / Transport	Km	Sum	1		
18	15.2.2. Disposal Transport	Km	Month	12		
	-	-	-			
First. 12 Months Total Excluding Labour Carried to Summary					R	



Item No.	<u>SCHEDULE NO. 2: LABOUR - GROUNDSMAN</u>				Quantity	Rate	Amount
19	10. MAINTENANCE PERSONNEL						
	10.3.1. Groundsman salary	No.	12	Month	12		
	Nerina	No	3				
	Gelvandale	No	3				
	North End	No	3				
	Motherwell	No	3				
	Carried Forward to Summary Page					R	



Item No.	<u>FINAL SUMMARY</u>	Page No		Amount
	SCHEDULE: YEAR 1			
20	SCHEDULE NO. 1: CONTRACT MANAGEMENT, MATERIAL AND MAINTENANCE	3	R	
21	SCHEDULE NO. 2: LABOUR - GROUNDSMAN	4	R	
22	YEAR 1: TOTAL (20+21)		R	
	SCHEDULE: YEAR 2			
23	SCHEDULE NO. 1: CONTRACT MANAGEMENT, MATERIAL AND MAINTENANCE (Carried over from year 1 item 20)	3	R	
24	5.7.1. ANNUAL ESCALATION NOT EXCEEDING 5% _____ %		R	
25	YEAR 2: SUB-TOTAL EXCL. LABOUR (23+24)		R	
26	YEAR 2: LABOUR GROUNDSMAN (To be adjusted in terms of Sectoral determination as outlined under terms of reference: Use Year 1 Labour for tender purposes)		R	
27	YEAR 2: SUB-TOTAL INCL. LABOUR (25+26)		R	
28	CONTRACT SUB-TOTAL EXCL. PROFIT (22+27)		R	
29	PROFIT _____		R	
	SUB-TOTAL INCLUSIVE OF PROFIT (28+29)		R	
	VAT@ _____		R	
	Total Carried to Form of Offer		R	

DPW-07: FORM OF OFFER AND ACCEPTANCE

The Employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

Bid no: PEH 01/2023

Bid/ Project Description: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE

The Tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules, and by submitting this offer has accepted the conditions of tender.

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the Tenderer offers to perform all of the obligations and responsibilities of the Service Provider under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX (All applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies) IS:

Rand (in words):	
Rand in figures:	R

The award of the tender may be subjected to price negotiation with the preferred tender(s). The negotiated and agreed price will be considered for acceptance as **a firm and final offer.**

This offer may be accepted by the Employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the Tenderer before the end of the period of validity stated in the tender data, whereupon the Tenderer becomes the party named as the Service Provider in the conditions of contract identified in the contract data.

THIS OFFER IS MADE BY THE FOLLOWING LEGAL ENTITY: (cross out block which is not applicable)

<p>Company or Close Corporation:</p> <p>.....</p> <p>.....</p> <p>And: Whose Registration Number is:</p> <p>.....</p> <p>And: Whose Income Tax Reference Number is:</p> <p>.....</p> <p>CSD supplier number:</p>	OR	<p>Natural Person or Partnership:</p> <p>.....</p> <p>.....</p> <p>Whose Identity Number(s) is/are:</p> <p>.....</p> <p>Whose Income Tax Reference Number is/are:</p> <p>.....</p> <p>CSD supplier number:</p>
--	-----------	--

AND WHO IS (if applicable):

Trading under the name and style of:

AND WHO IS:

<p>Represented herein, and who is duly authorised to do so, by:</p> <p>Mr/Mrs/Ms:</p> <p>.....</p> <p>In his/her capacity as:</p> <p>.....</p>	<p>Note:</p> <p>A Resolution / Power of Attorney, signed by all the Directors / Member / Partners of the Legal Entity must accompany this Offer, authorising the Representative to make this offer.</p>
--	---



Bid/ Project Description: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE

SIGNED FOR THE TENDERER:

Name of representative	Signature	Date

WITNESSED BY:

Name of witness	Signature	Date

This Offer is in respect of: (Please indicate with an "X" in the appropriate block)

The official documents

The official alternative

Own alternative (only if documentation makes provision therefore)

SECURITY OFFERED: (Not required for this quotation/ bid)

The Service Provider will provide one of the following forms of security:

- (1) Cash deposit of 2.5% of the Contract Sum (excl. VAT) Yes No
- (2) Variable guarantee of 2.5% of the Contract Sum (excl. VAT) (DPW-10.5: FM) Yes No
- (3) Retention of 2.5% of the Contract Sum (excl. VAT) Yes No
- (4) 1.25% cash deposit and 1.25% retention of the Contract Sum (excl. VAT) Yes No

NB. Guarantees submitted must be issued by either an insurance company duly registered in terms of the Short-Term Insurance Act, 1998 (Act 35 of 1998) or by a bank duly registered in terms of the Banks Act, 1990 (Act 94 of 1990) on the pro-forma referred to above. No alterations or amendments of the wording of the pro-forma will be accepted.

The Tenderer elects as its *domicilium citandi et executandi* in the Republic of South Africa, where any and all legal notices may be served, as (physical address):

.....

Other Contact Details of the Tenderer are:

Telephone No..... Cellular Phone No.

Fax No.

Postal address.....

Banker Branch.....

Bank Account No. Branch Code

Registration No of Tenderer at Department of Labour.....



ACCEPTANCE

By signing this part of this form of offer and acceptance, the Employer identified below accepts the Tenderer's offer. In consideration thereof, the Employer shall pay the Service Provider the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the Tenderer's offer shall form an agreement between the Employer and the Tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

Bid No: PEH 01/2023

Bid/ Project Description: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE

The terms of the contract, are contained in:

- Part 1 Agreements and contract data, (which includes this agreement)
- Part 2 Pricing data
- Part 3 Scope of work.
- Part 4 Site information

and drawings (where applicable) and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule.

The Tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the Employer's agent (whose details are given in the contract data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect, if delivered by hand on the day of delivery, or if delivered by courier within two working days after submission by the Employer to the courier services for a door-to door delivery to the tenderer, provided that the Employer notifies the tenderer of the tracking number within 24 hours of such submission. Unless the tenderer (now Service Provider) within seven working days of the date of such submission notifies the Employer in writing of any reason why he cannot accept the contents of the schedule of deviation to this agreement (if applicable), this agreement shall constitute a binding contract between the parties.

For the Employer:

Name of signatory	Signature	Date

Name of Organisation:	Department of Public Works
Address of Organisation:	

WITNESSED BY:

Name of witness	Signature	Date



SCHEDULE OF DEVIATIONS

Bid no: PEH 01/2023

Bid/ Project Description: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE

1.1.1. Subject:
Detail:
1.1.2. Subject:
Detail:
1.1.3. Subject:
Detail:
1.1.4. Subject:
Detail:
1.1.5. Subject:
Detail:
1.1.6. Subject:
Detail:

By the duly authorised representatives signing this agreement, the Employer and the Tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the tender schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the Tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.



PA-11: BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. BIDDER'S DECLARATION

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest³ in the enterprise, employed by the state?

YES NO

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

⁽³⁾ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

Any reference to words "Bid" or Bidder" herein and/or in any other documentation shall be construed to have the same meaning as the words "Tender" or "Tenderer".
For External Use



2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? YES NO

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? YES NO

2.3.1 If so, furnish particulars:

.....
.....

3. DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I declare to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium⁴ will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.5 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

⁴ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

Any reference to words "Bid" or Bidder" herein and/or in any other documentation shall be construed to have the same meaning as the words "Tender" or "Tenderer".
For External Use



- 3.7 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I DECLARE THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

Name of Bidder	Signature	Date	Position

This form is aligned to SBD 4.



PA-15.1: RESOLUTION OF BOARD OF DIRECTORS

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

_____ (legally correct full name and registration number, if applicable, of the Enterprise)

Held at _____ (place)

on _____ (date)

RESOLVED that:

- 1 The Enterprise submits a Tender to the Department of Public Works in respect of the following project:

_____ (project description as per Tender Document)

Tender Number: _____ (Tender Number as per Tender Document)

- 2 *Mr/Mrs/Ms: _____

in *his/her Capacity as: _____ (Position in the Enterprise)

and who will sign as follows:

be, and is hereby, authorised to sign the Tender, and any and all other documents and/or correspondence in connection with and relating to the Tender, as well as to sign any Contract, and any and all documentation, resulting from the award of the Tender to the Enterprise mentioned above.



	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Note:

1. * Delete which is not applicable.
2. **NB:** This resolution must, where possible, be signed by all the Directors / Members / Partners of the Tendering Enterprise.
3. In the event that paragraph 2 cannot be complied with, the resolution must be signed by Directors / Members / Partners holding a majority of the shares / ownership of the Tendering Enterprise (attach proof of shareholding / ownership hereto).
4. Directors / Members / Partners of the Tendering Enterprise may alternatively appoint a person to sign this document on behalf of the Tendering Enterprise, which person must be so authorized by way of a duly completed power of attorney, signed by the Directors / Members / Partners holding a majority of the shares / ownership of the Tendering Enterprise (proof of shareholding / ownership and power of attorney are to be attached hereto).
5. Should the number of Directors / Members / Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

ENTERPRISE STAMP



PA-15.2: RESOLUTION OF BOARD OF DIRECTORS TO ENTER INTO CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the Board of *Directors / Members / Partners of:

(legally correct full name and registration number, if applicable, of the Enterprise)

Held at _____ (place)

on _____ (date)

RESOLVED that:

1. The Enterprise submits a Tender, in consortium/joint venture with the following Enterprises:

(list all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the consortium/joint venture)

to the Department of Public Works in respect of the following project:

(project description as per Tender Document)

Tender Number: _____ (Tender Number as per Tender Document)

- 1 *Mr/Mrs/Ms: _____

in *his/her Capacity as: _____ (Position in the Enterprise)

and who will sign as follows:

be, and is hereby, authorised to sign a consortium/joint venture agreement with the parties listed under item 1 above, and any and all other documents and/or correspondence in connection with and relating to the consortium/joint venture, in respect of the project described under item 1 above.

- 2 The Enterprise accept joint and several liability with the parties listed under item 1 above for the due fulfilment of the obligations of the joint venture deriving from, and in any way connected with, the Contract to be entered into with the Department in respect of the project described under item 1 above.
- 3 The Enterprise chooses as its *domicilium citandi et executandi* for all purposes arising from this joint venture agreement and the Contract with the Department in respect of the project under item 1 above:

Physical address: _____

_____ Postal Code _____



Postal Address:

_____ Postal Code _____

Telephone number: _____ Fax number: _____

	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

The tendering enterprise hereby absolves the Department of Public Works from any liability whatsoever that may arise as a result of this document being signed.

Note:

1. * Delete which is not applicable.
2. **NB:** This resolution must, where possible, be signed by all the Directors / Members / Partners of the Tendering Enterprise.
3. In the event that paragraph 2 cannot be complied with, the resolution must be signed by Directors / Members / Partners holding a majority of the shares / ownership of the Tendering Enterprise (attach proof of shareholding / ownership hereto).
4. Directors / Members / Partners of the Tendering Enterprise may alternatively appoint a person to sign this document on behalf of the Tendering Enterprise, which person must be so authorized by way of a duly completed power of attorney, signed by the Directors / Members / Partners holding a majority of the shares / ownership of the Tendering Enterprise (proof of shareholding / ownership and power of attorney are to be attached hereto).
5. Should the number of Directors / Members / Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

ENTERPRISE STAMP



PA-15.3: SPECIAL RESOLUTION OF CONSORTIA OR JOINT VENTURES

RESOLUTION of a meeting of the duly authorised representatives of the following legal entities who have entered into a consortium/joint venture to jointly tender for the project mentioned below: *(legally correct full names and registration numbers, if applicable, of the Enterprises forming a consortium/joint venture)*

- 1 _____

- 2 _____

- 3 _____

- 4 _____

- 5 _____

- 6 _____

- 7 _____

- 8 _____

Held at _____ *(place)*

on _____ *(date)*

RESOLVED that:

A. The above-mentioned Enterprises submit a tender in consortium/joint venture to the Department of Public Works & Infrastructure in respect of the following project:

(project description as per Tender Document)

Tender Number: _____ *(tender number as per Tender Document)*



Mr/Mrs/Ms: _____

in *his/her Capacity as: _____ (position in theEnterprise)

and who will sign as follows: _____

be, and is hereby, authorised to sign the tender, and any and all other documents and/or correspondence in connection with and relating to the tender, as well as to sign any Contract, and any and all documentation, resulting from the award of the tender to the Enterprises in consortium/joint venture mentioned above.

C. The Enterprises constituting the consortium/joint venture, notwithstanding its composition, shall conduct all business under the name and style of:

D. The Enterprises to the consortium/joint venture accept joint and several liability for the due fulfilment of the obligations of the consortium/joint venture deriving from, and in any way connected with, the Contract entered into with the Department in respect of the project described under item A above.

E. Any of the Enterprises to the consortium/joint venture intending to terminate the consortium/joint venture agreement, for whatever reason, shall give the Department 30 days' written notice of such intention. Notwithstanding such decision to terminate, the Enterprises shall remain jointly and severally liable to the Department for the due fulfilment of the obligations of the consortium/joint venture as mentioned under item D above.

F. No Enterprise to the consortium/joint venture shall, without the prior written consent of the other Enterprises to the consortium/joint venture and of the Department, cede any of its rights or assign any of its obligations under the consortium/joint venture agreement in relation to the Contract with the Department referred to herein.

G. The Enterprises choose as the *domicilium citandi et executandi* of the consortium/joint venture for all purposes arising from the consortium/joint venture agreement and the Contract with the Department in respect of the project under item A above:

Physical address: _____

_____ Postal Code _____

Postal Address: _____

_____ Postal Code _____

Telephone number _____ Fax number: _____

E-mail address: _____



	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			

The tendering enterprise hereby absolves the Department of Public Works & Infrastructure from any liability whatsoever that may arise as a result of this document being signed.

Note:

1. * Delete which is not applicable.
2. **NB:** This resolution must be signed by all the Duly Authorised Representatives of the Legal Entities to the consortium/joint venture submitting this tender, as named in item 2 of Resolution PA-15.2.
3. Should the number of the Duly Authorised Representatives of the Legal Entities joining forces in this tender exceed the space available above, additional names, capacity and signatures must be supplied on a separate page.
4. Resolution PA-15.2, duly completed and signed, from the separate Enterprises who participate in this consortium/joint venture, must be attached to this Special Resolution (PA-15.3).



DPW-16. TENDER BRIEFING MEETING CERTIFICATE

Project title:	MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE		
Tender / Quotation no:	PEH 01/2023	Reference no:	1347

Date Bid Briefing Meeting: N/A

Time of Bid Briefing Meeting: N/A

Venue: N/A

This is to certify that I, _____

representing _____

attended the tender clarification meeting on: _____

I further certify that I am satisfied with the description of the work and explanations given at the tender clarification meeting and that I understand the work to be done, as specified and implied, in the execution of this contract.

Name of Tenderer	Signature	Date

Name of DPW Representative	Signature	Date



DPW-21: RECORD OF ADDENDA TO TENDER DOCUMENTS

Project title:	MDANTSANE & ZWELITSHA MAGISTRATE OFFICES: PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24) MONTHS MAGISTRATE OFFICE		
Tender / Quotation no:	PEH 01/2023	Reference no:	1347

1. I / We confirm that the following communications received from the Department of Public Works before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer: *(Attach additional pages if more space is required)*

	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Name of Tenderer	Signature	Date

2. I / We confirm that no communications were received from the Department of Public Works before the submission of this tender offer, amending the tender documents.

Name of Tenderer	Signature	Date

PA- 40: DECLARATION OF DESIGNATED GROUPS FOR PREFERENTIAL PROCUREMENT

Tender Number: PEH 01/2023

Name of Tenderer

EME² QSE³ Non EME/QSE (tick applicable box)

1. LIST ALL PROPRIETORS, MEMBERS OR SHAREHOLDERS BY NAME, IDENTITY NUMBER, CITIZENSHIP AND DESIGNATED GROUPS.

Name and Surname #	Identity/ Passport number and Citizenship##	Percentage owned	Black	Indicate if youth	Indicate if woman	Indicate if person with disability	Indicate if living in rural / under developed area/township	Indicate if military veteran
1.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
8.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
9.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
10.			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Where Owners are themselves a Company, Close Corporation, Partnership etc., identify the ownership of the Holding Company, together with Registration number
State date of South African citizenship obtained (not applicable to persons born in South Africa)

² EME: Exempted Micro Enterprise

³ QSE: Qualifying Small Business Enterprise



1. DECLARATION:

The undersigned, who warrants that he/she is duly authorized to do so on behalf of the Tenderer, hereby confirms that:

- 1 The information and particulars contained in this Affidavit are true and correct in all respects;
- 2 The Broad-based Black Economic Empowerment Act, 2003 (Act 53 of 2003), Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), the Preferential Procurement Regulations, 2022, National Small Business Act 102 of 1996 as amended and all documents pertaining to this Tender were studied and understood and that the above form was completed according to the definitions and information contained in said documents;
- 3 The Tenderer understands that any intentional misrepresentation or fraudulent information provided herein shall disqualify the Tenderer's offer herein, as well as any other tender offer(s) of the Tenderer simultaneously being evaluated, or will entitle the Employer to cancel any Contract resulting from the Tenderer's offer herein;
- 4 The Tenderer accepts that the Employer may exercise any other remedy it may have in law and in the Contract, including a claim for damages for having to accept a less favourable tender as a result of any such disqualification due to misrepresentation or fraudulent information provided herein;
- 5 Any further documentary proof required by the Employer regarding the information provided herein, will be submitted to the Employer within the time period as may be set by the latter;

Signed by the Tenderer

Name of representative	Signature	Date

PA-16: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and

1.2 Preference Points System to be applied

The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender shall be awarded for:

1.3.1 Price: Maximum 80 points

1.3.2 Specific Goals: Maximum 20 points

1.4 The maximum points for this tender are allocated as follows:

Preference Points System to be applied	80/20
PRICE	80
SPECIFIC GOALS	20
Total points for Price and Specific Goals	100

1.5 Breakdown Allocation of Specific Goals Points

1.5.1 For procurement transactions with rand value greater than R1 Million and up to R50 Million (Inclusive of all applicable taxes) the specific goals as listed in the table below are applicable:

Serial No	Specific Goals	Preference Points allocated out of 20	Documentation to be submitted by bidders to validate their claim for points
1.	An EME or QSE or any entity which is at least 51% owned by black people	10	<ul style="list-style-type: none"> • SANAS Accredited BBBEE Certificate or sworn affidavit where applicable.
2.	Located in Eastern Cape Province for work to be done or services to be rendered in the Eastern Cape Province area	2	<ul style="list-style-type: none"> • Official Municipal Rates Statement which is in the name of the bidder. Or • Any Account or statement which is in the name of the Bidder. Or • Permission To Occupy from local chief in case of rural areas (PTO) which is in the name of the bidder. Or



Serial No	Specific Goals	Preference Points allocated out of 20	Documentation to be submitted by bidders to validate their claim for points
			<ul style="list-style-type: none"> Lease Agreement which is in the name of the bidder.
3.	An EME or QSE or any entity which is at least 51% owned by black women	4	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or sworn affidavit where applicable.
4.	An EME or QSE or any entity which is at least 51% owned by black people with disability	2	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or sworn affidavit where applicable. and Medical Certificate indicating that the disability is permanent or South African Social Security Agency (SASSA) registration indicating that the disability is permanent Or National Council for Persons with Physical Disability in South Africa registration (NCPDPSA)
5.	An EME or QSE or any entity which is at least 51% owned by black youth	2	<ul style="list-style-type: none"> ID Copy and SANAS Accredited BBBEE Certificate or sworn affidavit where applicable.

- 1.6 Failure on the part of the tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals, if the service provider/ tenderer did not submit proof or documentation required to claim for specific goals will be interpreted to mean that preference points for specific goals are not claimed.
- 1.7 The organ of state reserves the right to require of a service provider/tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1. THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:



80/20 or 90/10

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right) \quad \text{or} \quad Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

- Ps = Points scored for price of tender under consideration
Pt = Price of tender under consideration
Pmin = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 or 90/10

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

- Ps = Points scored for price of tender under consideration
Pt = Price of tender under consideration
Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1,2 and 3 above as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.



Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

Table with 3 columns: The specific goals allocated points in terms of this tender, Number of points allocated (80/20 system) (To be completed by the organ of state), and Number of points claimed (80/20 system) (To be completed by the tenderer). Rows include goals like 'An EME or QSE or any entity which is at least 51% owned by black people' and 'Located in Eastern Cape Province for work to be done or services to be rendered in the Eastern Cape Province area'.

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- Unchecked checkboxes for Partnership/Joint Venture / Consortium, One-person business/sole propriety, Close corporation, Public Company, Personal Liability Company, (Pty) Limited, Non-Profit Company, and State Owned Company.

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;



iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

- (a) disqualify the person from the tendering process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.

.....SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE - GENERAL

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

- The contents of this statement are to the best of my knowledge a true reflection of the facts.

Select applicable

- I am a Member / Director / Owner **(Select one)** of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name:	
Trading Name (If Applicable):	
Registration Number:	
Enterprise Physical Address:	
Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):	
Nature of Construction Business:	
Definition of "Black People"	As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians – (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation- i. before 27 April 1994; or ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"
Definition of "Black Designated Groups"	"Black Designated Groups means: (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black people who are youth as defined in the National Youth Commission Act of 1996; (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black people living in rural and under developed areas; (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"

3. I hereby declare under Oath that:

The Enterprise is _____% Black Owned using the flow-through principle as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,

The Enterprise is _____% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,

The Enterprise is _____% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,

Black Designated Group Owned % Breakdown as per the definition stated above:

- Black Youth % = _____%
- Black Disabled % = _____%
- Black Unemployed % = _____%
- Black People living in Rural areas % = _____%
- Black Military Veterans % = _____%

Select applicable

Based on the Financial Statements / Management Accounts and other information available (on the latest financial year-end of ____/____/____ (format: day/month/year) the annual
Day/ month / year

Total Revenue/ Allocated Budget/Gross Receipts was R10, 000,000.00 (Ten Million Rands) or less

Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

100% Black Owned	Level One (135% B-BBEE procurement recognition level)	
At Least 51% black owned	Level Two (125% B-BBEE procurement recognition level)	
Less than 51% Black Owned	Level Four (100% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature _____

Date: _____

Commissioner of Oaths
Signature & stamp

Stamp Commissioner of Oaths

SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE – GENERAL

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

- The contents of this statement are to the best of my knowledge a true reflection of the facts.

Select applicable

- I am a Member / Director / Owner **(Select one)** of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name:	
Trading Name (If Applicable):	
Registration Number:	
Enterprise Physical Address:	
Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):	
Nature of Construction Business:	
Definition of “Black People”	As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians – (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation- i. before 27 April 1994; or ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”
Definition of “Black Designated Groups”	“Black Designated Groups means: (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black people who are youth as defined in the National Youth Commission Act of 1996; (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black people living in rural and under developed areas; (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”

3. I hereby declare under Oath that:

The Enterprise is _____% Black Owned using the flow-through principle as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,

The Enterprise is _____% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,

The Enterprise is _____% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,

Black Designated Group Owned % Breakdown as per the definition stated above:

- Black Youth % = _____%
- Black Disabled % = _____%
- Black Unemployed % = _____%
- Black People living in Rural areas % = _____%
- Black Military Veterans % = _____%

Select applicable

Based on the Financial Statements / Management Accounts and other information on the latest financial year-end of ____/____/____ (format day/month/year)

the annual Total Revenue was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands),

Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

100% Black Owned	Level One (135% B-BBEE procurement recognition level)	
At Least 51% black owned	Level Two (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature _____

Date: _____

Commissioner of Oaths
Signature & stamp

Stamp Commissioner of Oath

SPECIAL CONDITIONS OF BID (SCB-1 G&S)

1 INTERPRETATION

- 1.1 The word "Bidder" in these conditions shall mean and include any firm of Contractors, Services Providers or any company or body incorporated or unincorporated or any other legal entities.
- 1.2 The word "Department" in these conditions shall mean the DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE
- 1.3 Any reference to words "Bid" or "bidder" herein and or any other documentation shall be construed to have the meaning as the words "Tender" or Tenderer".

2 PRECEDENCE

- 2.1. If any other condition (bid rule) in the bid document is in contradiction with the "Special Conditions of Bid" the "Special Conditions of Bid" will take preference.
- 2.2. The "Special Conditions of Bid" can only be amended by an official addendum before the closing date of the bid.

3 GENERAL BID RULES

- 3.1. "Written" or "in writing" means hand-written in non-erasable ink or any form of electronic or digital writing and or a combination thereof.
- 3.2. The digital and or electronic completion and signing of documents is permitted.
- 3.3. A bidder participates in this bid process entirely at its own risk and cost.
- 3.4. The Department may accept or reject any bid offer and may cancel the bid process (or reject all bid offers at any time) prior to the formation of a contract, due to the following:
 - 3.4.1. due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
 - 3.4.2. funds are no longer available to cover the total envisaged expenditure;
 - 3.4.3. no acceptable tender is received;
 - 3.4.4. there is a material irregularity in the tender process; or
 - 3.4.5. there is material change in the scope of works.
- 3.5. The Department shall not accept or incur any liability for such cancellation or rejection or acceptance, but will give written reasons for such action upon receiving a written request to do so.
- 3.6. Completed bid documents in a sealed envelope, endorsed with the relevant bid number, bid description and the closing, must be deposited in the bid box as indicated in the bid document.
- 3.7. Bidders must ensure that bids submitted via courier services are deposited by the courier service in the Departmental Bid box, prior to the closing date and time. The Department will not accept responsibility for any bids, which are not timeously deposited in the Bid Box.
- 3.8. A Bid will be treated as a late bid, if it is not received in the bid box. The Department will not accept responsibility for any late depositing of bids or for the non-depositing of bids in the bid box, which are as a result from an act committed or omitted by an official. This is not limited to the following cases:
 - 3.8.1. A Bidder handed over its bid to a departmental official or to the security services personnel timeously, but they omits to deposit the bid in the bid box on or before the closing date and time.
 - 3.8.2. If a courier service delivers the bid to a departmental official or to the security services personnel timeously and it is not deposited in the bid box timeously.
 - 3.8.3. The bid documents were send through mail / Post Office and it is not timely collected and or timely deposited in the Departmental Bid Box.
- 3.9. Bids received after the closing date and time will not be accepted for consideration and where practical, be returned unopened to the Bidder(s).
- 3.10. Bidders who are not registered on the CSD, must register on the CSD within 7 working days, if requested to do so. No award letters or purchase orders or contracts will be signed, with a bidder not registered on the CSD.
- 3.11. The Department will download the following documents, to verify the information submitted by bidders:



- 3.11.1. CSD registration certificate (if the bidder is registered in the CSD)
- 3.11.2. CIPC registration
- 3.12. Bidders are not allowed to recruit or shall not attempt to recruit an employee of the Department for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof.

4 AMBIGUITIES/ CONTRADICTIONS / OMISSIONS

- 4.1. If a bidder becomes aware of any ambiguities or contradictions or omissions in the bid document or the specifications, drawings or descriptions or functionality or quality, or any part of the bid document, this should be clarified with the Department, at least five (5) working days before the closing time stated in the tender data.
- 4.2. If the Department found, after the closing date of the bid, that there is an ambiguity/ contradiction or omission in the bid document, the Department reserves the right to:
- 4.2.1. If the ambiguity or contradiction or omission in the bid document is of an administrative nature, request bidders to correct any non-compliances caused by the ambiguity or contradiction or omission or
 - 4.2.2. If the ambiguity or contradiction or omission is immaterial, proceed to finalise the procurement process and notify the delegated authority in the submission of the ambiguity or contradiction or omission for the consideration of the approving authority or
 - 4.2.3. Cancel the bid and process

5 PERIOD OF VALIDITY FOR BIDS AFTER CLOSING DATE

- 5.1 All Bids must remain valid from the closing date for a period as stipulated in the bid document.
- 5.2 The Department reserves the right to request for the validity extensions of bids, should it deemed necessary. The following conditions will apply when the Department request for a validity extension of a bid:
- 5.2.1 The request for a validity extension will be done while the validity period of the bids are still valid.
 - 5.2.2 Bidders have the right to refuse the extension of the validity period of their bids.
 - 5.2.3 If a request for validity extensions are send to bidders while the validity period of the bids are still valid, non-replying to the request for validity extension before the expiry date will be deemed a tacit agreement to the extension of the validity period. The Department will communicate with the affected bidders to confirm such tacit agreement.
 - 5.2.4 Should the bidder not agree with the tacit agreement, the bidder shall be deemed to be non-responsive and not considered for further evaluation.
 - 5.2.5 If a bidder(s) refused a validity extension, it will be deemed that the bidder(s) had withdrawn their bids from the bidding process. The Department reserves the right to continue with its bid evaluation and adjudication of the remaining bids and finalise the process.

6 BRAND NAMES

- 6.1 Wherever a brand name is specified in this bid document (i.e. in the specifications, pricing schedule or bill of quantities or anywhere in this document), the department's requirement is not limited to the specified brand name, but requires an item similar/equivalent or better than specified.

7 CONTRACTUAL PRICE ADJUSTMENTS

- 7.1 The Bid will be subjected to price escalation as specified in the bid document.

8 AUTHORITY TO SIGN BID DOCUMENTS

- 8.1 No authority to sign (PA 15.1: Resolution of Board of Directors) is required from an enterprise which has only one director or is a sole ownership.
- 8.2 In the case of a bid being submitted on behalf of a company, close corporation or partnership, evidence should be submitted with the bid at the closing time, that the Bid has been signed



- by a person properly authorised by resolution of the directors or under the articles of the entity. For that purpose, forms PA-15.1-15.3 (Resolution of Board of Directors) are included in the bid document for completion by the relevant Board(s) of Directors
- 8.3 The department further accepts that, in the absence of a PA 15.1: Resolution of Board of Directors, any director or any member of the enterprise may have the authority to bind the enterprise. Therefore the following will apply when only one director or one member of the enterprise signed the bid documents:
- 8.3.1 The signature of any one of the directors or any one of the members of the enterprise will bind the enterprise and all the directors/ members of the enterprise. This condition will therefore render the bid valid; and
- 8.3.2 The Department will verify the authority to sign (if deemed necessary) and where possible, may request proof of such authority of the relevant director or relevant member to act on behalf of the enterprise in the form of a “ Resolution of the Board of Directors”, if such “, (PA 15.1: Resolution of Board of Directors),” was not submitted with the bid or was not completed or was incorrectly completed,
- 8.4 In the case of a sub-contractor agreement, a joint venture or consortia, the signing of the sub-contractor agreement, or Joint Venture or Consortia agreement by any director or member of each of the parties to the agreement, will render the sub-contractor agreement or Joint Venture or Consortia agreement valid. Therefore:
- 8.4.1 The Department reserves the right to request from each party to the sub-contractor agreement or Joint Venture or Consortia” agreement, proof of such authority of the relevant director or relevant member to act on behalf of the enterprise(s), in the form of a “ Resolution of the Board of Directors”, if it was not submitted with the bid or was not completed or was incorrectly completed,
- 8.5 In the event that a non-member or non-director to the enterprise(s) sign the bid documents and or sign a joint venture or consortia agreement, an “Authority to sign” issued by a director of the enterprise(s) or by the Board of Directors of the enterprise(s) must be submitted with the bid at the closing date. Failure to comply with this requirement at the closing date of the bid, will invalidate the bid submitted.

9 CONTRACT PERIOD

- 9.1 The expected contract period is as stipulated in the Contract Data. The construction period is as stipulated within the Contract Data from date of handing over of site in the case of contractors.

10 NEGOTIATION WITH THE IDENTIFIED PREFERRED BIDDER

- 10.1 The Bid will be awarded to the bidder who scores the highest PPPFA number of points:
- 10.1.1 However, should an offer not be market related, the Department reserves the right to negotiate with bidders a reasonable market price /offer?

11 AWARD OF CONTRACTS TO TENDERERS NOT SCORING HIGHEST POINTS

- 11.1 The Department reserves the right to award the bid to a tenderer, other than the highest scoring bidder, after having applied an objective criteria (i.e risk assessment, as per the risk assessment criteria in the notice to invitation to tender/quote).

12 TAX COMPLIANCE

- 12.1 No tender shall be awarded to a bidder who is non tax -compliant.
- 12.2 All bidders’ tax matters must be in order prior to award.
- 12.3 Bidders’ tax matters will be verified through CSD.
- 12.4 If the recommended bidder’s tax status is non-compliant, the recommended bidder must submit written proof from SARS of their tax compliant status or submit written proof that they have made an arrangement with SARS to meet their outstanding tax obligations.
- 12.5 The recommended bidder will be given a maximum of seven (7) working days to correct their tax compliance status.
- 12.6 Failure to comply within seven (7) working days, from the date of the request, the Department will reject the bid submitted by the bidder.

13 REGISTRATION AS A VAT-VENDOR

- 13.1 Non-VAT vendors do not have to include VAT in their bid prices.



- 13.2 Non-VAT vendors who submit bids for contracts that would, if successful, take their annual turnover above the threshold of R1 million, must include VAT in the prices quoted and must therefore immediately upon award of the contract, register with the South African Revenue Service (SARS) as VAT vendors.
- 13.3 The award of contract would be conditional (for Non-VAT vendors who included VAT in their prices) conditional pending the successful bidder submitting proof of registration as VAT vendor with SARS within 21 days of award.
- 13.4 Failure to comply within 21 days after being notified to do so will lead to the automatic withdrawal of the “provisional letter of award” and elimination of the bidder’s offer.
- 13.5 VAT vendors must include VAT in their bid prices and failure to comply will lead to an automatic elimination of the bidder’s offer.
- 13.6 In all other instances, where bidders have excluded VAT from the prices quoted, if the bidder is successful, the letter of award will clearly state that the price at which the contract is awarded is exclusive of VAT and that VAT will not be added on at any stage after the contract has been signed.
- 13.7 If a Non-VAT vendor/ bidder is contracted with the Department with a price which is Excluded Vat, and it becomes a VAT vendor after award or alternatively becomes a VAT vendor due to a cumulative number of awards, the bidder will have to absorb the adverse financial implications of not including VAT in their price quoted. VAT cannot be claimed from the Department for any payments already made or from any future payments.

14 CERTIFICATION OF DOCUMENTS

- 14.1 Where so required in the bid documents, bidders are required to submit copies which re certified as a “true copy of the original”.
- 14.2 If a bidder submitted an uncertified copy of an original document, or an original copy which is not correctly certified, the bidder will be afforded an opportunity to correct such non-compliance within a minimum period of 48 hours as follows:
- 14.2.1 The corrected noncompliance must be made from the initial copied document and not from a new document or from another document.
- 14.3 All bidders’ whose copies complies with the minimum requirements above, will be “deemed in order” and will be subjected for consideration in further evaluation processes, even if the Department did not request any corrections.
- 14.4 No submissions of new or alternative documents or certified copies of new or alternative documents will be allowed after the bid closing date.
- 14.5 The Department will not accept a copy of a copied document and will not provide any bidder an opportunity to correct such a non-compliance.

15 REQUIREMENTS FOR A VALID BBBEE CERTIFICATES AND SWORN AFFIDAVITS

- 15.1 A valid B-BBEE Certificate is a B-BBEE Certificate which has not expired at the closing date of the bid.
- 15.2 A “Sworn Affidavit” must comply with the following minimum requirements at the closing date, to be considered valid. If the submitted “Sworn Affidavit” does not comply with the minimum requirements below, the bidder will not be given an opportunity to correct it:
- 15.2.1 The “Sworn Affidavit” must not be expired at the closing date.
- 15.2.2 The BBBEE Level Contributor must be indicated (ticked)
- 15.2.3 The “Sworn Affidavit” must be signed and dated by the bidder (Deponent).
- 15.2.4 The “Sworn Affidavit” submitted must be signed and stamped by the “Commissioner of Oath”.
- 15.2.5 The “latest financial year-end” field must not be left blank.
- 15.2.6 In respect of “Sworn Affidavits” of the Construction sector, Property Sector, the field (block) where the bidder must confirm its financial information (i.e. Net Assets or Annual Turnover) must be completed (ticked) and must not be left blank or not ticked.
- 15.2.7 The Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.
- 15.3 The Department will deal with all other matters, which is not listed under the minimum requirements as reflected above, as administrative matters, should it be deemed necessary.

15.4 For all sectors (example the construction sector, the property Sector and or any sector), a “Sworn Affidavit” issued in terms of the relevant sector must be used. All the minimum requirements applicable to “valid sworn affidavits” as per this “Special Conditions of Bid” will apply.

16 AWARDING OF POINTS FOR SPECIFIC GOALS (PA-16)

- 16.1 In accordance with the PPPFA regulations 2022, bidders will not be eliminated if they do not submit a BBEE – certificate or a “valid sworn affidavits”. The bidder will not be scored for points, but will be evaluated further.
- 16.2 For a bidder to be awarded points for specific goals as per the bid, the bidder must submit proof as specified in the bid document with the bid at the closing date and time.
- 16.3 The requirements of a valid BBEE-Certificate and or “Sworn Affidavit” as specified in the Special Conditions of Tender applies.
- 16.4 Parties in an unincorporated joint venture must submit its own consolidated B-BBEE certificate, which has not expired at the closing date of the bid.
- 16.5 If a bidder submit with the bid at the closing date the required proof for specific goals, as specified in the bid document, but the proof is not certified or is certified incorrectly, the bidder will be given a minimum of 48 hours to submit a copy which is correctly certified. The copy maybe certified after the closing date of the bid. The copies maybe certified after the closing date of the bid.
- 16.6 Non-submission of the PA-16 form or non-completion the PA-16 form or an incomplete PA-16 form, is not an elimination criteria.
- 16.7 If a bidder submit at the closing date of the bid a valid proof as specified in the bid document, but the bidder’s PA 16 is not signed or dated or witnessed or it is not properly completed, or its not completed or submitted or did not claim points, the bidder will be given a minimum of 48 hours to submit or correctly complete its PA 16.
- 16.8 All bidders’ whose submitted proof as specified in the bid document and it complies with the minimum requirements above, will be “deemed in order” and will be subjected for consideration in further evaluation, even if the Department did not request any corrections/certifications.
- 16.9 No submissions of alternative proof for specific goals as specified in the bid document will be allowed after the bid closing date.
- 16.10 Bidders who failed to submit the required proof for points for specific goals, will not be scored for the relevant specific goal(s), but there offers will still be evaluated further.

17 BIDDER’S DISCLOSURE/ BIDDER’S DECLARATION (PA - 11)

- 17.1 The Department will afford a bidder an opportunity to correct its PA-11 form, if the bidder omitted to sign or to complete or to properly complete this form.
- 17.2 A bidder’s offer maybe eliminated if the bidder’s declaration is proven false during the bid evaluation process.

18 FORM OF OFFER AND ACCEPTANCE

- 18.1 The tender amount in words takes precedence, where there is a discrepancy between the amount in figures, and the amount in words will govern.
- 18.2 The successful bidder will be required to balance its rates prior signing of a contract.
- 18.3 If the tenderer makes an obvious grammatical error in the amount of words, the wording will be compared to all the submitted comparative figures (i.e. the amount in figures on the submitted “Form of Offer and Acceptance” and the amount stipulated in the bills of quantities or the final summary page, or activity schedule or pricing schedule) and if deemed the same:
 - 18.3.1 The tenderer’s offer will not be disqualified.
 - 18.3.2 The tenderer can be requested to correct the error and ratify its “Form of Offer and Acceptance”.
- 18.4 If there is no amount in words, the amount in figures on the submitted “Form of Offer and Acceptance” will be compared to all the submitted comparative figures (i.e. the

- amount stipulated in the submitted bills of quantities or the final summary page or the activity schedule, or the pricing schedule) and if deemed the same:
- 18.4.1 The tenderer's offer will not be disqualified.
 - 18.4.2 The tenderer can be requested to correct the omission of the amount in words and ratify its "Form of Offer and Acceptance".
- 18.5 In addition to the above, the form of Offer and Acceptance, must at the closing date of the bid, comply with the following minimum criteria:
- 18.5.1 It must be signed by an authorised person of the Bidder;
 - 18.5.2 The Surname with Initials/ Name of the authorised person must be clearly indicated;
 - 18.5.3 The date on the form of offer must be completed;
 - 18.5.4 The name of the bidder/ legal entity must be clearly indicated.
- 18.6 If both the "amount in words" and the "amount in figures" is not completed, the bid will not be considered further.

19 CORRECTION OF ERRORS

- 19.1 Only the authorised signatory to the tender should initial corrections in the tender document.
- 19.2 All corrections must be in non-erasable ink and the use of correcting fluid (tippex) is prohibited.
- 19.3 In the event that a correction is not initialled or the correction is initialled by a person not having the prescribed authority, the Department will:
 - 19.3.1 Seek the necessary clarification from the tenderer and;
 - 19.3.2 If accepting the response from the tenderer, evaluate the bid further and or;
 - 19.3.3 Allow the tenderer to correct/ ratify any noncompliance, where necessary.

20 CONDITIONS WITHDRAWN FROM THE GENERAL CONDITIONS OF CONTRACT

- 20.1 N/A

21 INCOMPLETE SECTIONS OR SCHEDULES IN BID DOCUMENTS

- 21.1 Bidders' who omitted or incorrectly completed a section(s) or a schedule(s) in the bid document, but have submitted with the bid the required/ specified proof or supportive documents for that particular sections of the document, maybe allowed to correct such non-compliance.

22 POINTS FOR SPECIFIC GOALS

- 22.1 To qualify for points for Specific goals, as specified in the "Invitation to Bid" and the "PA-16", bidders must comply with the requirements at the closing date of the bid.
- 22.2 It is the bidder's responsibility to ensure that it submit the correct evidence at the closing date of the bid, for the validation of the points the bidder is claiming.
- 22.3 Bidder's will not be given an opportunity to submit evidence after closing date, if the evidence is not submitted or if incorrect evidence was submitted.

23 THE OTHER ADDITIONAL INFORMATION WHICH MAY BE REQUIRED FOR EVALUATION

CRITERIA	SPECIAL CONDITIONS OF BID
a) A close corporation, incorporated prior to 1 May 2011 under the Close Corporations Act, 1984 (Act 69 of 1984, as amended)	Copies of the Founding Statement - CK1
b) A profit company duly registered as a private company. [including a profit company that meets the criteria for a private company, whose Memorandum of Incorporation states that the company is a personal liability company in terms of Section 8(2)(c) of the Companies Act, 2008 (Act 71 of 2008, as amended)].	Copies of: <ul style="list-style-type: none"> i. Certificate of Incorporation - CM1; ii. Shareholding Certificates of all Shareholders of the company, plus a signed statement of the company's Auditor, certifying each Shareholder's ownership / shareholding percentage relative to the total; and/or

CRITERIA	SPECIAL CONDITIONS OF BID
	iii. Memorandum of Incorporation in the case of a personal liability company.
c) A profit company duly registered as a private company in which any, or all, shares are held by one or more other close corporation(s) or company(ies) duly registered as profit or non-profit company(ies).	Copies of documents referred to in a. and/or b. above in respect of all such close corporation(s) and/or company(ies).
d) A profit company duly registered as a public company.	Copy of Certificate of Incorporation - CM1, and a signed statement of the company's Secretary or Auditor confirming that the company is a public company.
e) A non-profit company, incorporated in terms of Section 10 and Schedule 1 of the Companies Act, 2008 (Act 71 of 2008, as amended).	Copies of: i. The Founding Statement - CK1; and ii. The Memorandum of Incorporation setting out the object of the company, indicating the public benefit, cultural or social activity, or communal or group interest.
f) A natural person, sole proprietor or a Partnership	Copy(ies) of the Identity Document(s) of: i. such natural person/ sole proprietor, or each of the Partners to the Partnership.
g) A Trust	Deed of Trust duly indicating names of the Trustee(s) and Beneficiary (ies) as well as the purpose of the Trust and the mandate of the Trustees.

24 DISCLAIMER

24.1 It is impractical and cumbersome for the Department to communicate with all qualifying bidders to correct/ ratify all eligible matters as articulated in this "Special Conditions of Bid". The Department therefore reserves the right and discretion, during its evaluation and other administrative processes to:

24.1.1 Limit its correspondences for corrections/ ratifications/ clarities to potential higher point scoring bidders only and to

24.1.2 Further evaluate any potential qualifying lower scoring bidder(s) as "deemed responsive" or giving points, etc, without requesting the corrections/ ratifications of a matter which is eligible as per the "Special Conditions of Bid".

- End Special Conditions of Bid -
(Version: Approved 29 August 2023)

BID NUMBER: PEH 01/2023

**BID/ PROJECT DESCRIPTION: MDANTSANE & ZWELITSHA MAGISTRATE OFFICES:
PROVISION OF HORTICULTURAL MAINTENANCE FOR A PERIOD OF TWENTY FOUR (24)
MONTHS MAGISTRATE OFFICE**

FACILITIES MANAGEMENT CONDITIONS OF CONTRACT (DPW)

SEPT. 2005 VERSION 1

PA-10 (FM): CONDITIONS OF CONTRACT

1. DEFINITIONS

- 1.1. *The following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:*
- 1.1.1. *"Additional Services" are increases in the quantity of the routine Services detailed in the Scope of Works.*
- 1.1.2. *"Bill of Quantities" means the document so designated in the Pricing Data that describes the Services and indicates the quantities and rates associated with each item which the Employer agrees to pay the Service Provider for the Services completed;*
- 1.1.3. *"Certificate of Completion" means the certificate issued by the Service Manager signifying that the Contract has expired;*
- 1.1.4. *"Commencement Date" means the date on when the Service Provider is notified of the Employer's acceptance of its offer;*
- 1.1.5. *"Contract" means the Contract signed by the Parties and of which these Conditions of Contract form part of, and such amendments and additions to the Contract as may be agreed in writing between the Parties;*
- 1.1.6. *"Contract Data" means the specific data, which together with these Conditions of Contract, Scope of Works and Pricing Data collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the Contract;*
- 1.1.7. *"Contract Period" is from Commencement Date for the period stated in the Contract Data;*
- 1.1.8. *"Contract Price" means the price to be paid for the Services in accordance with the Pricing Data, subject to such additions thereto or deductions there from as may be made from time to time under the provisions of the Contract;*
- 1.1.9. *"Contract Sum" refers to the amount stated by the Service Provider in the Form of Offer and Acceptance;*
- 1.1.10. *"CPAP" means contract price adjustment provisions used for the adjustment of fluctuations in the cost of labour, plant and materials and goods as stated in the Contract Data;*
- 1.1.11. *"Day" means a calendar day;*
- 1.1.12. *"Drawings" means all drawings, calculations and technical information which are made available to the Service Provider for inspection at a venue and time to be announced by the Service Manager and any modifications thereof or additions thereto from time to time approved in writing by the Employer or delivered to the Service Provider by the Employer;*
- 1.1.13. *"Employer" means the contracting Party named in the Contract Data who appoints the Service Provider;*
- 1.1.14. *"Equipment" includes all appliances, tools implements, machinery, articles and things of whatsoever nature required in or for the rendering, completion or defects correction of the Services but does not include materials;*
- 1.1.15. *"Facilities" means the land and buildings, detailed in the Scope of Works, and any additions, or omission thereto, made available by the Employer for the purposes of*



the Contract, on, under, over, in or through which the Services are to be rendered or carried out;

- 1.1.16.** *“Form of Offer and Acceptance” means the written communication by the Employer to the Service Provider recording the acceptance of the Service Provider’s offer;*
- 1.1.17.** *“Identified Projects” means any projects, other than routine Services, identified and agreed to by the Parties during the Contract period or any extensions thereto, to be completed in terms of the Contract.*
- 1.1.18.** *“Materials” includes all materials, commodities, articles and things required to be furnished under the Contract for the execution of the Services;*
- 1.1.19.** *“Month” refers to the period commencing on a certain day of a month to the day preceding the corresponding day of the next month;*
- 1.1.20.** *“Parties” means the Employer and the Service Provider;*
- 1.1.21.** *“Pricing Data” means the document that contains the Bill of Quantities and provides the criteria and assumptions, which it will be assumed in the Contract were taken into account by the Service Provider when developing his prices;*
- 1.1.22.** *“Services” means all the work to be performed by the Service Provider during the Contract Period in accordance with the Contract, as more fully set out in the Scope of Works, as amended from time to time by written agreement between the Parties;*
- 1.1.23.** *“Service Provider” means the Tenderer, as named in the Contract Data, whose offer has been accepted by or on behalf of the Employer and, where applicable, includes the Service Provider’s heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Employer, any assignee of the Service Provider;*
- 1.1.24.** *“Service Manager” means the representative of the Employer named as the Service Manager in the Contract Data. The Employer reserves the right to replace the said Service Manager, by written notice to the Service Provider, without the need to furnish reasons therefor;*
- 1.1.25.** *“Scope of Work” refers to the document which defines the Employer’s objectives and requirements and specifications and any other requirements and constraints relating to the manner in which the Services must, or may, be provided or performed;*
- 1.1.26.** *“Service Period” refers to the period indicated in the Contract Data during which the Service Provider shall render the Services required in terms of the Contract;*
- 1.1.27.** *“Transitional Stage” refers to the period indicated in the Contract Data, which commences immediately on the expiry of the Service Period, and during which the Services to be provided by the Service Provider shall include, inter alia, the provision and transfer to the incoming service provider of managerial support and information, as detailed in the Scope of Works.*

2. INTERPRETATION

- 2.1.** *In this Contract, except where the context otherwise requires:*
- 2.1.1** *The masculine includes the feminine and the neuter, vice versa;*
- 2.1.2** *The singular includes the plural; and vice versa*
- 2.1.3** *Any reference to a natural person includes a body corporate, firm, association or consortium/joint venture/partnership, vice versa.*



- 2.2. *The headings to the clauses of this Contract are included for reference purposes only and shall not affect the interpretation of the provisions to which they relate.*
- 2.3. *Words and phrases defined in any clause shall bear the meanings assigned thereto.*
- 2.4. *The various parts of the Contract are severable and may be interpreted as such.*
- 2.5. *The expressions listed in clause 1 bear the meanings as assigned thereto and cognate expressions bear corresponding meanings.*
- 2.6. *If any provision in a definition clause is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Contract, notwithstanding that it is only contained in the interpretation clause.*
3. **DURATION**
- 3.1. *The rights and obligations of the Parties to this Contract shall commence on the Commencement Date.*
- 3.2. *Subject to the terms of clauses 33 and 34 relating to breach and termination respectively, the Contract will commence on the Commencement Date and terminate on the expiry of the Contract Period, unless it is extended in terms of clause 3.3.*
- 3.3. *The terms or duration of the Contract may be extended as a result of bona fide negotiations between the Parties. No extension of term or duration of the Contract shall however be valid unless the terms and conditions of such extension has been reduced to writing and signed by the authorised representatives of both Parties.*
4. **RIGHTS AND OBLIGATIONS OF THE EMPLOYER**
- 4.1. *The Employer shall give access to or supply the Service Provider with:*
- 4.1.1 *All relevant, available data and information required and requested by the Service Provider for the proper execution of the Services; and*
- 4.1.2 *Such assistance as shall reasonably be required by the Service Provider for the execution of its duties under the Contract.*
5. **RIGHTS AND OBLIGATIONS OF THE SERVICE PROVIDER**
- 5.1. *The Service Provider shall, in executing his obligations, comply with the Service Manager's written instructions on any matter relating to the Services.*
- 5.2. *The Service Provider shall take instructions only from the Service Manager or other persons authorised by the Service Manager in terms of Clause 6.*
- 5.3. *The Service Provider shall not have the power of attorney or authority to enter into any contract or to otherwise bind or incur liability on behalf of the Employer, save where prior written authorisation has been obtained.*
- 5.4. *The Service Provider shall ensure that it, its employees, agents and representatives have the relevant experience and capacity necessary for rendering of the Services with the reasonable degree of skill, care and diligence that may be expected of professionals providing services similar to the Services.*
- 5.5. *Should any member of the Service Provider's team, in the opinion of the Service Manager or occupants of the Facilities, misconduct himself or is incompetent or negligent in the delivery of the Services, or whose presence on the Facilities is otherwise considered by the Service Manager, or occupants of the Facilities, on*



reasonable grounds, to be undesirable, the Employer may, in writing and together with reasons therefor, request that such person be removed. Such person shall not again be employed on the Services without the prior written consent of the Employer.

- 5.6. *The Service Provider undertakes to effect such removal, as referred to in 5.5 above, within a day of receipt of the Employer's written request.*
- 5.7. *The Service Provider shall ensure that reasonable levels of care and responsibility are exercised when using items belonging to the Employer in the delivery of the Services.*
- 5.8. *During the ongoing provision of the Services the Service Provider shall at all times keep the Facilities clean and in a safe condition.*
- 5.9. *Notwithstanding anything herein contained to the contrary, it is specifically agreed that the appointment of the Service Provider shall not create an employment contract or relationship between the Parties and the Service Provider or his employees shall therefore not be entitled to any benefits to which the employees of the Employer may be entitled.*

6. SERVICE MANAGER

- 6.1. *The Service Manager shall administer the Contract on behalf of the Employer in accordance with the provisions of the Contract.*
- 6.2. *The Service Manager may delegate any of his powers and authority and may cancel such delegation, on the prior written notification thereof to the Service Provider.*
- 6.3. *Such delegation shall continue in force until the Service Manager notifies the Service Provider in writing that the delegation is terminated.*
- 6.4. *The Service Provider may at any time, prior to giving effect thereto, refer any written order or instruction of the Service Manager's delegatee to the Service Manager who shall confirm, reverse or vary such order or instruction.*

7. SECURITY

- 7.1. *The Service Provider shall provide to the Employer security in the amount and in the form set out in the Contract Data and any expenditure incurred in doing so shall be borne by the Service Provider.*
- 7.2. *Should the Service Provider fail to select the security to be provided or should the Service Provider fail to provide the Employer with the selected security within 21 days from Commencement Date, it shall be deemed that the Service Provider has selected a security in the form of a retention of 2.5 % of the Contract Sum (excl. VAT).*

8. SECURITY CLEARANCE

- 8.1. *In the event of security clearance becoming necessary, the Service Provider, any subcontractors and all human resources utilized by the Service Provider undertake to undergo security clearance, for which purpose the necessary forms will be made available to the Service Provider at the relevant time by the Employer. The Service Provider accepts that if he or any of his human resources refuses to undergo the required security clearance, they will not be allowed on the Facilities to render the Services.*
- 8.2. *It is required that all persons engaged in the rendering of the Services shall be easily identifiable and where required, security cleared.*

9. CONFIDENTIALITY

- 9.1. *The Service Provider undertakes to keep any and all information, of whatever nature, relating to the Contract or which he becomes privy to due to his presence at the Facilities, strictly confidential and such shall not be sold, traded, published or otherwise disclosed to anyone in any manner whatsoever, including by means of photocopy or other reproduction, without the Employer's prior written consent. As disclosure or improper use of the confidential information, without the Employer's prior written consent, will cause the Employer harm:*
- 9.1.1 *the Service Provider shall be liable for any loss or damages suffered by the Employer and shall indemnify the Employer against any claims by third parties as a result of such unauthorised disclosure or use thereof, either in whole or in part; and/or*
- 9.2.1 *the Employer shall be entitled to cancel the Contract*
- 9.2. *The Service Provider shall be entitled to disclose such confidential information to the following persons, who have a clear need to know interest, in order to assist with the rendering of the Services on the Contract:*
- 9.2.1 *employees, officers and directors of the Service Provider; and*
- 9.2.2 *any professional consultant or agent retained by the Service Provider for the purpose of rendering the Services, provided that the identity of such consultant or agent is made known to the Employer in writing and the Employer acknowledges in writing that the confidential information may be disclosed to such person.*
- 9.3. *The Service Provider shall be responsible for ensuring that all persons to whom the confidential information is disclosed under this Contract shall keep such information confidential and shall not disclose or divulge the same to any unauthorised person.*
- 9.4. *The confidential information shall remain the property of the Employer and the Employer may demand the return or destruction thereof, at the cost of the Service Provider, at any time upon giving written notice to the Service Provider. Within ten (10) days of receipt of such notice, the Service Provider shall return all of the original confidential information and shall destroy all copies and reproductions (both written and electronic) in its possession or in the possession of persons to whom it was disclosed and furnish a certificate to the Employer stating as much.*

10. AMBIGUITY IN DOCUMENTS

- 10.1. *The several documents forming the Contract are to be taken as mutually explanatory of one another and any ambiguity in or discrepancy between them shall be explained and, if necessary, rectified by the Service Manager who shall thereupon issue to the Service Provider a written explanation giving details of the adjustments, if any, and a written instruction directing what Service, if any, is to be delivered.*

11. INSURANCES

- 11.1. *It is the responsibility of the Service Provider to assess his risks on this project and to ensure that he obtains and maintains the adequate insurances to cover such risks.*

12. ACCESS TO THE FACILITIES AND COMMENCEMENT OF THE SERVICES

- 12.1. *The Service Provider shall provide the Employer, within 21 days of the Commencement Date, with an acceptable health and safety plan and such other information required in terms of the Occupational Health and Safety Act (85 of 1993).*
- 12.2. *The Service Period shall commence 30 days from Commencement date, or on such other date as maybe specified in the Contract Data*



12.3. *Notwithstanding the provision of 12.2, the Service Provider shall be given access to the Facilities or portions thereof, only after the provision by the Service Provider of an acceptable health and safety plan and of security clearance being obtained in terms of Clauses 12.1 and 8.1 respectively.*

12.4. *The Service Provider shall be given access to the Facilities or portions thereof and shall render the Services in accordance with its programme, referred to in clause 13 or after the receipt by him of a written instruction to this effect.*

12.5. *If the Employer fails to give the Service Provider access to the facility or any portion thereof for any reason other than default by the Service Provider and the Service Provider suffers additional costs as a result thereof, the Service Provider shall be entitled to make a claim therefor provided that the Service Provider is able to prove his claim and that he has taken all reasonable steps to mitigate the additional costs.*

13. PROGRAMME

13.1. *The Service Provider shall deliver to the Service Manager within 14 days from Commencement Date, a realistic programme and a cash flow for the delivery of the Services. The programme shall describe and detail the order in which the Services are to be rendered and shall be subject to the approval of the Service Manager, which written approval shall not be unreasonably withheld.*

13.2. *The Service Provider shall, on receipt of a written request from the Service Manager, furnish the Employer with any documents or information, of whatever nature, in support of the programme and/or in relation to the manner in which the Services are to be rendered and/or the resources to be supplied and used in the rendering of the Services and/or progress of the various parts of the Contract; and/or a detailed cash flow forecast.*

13.3. *A programme and the cash flow forecast will be submitted in terms of 13.1 and reviewed quarterly or as circumstances may require.*

13.4. *Agreement to the programme by the Service Manager or any adjustment thereto will not alter the responsibilities of the Service Provider in terms of this Contract.*

14. SUBCONTRACTING

14.1. *The Service Provider may subcontract any part of the Services at its discretion. The subcontracts shall incorporate the applicable terms, conditions and requirements of this Contract.*

14.2. *Subcontracting by the Service Provider shall not be construed as relieving the Service Provider from any obligations under the Contract or imposing any liability on the Employer.*

15. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

15.1. *The Service Provider undertakes to obtain the necessary consent from the proprietors or their licensees should the Service Provider make use of the intellectual property of any other person.*

15.2. *The Service Provider further indemnifies the Employer against any claim or action (including costs on an attorney and client scale) caused by or arising from the failure to obtain such consent.*

16. COMPLIANCE WITH LEGISLATION

16.1. *This clause applies to legislation emanating from national and provincial government as well as that of any local authorities in whose area of jurisdiction the Facilities fall*



and which have a bearing on the delivery of the Services and Facilities under this Contract.

- 16.2. *All the applicable legislation, which does not specifically allow discretion in respect of compliance by the Employer, shall be followed exactly as intended by such legislation regardless of any instructions, verbal or in writing, to the contrary.*
- 16.3. *Should any applicable legislation allow discretion in respect of compliance by the Employer it shall be followed exactly as intended by the relevant legislation as if no discretion is allowed until such time as specific instructions in writing are issued to the Service Provider by the Service Manager.*
- 16.4. *The Service Provider shall in the provision of the Services comply with the provisions of, and give all notices and pay all fees, taxes, levies and other charges required to be given or paid in terms of any legislation or imposed by any other body or person. The Service Provider hereby indemnifies the Employer against any liability for any breach of the provision of this clause.*
- 16.5. *It is the responsibility of the Service Provider to obtain the consents, permissions and/or permits, referred to in Clause 16.4, in the provision of the Services.*
- 16.6. *The Service Provider shall not have a claim against the Employer, and the Employer shall not be liable to refund the Service Provider for any of the fees, taxes, levies and other charges referred to Clause 16.4.*
17. **REPORTING OF INCIDENTS**
- 17.1. *In addition to the above, the Service Provider shall, as soon as possible, notify the Employer in writing of any incidents at the Facilities, which resulted or could have resulted in damage to property or injury or death to persons.*
- 17.2. *The Service Provider shall verbally notify the Service Manager of any of the incidents referred to in 17.1 immediately after the occurrence thereof.*
- 17.3. *The Service Provider shall follow up the verbal notification referred to in 17.2 with a detailed written report on such incidents to the Service Manager within the time frame indicated by the Service Manager, but in any event within 48 hours of the incident.*
- 17.4. *The written report referred to in 17.3 shall provide for all incidents, which resulted in injury, death or damage to property.*
- 17.5. *The Service Provider shall notify the Employer immediately, on becoming aware of the Contract requiring him to undertake anything that is illegal or impossible*
18. **NUISANCE**
- 18.1. *The Service Provider shall deliver the Services in a manner that shall not cause unnecessary noise, nuisance, or hinder the normal activities in the Facilities.*
- 18.2. *The Service Provider hereby indemnifies the Employer against any liability arising out of the Service Provider's non-compliance with his obligations in terms of Clause 18.1.*
19. **MATERIALS, WORKMANSHIP AND EQUIPMENT**
- 19.1. *All Services delivered, and materials and workmanship shall comply with the requirements of this Contract, the manufacturer's specification; good industry practice and the Service Manager's written instructions and shall be suitable for the purpose intended.*
- 19.2. *The Service Provider shall, in accordance with the Scope of Works or if instructed by the Service Manager, carry out tests demonstrating the acceptability of the relevant Services provided, or the suitability of materials or equipment to be used.*



- 19.3. *The Service Provider shall provide all necessary assistance, labour, materials, testing equipment and instruments for the purpose of such tests to be performed by himself or, if so instructed by the Service Manager, for the purposes of tests to be performed by any other person.*
- 19.4. *All costs for tests carried out shall be deemed to be included in the Service Provider's prices*
- 19.5. *Copies of the reports on the tests referred to in Clause 19.2 shall be forwarded by the Service Provider to the Employer within 10 days of the tests being completed.*
- 20. URGENT WORK**
- 20.1. *The Employer may, by itself or through another service provider, effect any remedial or other repair work which becomes necessary due to no act or omission on the part of the Service Provider.*
- 20.2. *If the remedial or repair work became necessary due to an act or omission on the part of the Service Provider, its employees, agents or representatives, the Service Provider shall effect such remedial or repair work at its own cost.*
- 20.3. *If the remedial or repair work is urgently necessary due to an act or omission on the part of the Service Provider, its employees, agents or representatives and the Service Provider refuses to or is not available or able to effect such remedial or repair work, the Employer may effect such remedial or repair work either by itself or through another service provider.*
- 20.4. *If the Employer effects the remedial or repair work in terms of 20.3, then the Employer may recover such costs, losses or damages from the Service Provider or by deducting the same from any amount still due under this Contract or under any other contract presently or hereafter existing between the Employer and the Service Provider and for this purpose all these contracts shall be considered one indivisible whole.*
- 21. INDEMNIFICATIONS**
- 21.1. *The Service Provider shall be liable for and hereby indemnifies the Employer against any liability, claim, demand, loss, cost, damage, action, suits or legal proceedings whether arising in common law or by statute consequent upon:*
- 21.1.1 *personal injuries to or the death of any person arising out of, related to, occasioned by, attributed to, or in the cause of or caused by the rendering of the Services;*
- 21.1.2 *loss of or damage to any movable or immovable or personal property or property contiguous to the Facilities whether belonging to or under the control of the Employer or any other body or person arising out of, related to, occasioned by, attributed to, or in the cause of or caused by reason of the rendering of the Services;*
- 21.1.3 *any liens, attachments, charges or other encumbrances or claims upon or in respect of any materials parts, work-in-process or finished work furnished to, or in respect of which any payment has been made by the Employer.*
- 21.2. *The Employer accepts liability for all acts or omissions of its employees, agents or representatives.*
- 22. VARIATIONS**
- 22.1. *The Employer may at any time during the Contract Period, vary the Services by way of additions, omissions, or substitutions.*



22.2. *No variation by the Employer of whatever nature shall vitiate the Contract.*

- 22.3. *Any Services required by the Employer outside of the Services as referred to in the Scope of Works will be regarded as being Identified Projects and shall be dealt with under clause 23 and shall be executed as a variation order.*
- 22.4. *The Service Provider shall inform the Employer of any instructions that are deemed to be Additional Services prior to such instructions being executed.*
- 22.5. *Additional Services will only be executed by the Service Provider after receipt by him of a written instruction from the Service Manager.*
- 22.6. *If no prior written authorisation, as required in 22.5 above, has been obtained, the Employer shall not reimburse the Service Provider for the Additional Services so executed, and the Service Provider agrees that it shall not have a claim for payment for such Additional Services.*
- 22.7. *The Additional Services will be valued at the rates in the Pricing Data.*

23. IDENTIFIED PROJECTS

- 23.1. *The Service Provider shall inform the Employer of any instructions that are deemed to be Identified Projects prior to such instructions being executed.*
- 23.2. *The Employer is not obliged to engage the services of the Service Provider on Identified Projects. The Employer may, by itself, through another service provider or through the Service Provider effect the services/works under Identified Projects.*
- 23.3. *Identified Projects will only be executed by the Service Provider after receipt by him of a written instruction from the Service Manager.*
- 23.4. *If no prior written authorisation, as required in 23.3 above, has been obtained, the Employer shall not reimburse the Service Provider for the Identified Projects so executed, and the Service Provider agrees that it shall not have a claim for payment for such Identified Projects.*
- 23.5. *In respect of the Identified Projects, the written instruction referred to in 23.3 shall:*
- (a) *describe the services/works required to be executed by the Service Provider under the Identified Project;*
 - (b) *state the due commencement and completion dates of the relevant Identified Project;*
 - (c) *state the total cost of the relevant Identified Project as agreed to between the Parties; and*
 - (d) *any additional requirements, conditions of contract and/or restrictions, other than those already stated in the Contract, that will be applicable.*
- 23.6. *Within 14 days of receipt of the written instruction referred to in 23.5, the Service Provider shall furnish the Employer with a realistic programme and a cash flow for the relevant Identified Project as required in 13.*
- 23.7. *Where an Identified Project comprises services/works that are of the same or similar character executed under the same or similar conditions as those to which the rates in the Pricing Data apply, it shall be valued at such rates.*
- 23.8. *Where an Identified Project comprises services/works that are not of the same or similar character executed under the same or similar conditions as those to which the*



rates in the Pricing Data apply, it shall be valued at market related rates to be agreed to in writing between the Employer and the Service Provider and in advance of executing the Identified Project. Failing agreement, the rates applicable shall be as determined by the Employer.

- 23.9 If the Service Provider fails to complete the Identified Project by the completion date specified in the written instruction referred to in 23.3, then the Service Provider will be liable for a penalty, at the rate stated in the Contract Data, for every day that lapses from the due completion date of the relevant Identified Project to the date of the actual completion of such Identified Project.
- 23.10 If the Identified Projects are delayed by variations, omissions, additions, substitutions or organised work stoppages by any workman not due to any action on the part of the Service Provider, exceptionally inclement weather, any substantial increase in provisional quantities or any other cause beyond the Service Provider's control, including delays caused by the Employer, then the Service Provider shall be entitled to apply in writing within 21 days of the cause of delay arising to the Service Manager for extension of the due completion date of the relevant Identified Project stating the cause of delay and period of extension applied for.
- 23.11 If during the period for completion of the Identified Project or any extension thereof abnormal rainfall or wet conditions occur, the formula below shall be used to calculate separately the delay for each calendar month or part thereof. It shall be calculated each month during the period referred to herein above, or until the issue date of the certificate of completion for the relevant Identified Project, whichever is the shorter period. The delay calculated for a given month shall be used to determine the interim extension of time granted for the month. At the end of the applicable period referred to above, the aggregate of the monthly delays will be taken into account for the final determination of the total extension of time for the Contract:

$$V = (Nw - Nn) + (Rw - Rn) \\ X$$

V = Delays due to rain in calendar days in respect of the calendar month under consideration.

Nw = Actual number of days during the calendar month on which a rainfall of Y mm or more per day has been recorded

Rw = Actual rainfall in mm for the calendar month under consideration.

Nn = Average number of days in the relevant calendar month (as derived from existing rainfall records provided in the project specifications) on which a rainfall of Y mm or more per day has been recorded.

Rn = Average rainfall in mm for the calendar month, as derived from the rainfall records supplied in the project specifications.

X = 20, unless otherwise provided in the project specifications.

Y = 10, unless otherwise provided in the project specifications.

The total delay that will be taken into account for the determination of the total extension of time for the Contract shall be the algebraic sum of the monthly totals for the period under consideration. But if the grand total is negative, the time for completion shall not be reduced on account of abnormal rainfall. The total extension of time for any calendar month shall not exceed (Nc - Nn) calendar days, where Nc = number of days calendar days in the month under consideration



The factor $(Nw - Nn)$ shall be considered to represent a fair allowance for variations from the average number of days during which rainfall equals or exceeds Y mm per day.

The factor $(Rw - Rn) \div X$ shall be considered to represent a fair allowance for variations from the average for the number of days during which rainfall does not equal or exceed Y mm per day, but when wet conditions prevent or disrupt work.

This formula does not take into account any flood damage, which could cause further or concurrent delays and which should be treated separately in so far as extension of time is concerned.

Accurate rain gaugings shall be taken at a suitable point on the site daily at 08:00 unless otherwise agreed to by the Service Manager, and the Contractor shall, at his own expense, take all necessary precautions to ensure that the rain gauges cannot be interfered with by unauthorized persons.

Information regarding existing rainfall records, if available from a suitable rainfall station near the site, will be supplied in the project specifications, together with calculations of rain delays for previous years in accordance with the above formula. The average of these delays will be regarded as normal rain delays which the Contractor shall accommodate in his programme, and for which no extension of time will be considered.

- 23.12 *Upon receipt of such written application, referred to in 23.10, the Employer may in writing extend the due completion date of the relevant Identified Project by a period to be determined by the Employer or may refuse to extend the due completion date of the relevant Identified Project. The due completion date of an Identified Project may not be extended beyond the end of the Contract Period stated in the Contract Data.*
- 23.13 *Any decision given by the Employer, in terms of 23.12, shall be final and binding on the Parties.*
- 23.14 *Should the Service Provider fail to apply in writing for an extension of the due completion date of the relevant Identified Projects within the 21 days referred to in 23.10, or should the Employer not grant an extension of the due completion date then the due completion date stipulated in the relevant written instruction referred to in 23.5 shall not be extended nor the Service Provider exonerated from liability to pay the penalty stipulated in 23.9 or from specific performance of the service/works within the period in the relevant written instruction.*

24. SUSPENSION OF THE SERVICES

- 24.1 *The Service Provider shall, on the written order of the Service Manager, suspend the provision of the Services or any part thereof for such time or times and in such manner as the Service Manager shall order and shall, during such suspension, properly protect the Services so far as is necessary.*
- 24.2 *If the Service Provider is instructed in writing by the Service Manager to suspend any or all of the Services, the Service Provider shall re-schedule the relevant Services. For the duration of such suspension all penalties applicable to that Service will be waived. Should the Service Provider suffer any additional costs resulting from such suspension, the Service Provider shall be entitled to make a claim therefor provided that the Service Provider shall prove his claim and that he has taken all reasonable steps to mitigate the additional costs.*
- 24.3 *If the Service Provider is unable to render any of the Services for any reason other than an instruction by the Employer to suspend the Services in terms of clause 24.1, the Employer shall not be liable for any claim of whatever nature, including a claim for costs, by the Service Provider.*

25. PENALTY FOR NON-PERFORMANCE

- 25.1 *The Service Provider shall be liable for a performance deduction, if the Service Provider in rendering any of the Services required under the Scope of Works, as amended from time to time,*
- 25.1.1 *delays in performing any of the Services;*
 - 25.1.2 *fails to perform any of the Services;*
 - 25.1.3 *fails to perform any of the Services to the standard required in the Scope of Works, as amended from time to time.*
- 25.2 *The performance deduction shall be calculated in accordance with the formula detailed in the Scope of Works.*
- 25.3 *The Service Provider shall not be liable for a performance deduction, if the Service Provider is unable to perform due to no fault of his own, his employees, agents or representatives.*
26. **PAYMENTS**
- 26.1 *The Service Manager will evaluate the Service Provider's performance on a monthly basis.*
- 26.2 *The Service Provider shall submit a monthly certificate taking into account the following:*
- 26.2.1 *the assessment of the Services rendered during the assessment month, including routine services, management fees, and services using call down rates;*
 - 26.2.2 *adjustments in terms of the pricing data;*
 - 26.2.3 *additional work rendered by the Service Provider;*
 - 26.2.4 *CPAP adjustment where stated in the Contract Data; and*
 - 26.2.5 *VAT. Vat will be indicated separately in all documents.*
- 26.3 *If the Service Provider elects a security of 2,5% retention, or a 1,25% cash and 1,25% retention, then 5% of all moneys (excl. VAT) in the monthly certificate assessed by the Service Manager as being due to the Service Provider will be retained until such time as the amount retained equals 2.5% or 1,25%, whichever is applicable, of the Contract Sum (excl. VAT)*
- 26.4 *The monthly certificate shall be supported by a detailed report substantiating the Services rendered at each Facility during the month under assessment.*
- 26.5 *The monthly certificate shall be assessed by the Service Manager. If the Service Manager agrees with the certificate, he will issue a statement within 14 days of the receipt of the certificate, taking into account inter alia the following:*
- i. *Deductions for penalties;*
 - ii. *Deductions for overpayments;*
 - iii. *Deductions for retention*
 - iv. *Deductions for damages.*
- 26.6 *The Service Provider shall, on receipt of the statement referred to in 26.5, issue to the Employer a tax invoice in the amount reflected in the statement. The Employer shall effect payment to the Service Provider within 16 days of receipt of the tax invoice.*



- 26.7 *If the Service Manager does not agree with the certificate issued by the Service Provider in terms of Clause 26.2, the Service Manager shall within 14 days of receipt of the certificate, issue a statement in the amount to which the Service Manager agrees and shall give reasons for rejecting the balance of the claim indicated in the statement.*
- 26.8 *The Service Provider shall furnish the Employer with a tax invoice in the amount indicated in the statement referred to in Clause 26.7.*
- 26.9 *With regards to the claim in dispute, the Service Provider may, within 14 days of the Service Manager issuing the statement referred to in 26.7, submit a revised certificate or a justification for his claim or declare a dispute in terms of 34.*
- 26.10 *If it is later resolved that the amount in dispute or any part thereof is owing to the Service Provider, the Employer shall be liable for interest thereon from 30 days after the issue of the relevant monthly certificate referred to in 26.2 until the date of payment at the interest rate determined from time to time, by the Minister of Finance in terms of section 80 (1)(b) of the Public Finance Management Act, 1999 (Act 1 of 1999), as amended.*
- 26.11 *All the work shall be evaluated in accordance with the provisions of the Pricing Data.*
- 26.12 *In assessing the quality of the work presented by the Service Provider, the Employer may enlist the assistance of third persons. In assessing the work the third person shall act reasonably. The selection of such third persons shall be in the absolute discretion of the Employer and the Service Provider shall abide by such selection.*
- 26.13 *Any and all extra costs incurred by the Service Provider, resulting from the Service Provider having to address and/or rectify queries arising from a claim submitted in respect of work done, shall be for the account of the Service Provider.*
27. **RELEASE OF SECURITY**
- 27.1 *If the Service Provider has furnished a security by way of a variable guarantee of 2.5% of the Contract Sum (excl. VAT), the security will be reduced and be released in accordance with the provisions of such variable guarantee.*
- 27.2 *If the Service Provider elects to furnish a security by way of a cash deposit of 2.5% of the Contract Sum (excl. VAT), then the security will be released as follows:*
- 27.2.1 *annually in equal portions, subject to 27.2.2 and 27.2.3;*
- 27.2.2 *95% of the last annual portion of retention shall be released within 30 days of the expiry of the Service Period;*
- 27.2.3 *the remaining retention shall be released within 30 days of the issue of the Certificate of Completion.*
- 27.3 *If the form of security selected is:*
- (a) *a retention of 2.5% of the Contract Sum (excl. VAT); or*
(b) *a 1,25% cash deposit and a 1,25% retention of the Contract Sum (excl. VAT),*
- then security will only be released after the 2,5% or 1,25% retention respectively has been accumulated, as follows:*
- 27.3.1 *annually in equal portions, subject to 27.3.2 and 27.3.3;*



27.3.2 95% of the last annual portion of retention shall be released within 30 days of the expiry of the Service Period;

27.3.3 the remaining retention shall be released within 30 days of the issue of the Certificate of Completion.

28. OVERPAYMENTS

28.1 If any overpayment of whatever nature is made to the Service Provider, the Service Provider shall be obliged to repay such amount to the Employer and the Employer shall be entitled to deduct such over payment from any amount due to the Service Provider, in respect of this Contract or any other contract, which the Employer may have with the Service Provider. The Employer shall be entitled to claim interest on any and all overpayments made to the Service Provider at the rate prescribed, from time to time, by the Minister of Finance in terms of section 80 (1)(b) of the Public Finance Management Act, 1999 (Act 1 of 1999), as amended.

29. COMPLETION

28.1 At the expiry of the Service Period the Service Manager shall furnish the Service Provider with a written list of Employer's Assets and Data handed over at commencement of the Contract and accumulated during the Contract Period.

29.2 At the expiry of the Contract Period, the Service Manager shall issue to the Service Provider a Certificate of Completion.

29.3 Upon the issue of a Certificate of Completion, unless otherwise provided in the Contract:

29.3.1 The Guarantee shall be returned, if applicable.

29.3.2 The final cash deposit or retention, whichever is applicable, shall be reduced to zero.

30. ASSIGNMENT

30.1 The rights and obligations of the Parties in terms of this Contract shall not be ceded, assigned, delegated, or otherwise transferred, by either Party to any person outside of the Service Provider and the Employer, save with the prior written consent of the other Party.

30.2 Each Party warrants that he is acting as a principal and not as an agent of an undisclosed principal.

31. INDULGENCES

31.2 No extension of time, latitude or other indulgences which may be given or allowed by either Party to the other shall constitute a waiver or alteration of this Contract, or affect such Party's rights, or prevent such Party from strictly enforcing due compliance with each and every provision of this Contract.

32. OWNERSHIP AND PUBLICATION OF DOCUMENTS

32.1 The Employer will become the owner of the information, documents, advice, recommendations and reports collected, furnished and/or compiled by the Service Provider during the course of, and for the purposes of executing this Contract, all of which will be handed over to the Employer, unless otherwise stipulated in the Contract, within ten (10) days of request therefor, but in any event on the termination and/or cancellation of this Contract for whatever reason. The Service Provider relinquishes its retention or any other rights to which it may be entitled.



- 32.2 *The copyright of all documents, recommendations and reports compiled by the Service Provider during the course of and for the purposes of finalising Services, and the Contract as a whole, will vest in the Employer, and may not be reproduced or distributed or made available to any person outside the Employer's service, or to any institution in any way, without the prior written consent of the Employer. The Employer shall have the right to use such material for any other purpose without the approval of, notification to or payment to the Service Provider.*
- 32.3 *The copyright of all electronic aids, software programmes etc. prepared or developed in terms of this Contract shall be vested in the Employer, who shall have the right to use such material for any other purpose without the approval of, information or payment to the Service Provider.*
- 32.4 *In case of the Service Provider providing documents or material to the Employer, the development of which has not been at the expense of the Employer, copyright shall not be vested in the Employer. The Service Provider shall be required to indicate to which documents and/or materials this provision applies.*
- 32.5 *The Service Provider hereby indemnifies the Employer against any action or claim that may be instituted against the Employer and for any damages suffered or legal costs (including costs on an attorney and client scale) incurred on the grounds of an alleged infringement of any copyright or any other intellectual property right in connection with the work outlined in this Contract.*
- 32.6 *All information, documents, recommendations, programmes and reports collected or compiled must be regarded as confidential and may not be communicated or made available to any person outside the Employer's service and may not be published either during the currency of this Contract or after termination thereof without the prior written consent of the Employer.*
33. **BREACH OF CONTRACT**
- 33.1 *In the event of a breach by the Service Provider of any of the terms and conditions of this Contract, the Employer shall issue a notice of non-compliance requiring compliance within 10 (ten) days. In the event that the Service Provider fails to remedy such breach on expiry of the notice period, then the Employer shall without prejudice to any other rights that it may have, be entitled to exercise any or all of the following rights:*
- 33.1.1 *Enforce strict compliance with the terms and conditions of the Contract;*
- 33.1.2 *To terminate this Contract without prejudice to any other rights it may have;*
- 33.1.3 *To suspend further payments to the Service Provider;*
- 33.1.4 *To appoint other service providers to complete the execution of the Services, in which event the Service Provider shall be held liable for costs incurred in connection with and arising from the appointment of such a service provider as well as damages suffered.*
- 33.2 *The Service Provider agrees to, within ten (10) days of written request from the Employer, give access to and to make available all information, documents, programmes, advice, recommendations and reports collected, furnished and/or compiled by them to enable the Employer to assume responsibility for and the benefit of the project as a whole.*
- 33.3 *In the event of breach by the Employer of the terms and conditions of this Contract, and in the event of the Employer remaining in breach after ten (10) days' written notice calling for rectification of the breach, the Service Provider shall be entitled to:*
- 33.3.1 *enforce strict compliance with the terms and conditions of the Contract; or*



33.3.2 *terminate the Contract by delivering written notice to the Employer to that effect to the extent that such breach is of a material term of this Contract.*

34. STOPPAGE AND/OR TERMINATION OF CONTRACT

- 34.1 *The Employer reserves the right to terminate this Contract or temporarily stop the Services, or any part thereof, at any stage of completion.*
- 34.2 *The Employer shall have the right to terminate this Contract without prejudice to any of its rights upon the occurrence of any of the following acts:*
- 34.2.1 *on breach of this Contract by the Service Provider as stipulated in Clause 33;*
- 34.2.2 *on commencement of any action for the dissolution and/or liquidation of the Service Provider, except for purposes of an amalgamation or restructuring approved in advance by the Employer in writing;*
- 34.2.3 *if the Service Provider receives a court order to be placed under judicial management or to commence liquidation proceedings that is not withdrawn or struck out within five (5) days;*
- 34.2.4 *if the Service Provider informs the Employer that it intends to cease performing its obligations in terms of this Contract;*
- 34.2.5 *if the Service Provider informs the Employer that it is incapable of completing the Services as described; or*
- 34.2.6 *if in the opinion of the Employer the Service Provider acted dishonestly;*
- 34.3 *The Employer reserves the right to, even in the absence of breach or the events referred to in 34, terminate this Contract at any time, by giving one (1) calendar month written notice to the Service Provider.*
- 34.4 *Further, the Contract shall be considered as having been terminated:*
- 34.4.1 *where the Employer stops the Contract and/or the Project and instructions to resume or reinstate the Services are not issued within twelve (12) months of the instruction; or*
- 34.4.2 *if instructions, necessary for the Service Provider to continue with the Services after a stoppage instruction, are not received from the Employer within three (3) months after such instructions were requested by the Service Provider.*
- 34.5 *Should the Contract between the Employer and the Service Provider, or any part thereof, be terminated by either of the Parties due to reasons not attributed to the Service Provider:*
- 34.5.1 *The Service Provider will be remunerated for the appropriate portion of the Services satisfactorily completed, calculated in accordance with the agreed rates.*
- 34.5.2 *Invoices for work done shall be submitted to the Employer within three (3) months after the termination of the Contract, failing which the Employer will not be obliged to pay same.*
- 34.5.3 *The Service Provider shall not be entitled to advance a right of retention or any similar right if this Contract is terminated and specifically agrees to, within ten (10) days of written request from the Employer, give access to and to make available all information, documents, programmes, advice, recommendations and reports collected, furnished and/or compiled by them*



to enable the Employer to assume responsibility for and the benefit of the Contract as a whole.

35. DISPUTE RESOLUTION

- 35.1 *In the event of a dispute, the Parties shall endeavour to resolve such dispute through negotiation, in good faith.*
- 35.2 *If the Parties fail to resolve a dispute through negotiation as mentioned in 35.1, within 14 days of a dispute being declared, the Parties may by written agreement refer the matter to mediation.*
- 35.3 *The mediator shall be a person agreed to by the Parties, failing agreement, the President: South African Facilities Management Institute shall nominate the mediator.*
- 35.4 *Whether or not mediation resolves the dispute and irrespective of the outcome of thereof, the Parties shall bear their own costs arising from the mediation and shall equally share the costs of the mediator and related costs. The mediator and the Parties shall, before the commencement of the mediation, agree on a scale of fees on which the mediator's fees will be based.*
- 35.5 *The Parties shall appoint the mediator within 21 days of agreeing to mediate.*
- 35.6 *On appointment of the mediator, the Parties shall jointly with the mediator decide on the procedure to be followed, representation, dates and venue for the mediation.*
- 35.7 *If the dispute or any part thereof is settled, the agreement shall be recorded by the mediator and signed by both Parties. The agreement shall be binding on the Parties to the extent that it correctly records the issues agreed upon between the Parties.*
- 35.8 *If the dispute or any part thereof remains unresolved, it may be resolved by litigation proceedings.*
- 35.9 *If the mediator or any Party, at any time during the mediation process, is of the opinion that the mediation will not resolve the dispute, then he may in writing stop the mediation process. The dispute may then be dealt with in terms of 35.8.*
- 35.10 *Notwithstanding anything else herein contained to the contrary, it is agreed that irrespective of the fact that the dispute is referred to negotiation, mediation or litigation in court, the decision of the Employer on the dispute involved will immediately be given effect to by the Service Provider and the Service Provider shall proceed with the Services with all diligence unless the Parties agree otherwise in writing.*

36. GENERAL

- 36.1 *This is the entire Contract between the Parties and may only be amended if reduced to writing and signed by the duly authorised representatives of both Parties, whereafter such amendments will take effect.*
- 36.2 *The Contract shall be governed by, construed and interpreted according to the law of the Republic of South Africa.*

37. DOMICILIUM CITANDI ET EXECUTANDI

- 37.1 *The domicilium citandi et executandi of the Parties for all purposes arising from this Contract for the service of notices and legal process shall be as specified by the Parties in the Contract Data.*



- 37.2 *Each of the Parties shall be entitled at any time by way of written notice to the other Party, to change its domicilium citandi et executandi to another physical address.*
- 37.3 *Any notice in terms of the conditions of the Agreement must either be:*
- 37.3.1 *delivered by hand during normal business hours of the recipient; or*
 - 37.3.2 *sent by prepaid registered post to the address chosen by the addressee.*
- 37.4 *A notice in terms of the provisions of this Agreement shall be considered to be duly received:*
- 37.4.1 *if hand-delivered on the date of delivery;*
 - 37.4.2 *if sent by registered post as indicated in clause 37.3.2 above, ten (10) days after the date it was posted, unless the contrary is proved.*
- 37.5 *Notwithstanding anything to the contrary contained or implied in this Agreement, the written notice or communication actually received by one of the Parties from the other, including by way of facsimile transmission, shall be adequate written notice or communication to such Party.*
- 37.6 *Any notice, request, consent, or other communication made between the Parties pursuant to the Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or one day after being sent by facsimile to such Party at the number specified in the Contract Data or one week after being sent by registered post to the addressee specified in the Contract Data.*