



public works
& infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA

Private Bag X54315, DURBAN 4000 Int. Code: +27 31 Tel: 314 7000 website: www.publicworks.gov.za
Supply Chain Management: Mr. Thokozani Zwane – 031 314 7109
Works Management – Ms. J. Ngcokana

REQUEST FOR QUOTATION

You are hereby invited to submit a quotation for the supply and delivery of the following service to be rendered at **Department of Justice: Harding Magistrate Court**

Bid response documents to be deposited in the bid box situated at: **National Department of Public Works and Infrastructure: Corner of Pixley Ka Seme (Aliwal Street) and Samora Machel (West Street)**

Item	Description	Quantity / Period
1	Provision of gardening services	36 months

CLOSING DATE: 05/09/2022 CLOSING TIME @ 11:00AM

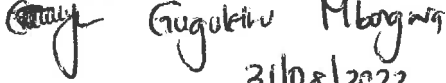
NB: No late documents will be accepted.

Kindly submit your quotation by fully completing the attached bid document and bill of quantities or specifications attached in hereunder, and clearly indicate the delivery period and the validity period of your quotation, Kindly also clearly indicates if you price includes or excludes VAT. **“You may claim VAT only if you are a VAT Vendor”.**

TERMS AND CONDITIONS

- If a supplier fails to deliver any or all goods or fails to deliver the required services within the specified period on the **order/ Contract or appointment letter** the Department of Public Works and Infrastructure may impose a penalty and further deduct from the order / contract a sum of the delayed goods or unperformed services, or terminate the contract in part or in whole.
- The Department of Public Works and Infrastructure quotation documents must be fully completed, signed by the bidder and bear the signature of witnesses and be forwarded to the aforementioned physical address or email, failure to comply with these requirements will result in the quotation being disregarded.

Yours Faithfully

SIGNATURE: 
DATE: 31/08/2022

For: National Department of Public Works and Infrastructure

Acknowledgement of the request to quote

Sign for acceptance _____

Company Stamp

Sign for rejection _____

PA 32: INVITATION TO BID PART A

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)				
BID NUMBER:	DBNQ22/08/98	CLOSING DATE:	05/09/2022	CLOSING TIME:
				11.00 AM
DESCRIPTION	JUSTICE: HARDING MAGISTRATE COURT: PROVISIONING OF GARDENING SERVICE FOR PERIOD OF 36 MONTHS			
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (DPW04.1 GS or DPW04.2 GS).				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)				
NDPWI DURBAN REGIONAL OFFICE, SCM TENDER HALL, BOX 16, CORNER OF WEST AND ALLIWAL STREET, (DR PIXLEY KA SEME & SAMORA MACHEL STREET, OR POSTED TO:				
SUPPLIER INFORMATION				
NAME OF BIDDER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
FACSIMILE NUMBER	CODE		NUMBER	
E-MAIL ADDRESS				
VAT REGISTRATION NUMBER				
	TCS PIN:		OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE (TICK APPLICABLE BOX)	<input type="checkbox"/> Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes
	<input type="checkbox"/> No			<input type="checkbox"/> No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?				
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)		
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)		
	<input type="checkbox"/>	A REGISTERED AUDITOR DETAILS:		
		NAME:		
	REGISTRATION NUMBER:			
	BUSINESS ADDRESS:			
			
			
			
			
	TELEPHONE NUMBER:.....			
	E-MAIL ADDRESS:.....			

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMEs & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			

TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE ('ALL APPLICABLE TAXES)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	
CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE
1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO
- 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? YES NO
- 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO
- 3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO
- IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.**

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID. AN ORIGINAL OR CERTIFIED COPY OF THE B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE.

Note Well:

- a) In respect of non VAT vendors the bidders may not increase the bid price under Section 67(1) of the Value Added Tax Act of 1991 where the relevant transaction would become subject to VAT by reason of the turnover threshold being exceeded and the bidder becomes liable for VAT.
- b) **All delivery costs must be included in the bid price, for delivery at the prescribed destination.**
- c) The price that appears on this form is the one that will be considered for acceptance as ***a firm and final offer***.
- d) The grand total in the pricing schedule(s), inclusive of VAT, attached to the bid offer must correlate and be transferred to this form (PA32).
- e) Where there are inconsistencies between the grand total price offer in the pricing schedule(s) and the PA32 price offer, the price offer on the PA32 shall prevail and deemed to be firm and final. No further correspondence shall be entered into in this regard.

¹ All applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies

Notice and Invitation for Quotation: PA-03 (GS)
PA-03 (GS): NOTICE AND INVITATION FOR QUOTATION

THE DEPARTMENT OF PUBLIC WORKS INVITES BIDDERS FOR THE PROVISION OF

Project description:	JUSTICE: HARDING MAGISTRATE COURT: GARDENING MAINTENANCE SERVICES FOR THE PERIOD OF 36 MONTHS
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Quote no:	DBNQ22/08/98	Closing date:	05/09/2022
Closing time:	11h00 am	Validity period:	30 days

Only bidders who are responsive to the following responsiveness criteria are eligible to submit bids:

<input checked="" type="checkbox"/>	Bid offer must be properly received on the bid closing date and time specified on the invitation, fully completed and signed in ink.
<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.
<input checked="" type="checkbox"/>	Submission of other compulsory returnable schedules / documents as per (PA-09 (GS)): List of returnable documents.
<input checked="" type="checkbox"/>	Submission of (PA-11): Declaration of Interest and Bidder's Past Supply Chain Management Practices.
<input type="checkbox"/>	Submission of (PA-29): Certificate of Independent Bid Determination.
<input type="checkbox"/>	Copy of joint venture agreement if bidder is a joint venture and / or consortium.
<input checked="" type="checkbox"/>	Registration on National Treasury's Central Supplier Database (CSD)
<input checked="" type="checkbox"/>	Compliance with Pre-qualification criteria for Preferential Procurement
<input checked="" type="checkbox"/>	Compliance to Local Production and Content requirements
<input checked="" type="checkbox"/>	Use of correction fluid is prohibited
<input checked="" type="checkbox"/>	1.Submission of letter of good standing (coida) 2.Submission of fully completed PA -32:Invitation to bid
<input checked="" type="checkbox"/>	Submission of original Sworn B-BBEE Affidavit signed by EME representative, attested by a Commissioner of Oaths, or B-BBEE certificate issued by CIPC or SANAS approved B-BBEE certificate, valid as at the time of closing (Subject to verification)

Compliance with Pre-qualification criteria for Preferential Procurement (Tick where applicable)

<input checked="" type="checkbox"/>	A tenderer having stipulated minimum B-BBEE status level of contributor; <input checked="" type="checkbox"/> Level 1 Or <input type="checkbox"/> Level 2
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Points scoring system applicable for this bid:

<input checked="" type="checkbox"/> 80/20 points scoring system

Indicate the Price weighting applicable to this bid:

	Weighting percentage (must add up to 100 %)
Price:	100% of 80 points
Total:	100%

Preference Points awarded according to the B-BBEE Status Level of Contribution

In terms of Regulation 6(2) and /or 7(2), of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- In the case of Exempted Micro Enterprises (EME) and Qualifying Small Business Enterprise (QSE) a valid Sworn Affidavit must be submitted with the bid offer
- bidders other than EME or QSE must submit an original or certified copy of the B-BBEE Status Level Verification Certificate in order to qualify for preference points for B-BBEE
- A tender must submit of its proof of its B-BBEE status level of contributor
- A tender failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified
- A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the tender value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for; inless the intended subcontractor is an EME that has the capability to execute the subcontract.

COLLECTION OF BID DOCUMENTS:

All quotations must be completed on the official forms provided with this invitation and completed in ink, preferably black. Completed forms must be delivered to the Department of Public Works at the following address or faxed to the fax number below.

This quotation is subject to the General Conditions of Contract (GCC) and, if applicable, any other special conditions of contract. Attached Terms and Conditions should be signed and submitted with the official documents.

The taxes of the successful bidder must be in order, or satisfactory arrangements must be made with the Receiver of Revenue to meet the bidder's tax obligations. The attached (PA-07) form "Application for Tax Clearance Certificate", must be completed in all respects and submitted to the Receiver of Revenue where the bidder is registered for tax purposes.

Bid documents may be collected during working hours on _____ at the following address **public woks durban Room 5.**

Bid documents are available for free download on e-Tender portal www.etenders.gov.za



Notice and Invitation for Quotation: PA-03 (GS)

- A non-refundable bid deposit of R0.00 is payable, (Cash only) is required on collection of the bid documents.
- A **non-compulsory** pre-bid meeting with representatives of the Department of Public Works will take place at _____ on _____ starting at _____.

ENQUIRIES RELATED TO BID DOCUMENTS MAY BE ADDRESSED TO:

DPW Project Leader:	Phelelani Ngobese	Telephone no:	031 - 314 7104
Cell no:	071 365 6304	Fax no:	
E-mail:	phelelani.ngobese@dpw.gov.za		

DEPOSIT / RETURN OF BID DOCUMENTS:

The closing time for receipt of bids is **11h00 am on 05/08/2022**.
 Telegraphic, telephonic, telex, facsimile, electronic and / or late bids will not be accepted.
 Requirements for sealing, addressing, delivery, opening and assessment of bids are stated in the bid advertisement.
 All bids must be submitted on the official forms – (not to be re-typed)

<p>BID DOCUMENTS MAY BE POSTED TO:</p> <p>THE DIRECTOR -GENERAL NATIONAL DEPARTMENT OF PUBLIC WORKS PRIVATE BAG X 54315 Durban 4000</p> <p>ATTENTION: PROCUREMENT SECTION: ROOM 05</p>	OR	<p>DEPOSITED IN THE TENDER BOX AT:</p> <p><i>Cnr of Aliwal & West Street Dept of Public Works dr Pixley ka Seme Room no 05</i></p>
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COMPILED BY:

Jabu Ngcokana		A.O	22 / 08 / 31
Name of Project Leader	Signature	Capacity	Date

DPW-04.2 (GS): - CONTRACT FORM: RENDERING OF SERVICES

This form must be filled in duplicate by both the service provider (part 1) and the purchaser (part 2). Both forms must be signed in the original so that the service provider and the purchaser would be in possession of originally signed contracts for their respective records.

Part 1: Contract Form completed by the Service Provider:

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution) _____ in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number DBNQ at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 Invitation to bid (PA - 03: GS)
 Tax clearance certificate
 Pricing schedule(s)
 Filled in task directives / proposal
 Preference Certificates in terms of the PPPFA regulations 2001 (PA -16)
 Declaration of interest (PA -11)
 Special Conditions of Contract;
 - (ii) General Conditions of Contract; (PA -10) and
 - (iii) Other **Specify** ..
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

Part 2: Contract Form completed by the Purchaser:

1. I **Jabu Ngcokana** in my capacity as **Project leader** accept your bid under reference number **19/2/3/2/12/385** dated _____ for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

Description of service:	Price (VAT inclusive)	Completion date:	Points claimed for HDI's	Points claimed for RDP Goals
PROVISIONING OF GARDENING SERVICE FOR 36 MONTHS: KOKSTAD MAGISTRATE COURT				

SIGNATURES OF THE CONTRACTING PARTIES:

Thus done and signed at _____ on _____

 Name of signatory hereof warrants

 Capacity of signatory

for and behalf of the **Department of Public Works** who by signature authorization hereto

 as Witness

 Name of signatory

 Capacity of signatory

for and behalf of the **Bidder** who by signature hereof warrants authorization hereto

 as Witness

PA-09 (GS): LIST OF RETURNABLE DOCUMENTS

Project title:	JUSTICE: HARDING MAGISTRATE COURT: PROVISIONING OF GARDENING SERVICES FOR PERIOD OF 36 MONTHS		
Project Leader:	J NGCOKANA	Bid / Quote no:	DBNQ22/09/98

1. THE BIDDER MUST COMPLETE THE FOLLOWING RETURNABLE DOCUMENTS:

(Bidders may use the "Returnable document" column to confirm documents have been completed and returned by inserting a tick)

Bid Document Name:	Number of Pages:	Returnable document:
DPW -04.2 (GS): Contract Form: Rendering of Services	2 Pages	<input type="checkbox"/>
PA-03(GS): Notice and invitation for quotation	4 Pages	<input type="checkbox"/>
PA-09-List of Returnable Documents	2 Pages	<input type="checkbox"/>
PA-10: FM Condition of contract	18 Pages	<input type="checkbox"/>
PA-11: Declaration of interest and bidder's past supply chain management practices	05 Pages	<input type="checkbox"/>
PA-14 Medical certificate for the confirmation of permanent disable status	1 Pages	<input type="checkbox"/>
PA-15.1 Resolution of Board of Directors	1 Pages	<input type="checkbox"/>
PA-15.2 Resolution of Board of Directors to enter into consortia or joint venture	2 Pages	<input type="checkbox"/>
PA-15.3 Special resolution of consortia or joint venture	3 Pages	<input type="checkbox"/>
PA-16: Preference certificate	06 Pages	<input type="checkbox"/>
PA- 32 . Invitation to Bid	3 Pages	<input type="checkbox"/>
PA- 40 Declaration of designated groups for Preferential Procurement	2 Pages	<input type="checkbox"/>
PA-36 Declaration Certificate for local production and content for Designated Sectors	4 Pages	<input type="checkbox"/>
Submission of Bill of Quantity fully priced and signed	1 Pages	<input type="checkbox"/>
Submission of copies of registration documents of the company (CK1, CK2 or CR10)	1 Pages	<input type="checkbox"/>
Submission of a B-BBEE Verification Certificate / B-BBEE sworn affidavit attested by commissioner of Oaths	1 Pages	<input type="checkbox"/>
Registration of National Treasury Central Supplier Database CSD	1 Pages	<input type="checkbox"/>
Submission of signed Specification	6 Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>
	Pages	<input type="checkbox"/>

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Name of Bidder	Signature	Date
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public works

Department:
Public Works
REPUBLIC OF SOUTH AFRICA

TENDER DBNQ

RETURNABLE DOCUMENTS

AND

TERMS OF REFERENCE

FOR THE

APPOINTMENT OF SERVICE PROVIDER

TO

RENDER GARDENING

FOR 36 MONTHS

AT HARDING COURT

DOJ - KZN

**APPOINTMENT OF A SERVICE PROVIDER FOR THE RENDERING OF CONTRACT
GARDENING SERVICES AT THE DEPARTMENT OF JUSTICE OFFICES FOR A PERIOD OF
36 MONTHS**

1. INTRODUCTION

The Department of Public Works (DPWI) invites bids for the provision of contract gardening services at specified premises occupied by, or under the control of, the Department of Justice and Constitutional Development.

2. DURATION OF CONTRACT

The contract will endure for a period of twenty - four (24) months calculated from the date of acceptance of the bid offer made by the successful bidder.

3. SUBMISSION REQUIREMENTS

3.1 Bidders must comply with current rates for Department of Labour when completing Bill of Quantity for employees' salaries. Failure to compliance with Department of Labour rates, for employees' salaries will be disqualified.

3.2 Bidders must be in possession of a **central supplier database** which must be submitted with their bid documents.

3.3 Bidders must comply strictly with the Basic Conditions of Employment Act (BCEA), Act 75 of 1997, as amended and any applicable sectoral determination in regard to salaries and wages on contract cleaning services.

4. CONTRACTUAL ASPECTS

4.1 The terms of this specification and all contracts emanating therefrom will be subject to the General Conditions of Contract issued in accordance with Chapter 16A of the Treasury Regulations published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999).

4.2 Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract shall prevail.

4.3 The bid document, together with the specifications contained in this document, shall constitute part of the Contract.

4.4 Bidders shall not perform any work or render any services in terms of the Contract unless in receipt of a written instruction to this effect by the Department.

4.5 The successful bidder must advise the Regional Manager: Department of Public Works immediately when unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of delay must be furnished.

5. UNCERTAINTY ABOUT SCOPE

Should the Contractor be uncertain about the scope of the work to be executed under this contract, the Department must be immediately requested to clarify its instructions.

6. OBSERVANCE OF HEALTH REGULATIONS

All regulations prescribed by the State Health Department or by the Local Authority concerned, which have a bearing on this contract, must be observed meticulously by the Contractor. (See item 10.)

7. PROVISION OF MATERIALS AND EQUIPMENT

The contractor will be responsible for the provision of all materials and equipment that may be required to ensure efficient service. In this regard the contractor will ensure he/she has equipment in stock to see that there is no interruption in the service.

All equipment must be clean and in a fully functional and safe condition at all times and comply with all applicable regulations. Maintenance of the equipment is the contractor's responsibility.

All equipment shall be supplied by and shall remain the property of the Contractor, unless otherwise specified.

The Contractor will ensure that there will be no break in the service.

8. DEFAULT

The Contractor shall be liable for all expenses which may be incurred by his failure to perform any portion of this contract and the manner in which the service ought to be performed, in case of complaints, shall be decided finally by the Director-General of the National Department of Public Works or his Deputy who will be empowered, whenever necessary appoint a contractor to complete the service and charge this cost to the Contractor, or alternatively cancel the contract immediately.

9. DAMAGE

The Contractor shall make good all damage, which may be caused by him or his employees within five working days of being given written notice to do so. If not, the expense of having the repairs effected shall be for the Contractors account.

10. SUB-LETTING

Neither the whole nor any portion of this contract shall be handed over or transferred to any other party without the prior written consent of the Director-General, National Department of Public Works or his Deputy.

11. UNIT RATES / PRICES

Unit rates to include for all labour, transport, overheads and everything necessary for the proper performance of the work on **Schedule A**.

11.1 VALUE ADDED TAX (VAT)

All rates in this bid must be nett with VAT included.

NB: The department will only pay VAT to companies registered for VAT.

11.2 FIXED PRICE CONTRACT

This contract is a fixed priced contract and no adjustments shall be made for any increases or decreases of prices except for VAT rate adjustment.

12. BREACH OF CONTRACT

If the services rendered are interrupted or temporarily suspended as a result of any labour dispute, civil summons, a local or national disaster or any other cause outside the reasonable control of the Contractor both parties agree mutually on methods to continue with essential services.

13. DOCUMENTS

The following documents must be read in conjunction with this bid.

- i) Municipal by-laws and any special requirements of the Local Authority.
- ii) Occupational Health and Safety Act no. 85 of 1993

14. PAYMENT

Accounts to be submitted monthly/completion of service. The "DPW/CSD/001CONFIRMATION OF SERVICE DELIVERY" must be certified and stamped by the person in charge of the relative institution or his nominated deputy. The service/works must be inspected by the NDPW to the effect that the quantities reflected on the invoice are correct and that the service has been performed satisfactorily. *The invoice should be accompanied by the signed and stamped "DPW/CSD/001".* Payment of accounts complying with all requirements will be made within **30 days from submission** to the department.

15. VARIATION IN CONTRACT

Should any of the premise(s) served by this contract be vacated or should the service for any other reason become wholly unnecessary, the Contractor agrees to claim no payment in respect of such centre and the contract shall be considered as cancelled in respect of such centre.

Should any of the premise(s) served be added to this contract the Contractor's price per m² would be used to apply for the new premise(s).

16. CURTAILMENT OF SERVICES

The Department reserves the right to change any part of the service with one month's written notice to the contractor.

This however will only occur if the involved part(s) of the premise(s) is/are vacated, the occupants change or for security reasons. The contract amount shall in such a case be amended from the date of vacating the premise(s) with an amount as agreed upon.

Should the premise(s) or part(s) of the premise(s) where the service is rendered be damaged or destroyed by force majeure (viz major) the Department will, in its discretion determine which part(s) of the premise(s) cannot or should not be put to further use for the original utilisation and in respect of the unusable part(s) of the premise(s) the parties will no longer be bound by the stipulations of this agreement and no claim for indemnification in the favour of the one party against the other shall result there from. In respect of the remaining part(s) of the premise(s) which will still be used, the stipulations of this agreement will remain in force, but the contract amount will be reduced with a

relevant sum as mutually agreed to, as of the date of such change, if the damaged premise(s) is repaired the Department can request the contractor to resume the service by one month written notification in which case the stipulations of the contract in respect of the rendering of the service and the contract price will be applicable.

17. CLAIMS

The Contractor will indemnify, protect, defend and hold harmless the Client from and against any and all claims, demands, actions and proceedings whatsoever including all fees, costs and expenses incurred in respect thereof arising out of:

- a) Any claim in respect of any taxes payable by the Contractor.
- b) Any claim for Workmen's Compensation Insurance of for any loss for which the Contractor is liable.
- c) Any claim by any third person including any employees of the Client or of the Contractor for any loss resulting from any bodily injury and or damage to property by any act or omission of the Contractor or any of its employees, servants or agents.

18. CONDITIONS RELATING TO THE PERSONNEL OF THE CONTRACTOR

The prospective bidders are expected to comply with all statutory provisions governing the contract and pest control industry, more particularly the prescribed minimum wage determined by the Department of Labour. The Department reserves the right to terminate the service in the event of the successful bidders' non-compliance with statutory obligations.

The personnel appointed by the contractor should have proof of **prior experience and suitable competence**

The contractor and his/her personnel are prohibited from reading or going through records in offices.

Files and other correspondence on desks, racks, etc., must be placed back in the position in which it was found after cleaning such areas.

The contractor undertakes to keep the number of workers allowed in a building to the essential amount required.

Personal hygiene of the contractor, his personnel, and agents must be maintained at an acceptable standard.

In accordance to the law on control and entry to public areas and vehicles, 1985 (law 5.3 of 1985), employees will be subject to the conditions as set out in Article Z(2) of the mentioned law.

The occupant of an office shall have the right to request employees of the contractor to leave an office if he/she receives a visitor or telephone call.

Employees of the contractor shall not loiter about the building or use the benches or chairs in public areas to relax on. At the end of each workday and no later than the normal closing time, all employees of the contractor must be off the premise(s). No employee would be allowed on the premise(s) after working hours except if they have permission from the responsible officer in charge of the building.

Personnel of the contractor have, subject to other conditions of this contract, entry to all areas to supply a service. If the service is not required in that specific area at the time then entry to the area is prohibited.

Without prejudicing the contractor's right to choose his/her own personnel, the Department reserves the right to, at all times, indicate personnel to the contractor who is a security, health or safety risk. Such persons would not be allowed to be used by the contractor to carry out his duties.

In such a case the contractor will immediately honour the Department's request and shall have no claim of loss or damage against the Department.

The contractor will provide each employee of the contractor with a photo identity card. The card must have the following particulars,

- a) Name of Firm (Contractor)
- b) Name of employee
- c) Identity number of Employee
- d) Signature of the Employee
- e) The employee will wear the permit on a visible place when he/she is working in the involved building. The necessary control over these permits must be provided as not to allow such permits to fall into unauthorised hands. The employees or persons in the service of the contractor who are working in or around the building providing the services as stated in this contract must at all times be dressed in a uniform that is to the Departments approval. The contractor shall at all times ensure that all cleaning staff is neatly clothed in uniforms (with the name of the company printed there on) with necessary personal protective equipment which shall include but not be limited to headgear, shoes, gloves etc.

All chemicals on site must be labelled with appropriate information. The contractor must ensure that an updated bound copy of the appropriate data sheet and material safety data is available at each site.

The contractor or his affiliates may provide no information of state activities to the public.

19. INDEMNITIES

The contractor and his/her affiliates enter the premise(s) at own risk.

The contractor indemnifies the Department of any happenings that he/she is aware of or not aware of his/her personnel that are used for services that fall outside this contract.

The contractor will at own cost take out an insurance policy against any claim, cost, lost or damage resulting from duties and shall ensure that such insurance is valid for the entire period of the contract.

20. ELECTRICAL EQUIPMENT

The contractor shall not use defective electrical equipment, which could cause the earth leakage to trip. Any damage of whatever nature caused by this will be for the contractor account. All leads and extension leads must be of the correct capacity to carry the load of the involved machinery and will be 3 phase and not 2 phase.

The contractor may only use electrical equipment that will normally be used in normal circumstances for purposes named in this agreement. The contractor may under no

circumstances tamper with the electrical installations in a building or make changes to it without the Departments prior consent.

With the exception of connections at existing power points provided by the Department, the contractor may not make connections to the electrical system. Only equipment that does not require above 1250 watts to operate may be used at such power points.

The equipment used by the contractor shall where applicable comply with the law on Machinery and Occupational Safety, 1983 (Law no. 6 of 1983). Under no circumstances shall the equipment used such as vacuum cleaners etc., exceed the sound factor of 66Ab (Decibels) within one meter of the equipment.

21. NUISANCE

The contractor will not be allowed to perform any act or duty on the premise(s), which in the mind of the Department will be of nuisance, danger or possible nuisance or danger to any person on the premise(s) or that could cause damage to the property.

Personnel must behave in a soberly manner.

Silence must be reasonably maintained.

22. CAUTION SIGNBOARDS

The contractor will be compelled to display neat caution signboards or signs, of which the size and design must be clearly visible in areas where the contractor or his employees are busy working. (Such as toilets, passages etc.). The signs must also be clearly visible in areas where the services rendered can cause injuries to any person or persons and must be able to attract a persons attention to show that services are been carried out in the area.

It is hereby specially agreed upon that the Contractor throughout the duration of the contract period, will be compelled to do everything within his/her means and wherever practicable possible to ensure that all signs, print work, notices or any written material that is displayed is in English.

23. INFLAMMABLE AND POISONOUS MATERIAL AND OTHER CHEMICALS

The Contractor shall not use or store any poisonous or highly inflammable substances and other chemicals on the premise(s).

24. SUPERVISION

The contractor must ensure that there is always continued on site supervision from Monday's to Friday's excluding Public Holidays effective supervision. Supervisors must in all respect respond to reasonable requests of the appointed personnel.

25. MANAGEMENT

The Contractor undertakes to:

- a) arrange with the occupants of buildings regarding access to the premise(s) in order to execute the required service;
- b) take adequate precautions to prevent damage to buildings, fittings and furnishing inside the premise(s) and elsewhere on site;
- c) accept liability and to indemnify the Department against any claims whatsoever arising from his conduct and/or the conduct of his employees;
- d) safeguard all his employees in accordance with the regulations of the Unemployment

- Insurance Act 1966, (Act no 30 of 1996) and any amendments thereof;
- e) all complaints concerning the service which must be performed, must receive immediate attention, but in any case not later than the following workday.
 - f) comply with the person who occupy the building's safety- and emergency measures and procedures, and keep the facilities, which are supplied, neat.
 - g) In carrying out the Contract, the Contractor shall conform to all laws, regulations or Bye Laws of any Department of State, Provincial Administration or Local Authority which may be applicable hereto, for instance the Occupational Health and Safety Act, Act 85 of 1993, Basic Conditions of Employment Act, No. 75 of 1997 and Government Gazette No. 23792.

26. DRESS CODE

The successful bidder will be required:

- 1) to ensure that a uniform displaying the company logo and name are worn at all times as follows:
 - Safety shoes @ 1 per gardener
 - Conti- suits @ 2 sets per gardener
 - Helmet @ 1 per gardener
 - Google @ 1 per gardener
 - Ear plugs @ 2 sets per gardener
- 2) Ensure that staff uniform is clean and neat at all times.

27. SPECIFICATION

Bidders are advised that:

1. If there are any queries arising from this Bid document, bidders must make written submissions to the NDPW at least 14 calendar days before the closing date of the bid in order to enable NDPW or its appointed agent(s) to respond adequately.
2. Please note that notwithstanding the above, bidders should do a complete site inspection prior to submitting their bid to familiarise themselves with the circumstances and conditions pertaining to the service as well as with a view to assess the extent and scope of work.
3. **Service providers must employ one gardener to be on site on daily basis and supply all the necessary gardening equipment's for the duration of the contract to ensure maintenance of garden as follows:**
 - Cutting and mowing of all grassed areas, verges, raking all mowed lawns, edging of lawn areas, edging of flower beds, removal of gardening refuse and turf weeds.
 - Turning of soil to flower beds and trimming of tree shrubs / hedges.
 - Apply Agro chemicals /herbicides on drive ways/ paved areas to be weed free, but when performing this duty you must be registered with the Department of Agriculture, Land reform and Rural Development under Act 36 of 1947 (FERTILIZERS, FARM

FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES
ACT 36 OF 1947)

- It should be noted that herbicides/ weed control must be applied by registered pest control Operator (PCO) under the field of Industrial Vegetation and Noxious Weeds to ensure compliance with Act 36 of 1947.
 - PCO must issue service report after each herbicides application as per PCO regulation.
 - Sweeping of yard and collect litter daily.
 - Disposal of cut grass to a dumping area that is out premises.
4. Service provider must monitor their workers on site very close (Supervise) there workers if are performing very well on site or not. It's important that a service provider visit a site on regular basis to check your work.

HARDING MAGISTRATE COURT

1.1 PRICING SCHEDULE INCLUSIVE OF: LABOUR, LEVIES, ALLOWANCES & UNIFORMS

- (ALLOWNCES & LEVIES INCLUDES: BONUS, UIF, COIDA, PROVIDENT FUND, ANNUAL LEAVE, BCCCI LEVY & OTHERS)
- IT'S A RESPONSIBILITY OF THE SERVICE PROVIDER TO PROVIDE UNIFORMS TO WORKERS. (REFER TO NO: 26 FOR DRESSING CODE FOR MORE CLARITY)

- NB:** 1. THIS SECTION MUST BE COMPLETED IN FULL AND IS TO BE SUBMITTED TOGETHER WITH THE BID.
2. FAILURE TO COMPLETE THIS SECTION WILL RESULT IN DISQUALIFICATION FROM THE BIDDING PROCESS.
3. FAILURE TO COMPLY WITH DEPT OF LABOUR WAGES RATES THAT INCOPORATE ALLOWANCES & RATES FOR EMPLOYESS IN THIS SECTION WILL RESULT IN DISQUALIFICATION DURING THE BIDDING PROCESS.

PRICE STRUCTURE POSITION	RATES	PERIOD	NUMBER OF GARDNER'S	MONTHLY FOR WORKERS	TOTAL PERIOD FOR SALARIES
Monthly Salaries: 2022 Gardeners:	R _____ per hour	12	01	R	R
Monthly Salaries: 2023 Gardeners:	R _____ per hour	12	01	R	R

Monthly Salaries: 2024 Gardeners:	R_____ per hour	12	01		
Grand total for salaries					R

1. GARDENING CONSUMABLES:

2.1 DESCRIPTION	QTY	COST PER ITEM	MONTHLY COST
➤ Compost	20 kg x 2	R	R
➤ Gardening refuse bags	50 units	R	R
➤ Petrol	40 l	R	R
➤ Nylon	5kg	R	R
➤ Two stroke	1lt	R	R
Total gardening consumable costs: per month			R
Total gardening consumable costs for 36 months			R

FINAL SUMMARY PAGE

1. THE VALIDITY PERIOD IS 30 CALENDER DAYS FROM THE CLOSING HOUR AND DATE OF THE BID

BUILDING: HARDING COURT	PAGE NO.	AMOUNT
Gardening consumable costs: 36 months:		R
Overheads: 36 months		R
Inflation price rate		R
Vat 15%		R
Profit		R
Subtotal		R
Safety Plan		R
Labour: 36 months		R
Grand total (To be forwarded to PA -32 form)		R

END

REVISED PA-11: BIDDER'S DISCLOSURE

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 interest¹ 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

¹ 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.

REVISED PA-11: BIDDER'S DISCLOSURE

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 certify 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 consortium² 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.
- 3.4 The terms of the accompanying bid have not been, and will not be,

² 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.



REVISED PA-11: BIDDER'S DISCLOSURE

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.

- 3.5 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.
- 3.6 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 CERTIFY 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.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder



PA-14: MEDICAL CERTIFICATE FOR THE CONFIRMATION OF PERMANENT DISABLED STATUS

Table with project title, tender/bid no, and reference no.

I, _____ (surname and name), identity number, _____ do hereby declare that I am a registered medical practitioner, with my practice number being _____, practising at _____ (Physical or postal addresses) declare that I have examined Mr. / Ms. _____, identity number _____ and have found the said person to be permanently disabled or having a recurring disability.

"Disability" means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being." -

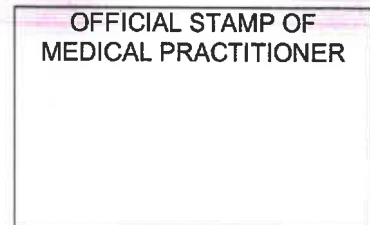
The nature of the disability is as follows:

Three horizontal lines for describing the nature of the disability.

Thus signed at _____ on this _____ day of _____ 20____

Signature

Date



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 Bid / Tender to the Department of Public Works in respect of the following project:

_____ (Project description as per Bid / Tender Document)

Bid / Tender Number: _____ (Bid / Tender Number as per Bid / 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 Bid / Tender, and any and all other documents and/or correspondence in connection with and relating to the Bid / Tender, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid / Tender to the Enterprise mentioned above.

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

Note:

- * Delete which is not applicable.
- NB:** This resolution must, where possible, be signed by all the Directors / Members / Partners of the Bidding Enterprise.
- 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 Bidding Enterprise (attach proof of shareholding / ownership hereto).
- Directors / Members / Partners of the Bidding Enterprise may alternatively appoint a person to sign this document on behalf of the Bidding 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 Bidding Enterprise (proof of shareholding / ownership and power of attorney are to be attached hereto).
- 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 Bid /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 Bid /Tender Document)

Bid / Tender Number: _____ (Bid / Tender Number as per Bid / 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 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.

3. The Enterprise accepts 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.
4. 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: _____

_____ (code)



PA-15.2: Resolution of Board of Directors to enter into Consortia or Joint Ventures

Postal Address: _____

_____ (code)

Telephone number: _____

Fax number: _____

	Name	Capacity	Signature
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The bidding enterprise hereby absolves the Department of Public Works from any liability whatsoever that may arise as a result of this document being signed

Note:

- * Delete which is not applicable.
- NB:** This resolution must, where possible, be signed by all the Directors / Members / Partners of the Bidding Enterprise.
- 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 Bidding Enterprise (attach proof of shareholding / ownership hereto).
- Directors / Members / Partners of the Bidding Enterprise may alternatively appoint a person to sign this document on behalf of the Bidding 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 Bidding Enterprise (proof of shareholding / ownership and power of attorney are to be attached hereto).
- 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 bid 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:

RESOLVED that:

- A. The above-mentioned Enterprises submit a Bid in Consortium/Joint Venture to the Department of Public Works in respect of the following project:

(Project description as per Bid /Tender Document)

Bid / Tender Number: _____ *(Bid / Tender Number as per Bid /Tender Document)*

PA-15.3: Special Resolution of Consortia or Joint Ventures

B. *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 Bid, and any and all other documents and/or correspondence in connection with and relating to the Bid, as well as to sign any Contract, and any and all documentation, resulting from the award of the Bid 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: _____

PA-15.3: Special Resolution of Consortia or Joint Ventures

	Name	Capacity	Signature
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The bidding 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).

PA16: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017 AND THE AMENDED B-BBEE CODES.

1. GENERAL CONDITIONS

1.1. The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2. The value of this bid is estimated to **Select** R50 000 000 (all applicable taxes included) and therefore the... **80/20**.....system shall be applicable.

1.3. Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

1.3.1 The maximum points for this bid are allocated as follows:

	POINTS
1.3.1.1 PRICE	80
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION	20
Total points for Price and B-BBEE must not exceed	100

1.4. Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5. An Exempted Micro Enterprise (EME) is only required to obtain a sworn affidavit or a certificate issued by Companies and intellectual property Commission (CIPC) confirming their annual turnover of R10 Million or less and level of black ownership to claim points.

1.6. Qualifying Small Enterprise (QSE) is only required to obtain a sworn affidavit or a certificate issued by Companies and intellectual property Commission (CIPC) confirming their annual turnover of R10 Million or less and level of black ownership to claim points.

- 1.7 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.
- 1.8 CERTIFICATES ISSUED BY IRBA AND ACCOUNTING OFFICER HAVE BEEN DISCONTINUED; HOWEVER VALID CERTIFICATES ALREADY ISSUED BEFORE 01 JANUARY 2017 MAY BE USED UNTIL THEY PHASE OUT COMPLETELY BY DECEMBER 2017

2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** 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;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice under

section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 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**

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

5. Points awarded for B-BBEE Status Level of Contribution

5.1 In terms of Regulation 6(2) and /or 7(2), of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.3 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.4 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.5 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or Sworn Affidavit for EME's and QSE's.

8 SUB-CONTRACTING (relates to 5.5)

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME/ a QSE YES / NO (delete which is not applicable)

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm

9.2 VAT registration number

9.3 Company registration number

- 9.4 TYPE OF COMPANY/ FIRM
- Partnership/Joint Venture / Consortium
 - One person business/sole propriety
 - Close corporation
 - Company
 - (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

9.6 COMPANY CLASSIFICATION

- Manufacturer
 - Supplier
 - Professional service provider
 - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business?

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate/ Sworn Affidavit, qualifies the company/ firm for the preference(s) shown and I / we 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 paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) Disqualify the person from the bidding 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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

WITNESSES:

- 1.
- 2.

.....

SIGNATURE(S) OF BIDDER(S)

DATE:..... **ADDRESS:**.....

.....

PA-36: DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

- x is the imported content in Rand
y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) on the date of advertisement of the bid as indicated in paragraph 3.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.



PA36: Declaration Certificate for Local Production and Content for Designated Sectors.

(This form has been aligned with NT - SBD 6.2)

1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
Clothing, footwear and textile	100%
_____	_____ %
_____	_____ %

3. Does any portion of the goods or services offered have any imported content?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

3.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.resbank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

4. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.



PA36: Declaration Certificate for Local Production and Content for Designated Sectors.

(This form has been aligned with NT - SBD 6.2)

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of (name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
 - (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 3.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	



PA36: Declaration Certificate for Local Production and Content for Designated Sectors.

(This form has been aligned with NT - SBD 6.2)

**If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.
The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 3.1 above and the information contained in Declaration D and E.**

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

Annex C

Local Content Declaration - Summary Schedule

(C1) Tender No.
 (C2) Tender description:
 (C3) Designated product(s)
 (C4) Tender Authority:
 (C5) Tendering Entity name:
 (C6) Tender Exchange Rate:
 (C7) Specified local content %

Pula

EU

GBP

Note: VAT to be excluded from all calculations

Tender item no's		List of items	Tender price - each (excl VAT)	Exempted imported value	Tender value net of exempted imported content	Imported value	Local value	Local content % (per item)
			(C10)	(C11)	(C12)	(C13)	(C14)	(C15)
(C8)		Shoes						
		Contisuit						

Tender Qty	Total tender value	Total exempted imported content	Total imported content
(C16)	(C17)	(C18)	(C19)

Signature of tenderer from Annex B _____

Date: _____

(C20) Total tender value R 0
 (C21) Total Exempt imported content R 0
 (C22) Total Tender value net of exempt imported content R 0
 (C23) Total imported content (C24) Total local content R 0
 (C25) Average local content % of tender R 0

PA- 40: DECLARATION OF DESIGNATED GROUPS FOR PREFERENTIAL PROCUREMENT

Tender no:

Name of Tenderer EME¹ QSE² 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 (R) / Under Developed Area (UD) / Township (T) / Urban (U).	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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<input type="checkbox"/> Yes <input type="checkbox"/> No
11.		%	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<input type="checkbox"/> Yes <input type="checkbox"/> No
12.		%	<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"/> R <input type="checkbox"/> UD <input type="checkbox"/> T <input type="checkbox"/> U	<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)

1 EME: Exempted Micro Enterprise

2 QSE: Qualifying Small Business Enterprise

PA- 40: DECLARATION OF DESIGNATED GROUPS FOR PREFERENTIAL PROCUREMENT

Tender no: _____

2. 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, 2017, 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



public works

Department:
Public Works
REPUBLIC OF SOUTH AFRICA

REGIONAL OFFICE:

DURBAN

**PROJECT NAME: JUSTICE MAGISTRATE COURT 36
MONTHS GARDENING SERVICE HARDING COURT**

Health and Safety Specification

OCCUPATIONAL HEALTH
AND
SAFETY ACT
AND
REGULATIONS

PRE-CONSTRUCTION HEALTH AND SAFETY SPECIFICATION

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1. INTRODUCTION AND BACKGROUND

1.1 Background to the Pre-Construction Health and Safety Specification

- 1) The Construction Regulations of February 2014 in terms of Regulation 5(1)(b) places the onus on the Client to prepare a Pre-Construction Health and Safety Specification, highlighting all risks not successfully eliminated during design. Section 37.2 of the Act, Act 85 of 1993 requires the Department of Works as an Employer to enter into a written agreement with the Contractor (Mandatory) as far as arrangements and procedures are concerned to ensure that the Contractor complies with the requirements of the Act, Act 85 of 1993 and all its Regulations.
- 2) This document serves to address all the abovementioned requirements and by submission of his/her tender the Contractor undertakes to abide with the conditions as stipulated by the Department of Works hereinafter referred to as the Client throughout this document.
- 3) This documentation will give the Client or its duly appointed representative the required information to be able to evaluate the Contractors competency and resources as is required by Regulation 5(1)(h) of the Construction Regulations of February 2014 and to determine his/her suitability to perform such work in a safe and healthy manner.
- 4) When submitting his/her tender the Contractor must supply the Client with the following:
 - A detailed Site Safety Plan indicating how the contractor will manage all Safety, Health and Environmental aspects whilst working on the Clients premises or on premises under his/her control; which must be based on the contents of this document as is required by Regulation 7(1)(a) of the Construction Regulations of February 2014.
 - A Cost breakdown of funds being allocated to make adequate provisions for Safety, Health and Environmental requirements as is required by Regulation 5 (1)(g) of the Construction Regulations of February 2014.
- 5) No approval or acceptance of any document required by this specification shall be construed by the Contractor as an absolution of the Contractor from achieving the required level of performance and compliance with legal requirements whatsoever.
- 6) The Contractor is an employer in his/her own right and therefore must assume all the responsibilities as required from any legal obligation imposed on him or her.

1.2 Purpose of the Pre-Construction Health and Safety Specification

To assist in achieving compliance with the Occupational Health and Safety Act 85/1993 and the now promulgated Construction Regulations of February 2014 in order to reduce incidents and injuries.

The Pre-Construction Safety, Health and Environmental Specification sets out the requirements to be followed by the Principal Contractor and other Contractors so that the Health and Safety of all persons potentially at risk and the potential risk to the environment may receive the same priority as other facets of the project such as Scope, Time, Cost and Quality.

1.3 Implementation of the Pre-Construction Health and Safety Specification

This specification forms an integral part of the contract, and the Contractor is required to use it at pre-tender phase when drawing up his/her project-specific Construction Phase Health and Safety Plan as indicated above. The Principal Contractor shall forward a copy of this specification to all Sub-Contractors at their bidding stage so that they can in turn prepare Health and Safety Plans relating to their operations.

2. PRE-CONSTRUCTION HEALTH AND SAFETY SPECIFICATION

2.1 SCOPE

This Specification covers the requirements for eliminating and mitigating incidents and injuries on the particular project.

The scope also addresses legal compliance, hazard identification and risk assessment, risk control, and promoting a Health and Safety culture amongst those working on the project. The specification also makes provision for the protection of those persons other than employees.

2.2 Contractual Issues

- 1) Due to fact that this document is based on legislative requirements the Client requires that all Contractors comply with the requirements of this document and all other relevant legislative requirements not covered by this document.
- 2) The Client or its duly appointed representative reserves the right to stop any contractor from working whenever Safety, Health or Environmental requirements are being violated. Any resultant costs of such work stoppages will be for the Contractors account.
- 3) The requirements as specified by the Client in this document must not be deemed to be exhaustive and the Client reserves the right to make changes as and if the Client deems fit.
- 4) The Client will not entertain any claim of any nature whatsoever which has come about as result of costs incurred or delays being experienced due to the Contractor not complying with the requirements of this document or any other applicable legislative requirements imposed on the Contractor.

2.7 Safety, Health and Environmental Standards and Procedures

- 1) The Contractor will ensure that all work performed by him/her is executed in accordance with work procedures which comply with accepted safety practices and applicable safety, health and Environmental legislation.
- 2) Procedures as indicated above may be the Contractors own procedures on condition that they comply with the conditions as stipulated above.
- 3) Where procedures have been specified by this Client in the contents of this document such procedures must be adhered to unless otherwise agreed to with the Client or it's duly appointed representative.

2.4 Interpretations

2.4.1 APPLICATION

This specification is a compliance document drawn up in terms of South African legislation and is therefore binding. It must be read in conjunction with relevant legislation as noted previously.

2.4.2 DEFINITIONS

- 1) The definitions as listed in the Occupational Health and Safety Act 85/1993 and Construction Regulations of February 2014 shall apply unless otherwise stipulated.
- 2) Any reference to "The Contractor" includes – the Principal and Sub - Contractor unless otherwise stipulated.

2.5 Minimum Administrative Requirements

2.5.1 Notification of Intention to Commence Construction Work

- 1) The Contractor shall notify the Provincial Director of the Department of Labour in writing before construction work commences if required in the format of Annexure 2. A copy of this notification must be forwarded to the Client prior to the commencement of Construction work.
- 2) Copies of such notification can be obtained from any Department of Labour Office.

2.5.2 Assignment of Contractor's Responsible Persons to Supervise Health and Safety on Site.

- 1) The Contractor shall submit in the format of Annexure B, proof of all supervisory as well as any other relevant appointments as is required by the OHS Act and the Construction Regulations.
- 2) It is acknowledged that the Contractor may need to allocate more than one appointment to certain staff members. This practice may only take place if Safety, Health and Environmental Standards would not be negatively affected.

- 3) Should the Client or its representative deem such practice as having a negative affect on Safety, Health and Environmental Standards, then alternative arrangements will have to be made.
- 4) ***It is a specific requirement for this project that a competent Health and Safety Officer be appointed for the project on a full time basis for the duration of the Project.***

2.5.3 Competency of Contractor's Appointed Competent Persons

- 1) Contractors' competent persons for the various risk management portfolios shall fulfill the criteria as stipulated under the definition of "Competent Person" in accordance with the Construction Regulations of February 2014 and the Occupational Health and Safety Act, Act 85 of 1993.
- 2) The Client reserves the right to require levels of Competency, which exceeds the requirements as stipulated by the Act and or Construction Regulations.
- 3) In the event of the Client requiring additional levels of Competency, alternative arrangements will have to be made.

2.5.4 Compensation of Occupational Injuries and Diseases Act, Act 130 of 1993 (COID ACT)

- 1) The Contractor warrants that his and all his workmen are fully covered in terms of the COID, Act 130 of 1993 and that such cover shall remain in force for the duration of his contractual relationship with the Client or whilst working on the Clients premises or premises under the Clients control.
- 2) The Contractor will supply proof of such insurance cover to the Client with his/her tender submission.
- 3) The Contractor undertakes to ensure that all Sub-Contractors appointed by him/her will be fully covered in terms of the COID Act, Act 130 of 1993 and that such cover shall remain in force for the duration of their contractual relationship with the Contractor
- 4) The Contractor must also ensure that he has additional insurance cover that will adequately make provisions for any losses and/or his employee's acts and/or omissions whilst working on the Clients premises or on premises under the client's control.

2.5.5 Occupational Health and Safety Policy

- 1) The Contractor shall submit a Health and Safety Policy signed by the Chief Executive Officer.
- 2) The Policy must outline objectives and how they will be achieved and implemented by the Company / Contractor.
- 3) A copy of such policy must be included in the Site Safety Plan and the Site Safety File.

2.5.6 Health and Safety Organogram

- 1) The Contractor shall submit an Organogram, outlining the Health and Safety Site Management Structure including the relevant appointments / competent persons.
- 2) In cases where appointments have not been made, the organogram shall reflect the intended persons to be appointed to such positions.
- 3) The organogram shall be updated when there are any changes in the Site Management Structure.

2.5.7 Preliminary Hazard Identification and Risk Analysis and Progress Hazard Identification and Risk Analysis

- 1) A Preliminary Hazard Identification and Risk Analysis was conducted and can be found in the format of Annexure D. This Hazard Identification and Risk Analysis was performed to make the Contractor aware of potential Hazards, which could be present on the site and may not be comprehensive.
- 2) The Contractor shall cause a Hazard Identification and Risk Analysis exercise to be performed by a Competent Person before commencement of construction work, and the assessed risks shall form part of the Construction phase Health and Safety Plan submitted for approval by the Client. The Risk Assessment must include:
 - a) A list of hazards identified as well as potentially hazardous tasks;
 - b) A documented risk assessment based on the list of hazards and tasks;
 - c) A set of safe working procedures to eliminate, reduce and/or control the risks assessed;
 - d) A monitoring and review procedure of the risks assessment as the risks change.
- 3) The Principal Contractor shall ensure that all Contractors are informed, instructed and trained by a Competent Person/s regarding hazards, risks and related safe work procedures before any work commences and thereafter at regular intervals as the risks change and as new risks develop.
- 4) The Contractor shall be responsible for ensuring that all persons who could be negatively affected by its operations are informed and trained according to the hazards and risks and are conversant with the Safe Work Procedures, control measures and other related rules (tool box talk strategy to be implemented and so on).
- 5) Should the Client or its duly appointed Representative identify alternative hazardous activities performed by the Contractor or its Sub-Contractors on site for which a Risk Assessment was not performed then the contractor will be required to perform such an exercise before continuing such work.

2.5.8 Health and Safety Representative(s)

- 1) The Contractors shall ensure that Health and Safety Representative(s) are appointed under consultation and trained to carry out their functions.
- 2) The appointments must be in writing and the Health and Safety Representative shall carry out regular inspections, keep records and report all findings to the Responsible Person forthwith and at Health and Safety meetings.

2.5.9 Health and Safety Committees

The Principal Contractor shall ensure that project Health, Safety and Environmental meetings are held monthly or as deemed necessary by the project requirements.

- 1) Minutes must be kept on record and filed in the Site Health and Safety File.
- 2) Meetings must be organized and chaired by the Principal Contractors' Responsible Person.

2.5.10 Health and Safety Training

2.5.10.1 Induction

- 1) The Principal Contractor shall ensure that all site personnel undergo a site-specific Health and Safety Induction Training Session before starting work. A record of attendance shall be kept in the Health and Safety file. **A suitable venue must be supplied to provide this training.**
- 2) All visitors to the site must also be subjected to site-specific induction training highlighting items such as steps to follow in the event of an emergency, restricted areas and so on.

2.5.10.2 Awareness

The Principal Contractor shall ensure that, on site, periodic toolbox talks take place daily. These talks should deal with risks relevant to the construction work at hand. A record of attendance shall be kept in the Health and Safety File. All Contractors have to comply with these minimum requirements.

2.5.10.3 Competency

- 1) All competent persons shall have the knowledge, experience, training, and qualifications specific to the work they have been appointed to supervise, control, and carry out.
- 2) The abovementioned competency requirements will be assessed on a regular basis by the Client, by means of Audits, Progress Meetings, and any other means deemed fit by the Client.

- 3) The Principal Contractor is responsible to ensure that competent Contractors are appointed to carry out construction work and records should be kept of criteria used to determine competency.
- 4) The Client reserves the right to require competencies which may exceed the Contractors standards in which case alternative arrangements will have to be made to meet the Clients requirements.

2.5.11 General Record Keeping

- 1) The Contractors shall keep and maintain Health and Safety records to demonstrate compliance with this Specification, with the OHS Act 85/1993; and with the Construction Regulations of February 2014.
- 2) The Contractor shall ensure that all records of incidents/accidents, training, inspections, audits, and so on are kept in a Health and Safety file held in the Site Office.
- 3) The Principal Contractor must ensure that every Contractor opens his/her own Health and Safety file, maintains the file and makes it available on request by any duly authorized person.

2.5.12 Health and Safety Audits, Monitoring and Reporting

- 1) The Client shall conduct monthly Health and Safety audits of the work operations including a full audit of physical site activities as well as an audit of the administration of Health and Safety.
- 2) The Principal contractor is obligated to conduct similar audits on all Contractors appointed by him/her.
- 3) Detailed reports of the audit findings and resultant corrective measures shall be reported on at all levels of project management meetings/forums.
- 4) Copies of the Clients audit reports will be forwarded to the Contractor and must be kept in the Site Health and Safety File.
- 5) The Principal Contractor must audit the activities and administration of all appointed Sub-Contractors, forward a copy to the Client or its representative within seven days of completion of the audit and file a copy on the Site Safety File.

2.5.13 Emergency Procedures/Plans

- 1) The Principal Contractor shall submit a detailed Emergency Procedure/Plan for approval by the Client prior to commencement of work on site. The procedure shall detail the response plan/s including the following key elements:
 - List of key competent personnel;
 - Details of emergency services;
 - Actions or steps to be taken in the event of the specific types of emergencies;
 - Information on hazardous material/situations.

- 2) Emergency Procedures/Plans shall include, but shall not be limited to, fire, spills, use of hazardous substances, bomb threats, major incidents/accidents major and minor and any other anticipated emergencies.
- 3) The Principal Contractor shall advise the Client in writing forthwith, of any emergencies, together with a record of action taken. A contact list of all service providers (Fire Department, Ambulance, Police, Medical and Hospital, etc) must be maintained and be available to site personnel.
- 4) Emergency procedures/Plans must be developed by a competent person such as a Safety, Health and Environmental Officer or in the absence of a Safety, Health and Environmental Officer by the Construction Work Supervisor.
- 5) Emergency Procedures/Plans must form part of the Agenda of monthly safety meetings as the Procedures/Plans would have to be revisited on a continuous basis due to the changing environment on construction sites.

2.5.14 First Aid Boxes and First Aid Equipment

- 1) All Contractors shall appoint in writing First Aider(s) in terms of legislative requirements.
- 2) The appointed First Aider(s) must be sent for accredited first aid training should they not have received such training prior to commencement of work on site.
- 3) Valid certificates to be kept on site in the Site Safety File.
- 4) The Principal Contractor shall provide an on-site First Aid Station with first aid facilities, where required, including first aid boxes adequately stocked at all times.
- 5) All Contractors with more than 5 employees shall supply their own first aid box
- 6) In the event of hazards chemical substances being present on site, first aiders must be trained to address any incidents of accidental exposure and their first aid kits stocked accordingly

2.5.15 Accident / Incident Reporting and Investigation

- 1) Injuries are to be categorized into the following categories:
 - 1) first aid;
 - 2) medical;
 - 3) disabling; and
 - 4) fatal injuries.
- 2) All Contractors have to report on the 4 categories of injuries to the Principal Contractor as soon as is reasonably practicable.

- 3) The Principal Contractor must stipulate in his/her construction phase Health and Safety plan how he/she will handle each of these categories.
- 4) When reporting injuries to the Client, these categories shall be used.
- 5) All injuries will be investigated by the Principal Contractors or his/her Competent Person, with a report being forwarded to the Client forthwith.
- 6) The Principal Contractor must report all injuries to the Client in the form of a detailed injury report at least monthly.
- 7) All incidents taking place in terms of Section 24 of the Act must be reported in the prescribed period and manner to the Department of Labour.
- 8) Copies of Section 24 reports, including WCL 1 & 2 forms must be forwarded to the Client immediately after completion.

2.5.16 Hazards and Potential Situations

- 1) The Principal Contractor shall immediately notify other Contractors as well as the Client of any hazardous or potentially hazardous situations that may arise during performance of construction activities.
- 2) Should a hazardous situation require work stoppages the work must be stopped and corrective steps taken such as Written Safe Work Procedures and issuing of Personal Protective Equipment.

2.5.17 Personal Protective Equipment (PPE) and Clothing

- 1) The Contractor shall ensure that all workers are issued and wear Hard Hats, Safety Boots/Shoes and Overalls.
- 2) The Contractor and all Contractors shall make provision and keep adequate quantities of SABS approved PPE on site at all times.
- 3) The Contractor shall clearly outline procedures to be taken when PPE or Clothing is:
 - Lost or stolen;
 - Worn out or damaged.
- 4) The above procedure applies to Contractors and their Sub-Contractors.
- 5) The Contractor must ensure that no person enters the Site without the required Personal Protective Equipment.
- 6) Visitors to the Site must be provided with the required PPE such as Hard Hats, Earmuffs and Eye Protection.
- 7) Records of all PPE issued to staff must be kept on site in the Site Safety File.
- 8) Employees are to be made conversant with the purpose of PPE and where and when it is required to be used by the employee.

- 9) Safety belts are not to be allowed on site due to its associated potential of injury to the user; only double lanyard safety harnesses are permitted.
- 11) Suitable eye protection must at all times be worn by the worker when performing grinding, chipping, chasing and other associated activities.
- 12) In the event that onlookers may be struck by flying objects as a result of work being performed, suitable screens must be erected.
- 13) Any person performing welding or brazing work will wear suitable eye protection, gloves, aprons, and spats. Suitable screens are to be provided to protect onlookers from the harmful rays associated with such activities.
- 14) Where employees are required to work with corrosive liquids, suitable eye protection, gloves and acid resistant overalls must be provided.
- 15) Ear protection must be worn in designated noise zone (in excess of 85dB)
- 16) Suitable respirators must be provided to all employees and visitors required working in or entering areas where toxic vapors could be present.
- 17) All staff working in an elevated position (2m or higher) or where the potential exists that such person may fall must be provided with a suitably secured safety harness.
- 18) Any person refusing to wear personal Protective Equipment must be instructed to wear such equipment and in the event of such person refusing to wear such equipment he/she must be removed from the premises.

2.5.18 Occupational Health and Safety OHS Signage

- 1) The Contractor shall provide adequate on-site OHS signage including but not limited to: "no unauthorized entry", "report to site office", "site office", "beware of overhead work", "hard hat area".
- 2) Signage shall be posted up at all entrances to the site as well as on site in strategic locations e.g. access routes, stairways, entrances to structures and buildings, scaffolding, and other potential risk areas/operations.
- 3) In the event where work is being performed on a premises displaying signage such as no-parking, speed limits and so on, the Contractor will abide by the requirements of such signage except if otherwise instructed.

2.5.19 Permits

- 1) The Contractor shall draft and implement where required permits which may include the following:
 - Use of Explosives and Blasting;
 - Work for which a fall prevention plan is required;
 - Use of cradles, and
 - Electrical work
 - Hot works
- 2) The Contractor will ensure that where permits are required that it is used and adhered to.

2.6 Physical Requirements

2.6.1 Demolition Work

- 1) Prior to any demolition work being carried out, the Principal Contractor shall submit a safe working procedure and a detailed engineering survey for approval by the Client.
- 2) Such Safe Work Procedures' must where possible be submitted with the Site SHE Plan
- 3) Acceptance will then be issued to the Principal Contractor to proceed with the demolition work.
- 4) The Principal Contractor shall ensure that demolition work complies with the Construction Regulations of February 2014.
- 5) In the event where a structure identified for demolition includes substances such as lead or asbestos it must be performed within the requirements of the applicable legislative.

2.6.2 Excavations, Shoring, Dewatering or Drainage

- 1) All excavation work must be performed under the supervision of a Competent Person as specified in Annexure B of this document and the Construction Regulations of July 2003.
- 2) Adequate Shoring and Bracing must be provided where required to ensure that the health and safety of the employees working in such excavations are not put at risk.
- 3) Adequate provisions must be made to ensure that water is drained from excavations which may enter such excavations as a result of seepage or rain.
- 4) All excavation made by the Contractor must be clearly demarcated and protected to prevent accidental access.
- 5) Barricading tape may only be used to make solid barricading more visible and may not be used as a means of barricading.
- 6) In addition to the abovementioned the requirements of Regulation 11 of the Construction Regulations of July 2003 must be adhered to.

2.6.3 Edge Protection

- 1) All open edges posing the risk of resulting in injuries or damage to equipment must be adequately guarded fenced or barricaded or other similar suitable means used to prevent injuries or damage to equipment.
- 2) Barricading tape is not deemed to be suitable and may only be used in addition to other suitable means as indicated above.

2.6.4 Explosives and Blasting

- 1) All explosives must be transported or stored according to the requirements of SANS 0228.
- 2) Written approval must be obtained from the Chief Inspector Occupational, Health and Safety prior to any blasting activities taking place.
- 3) A copy of such permission from the Chief Inspector Occupational, Health and Safety must be supplied to the client prior to Blasting.
- 4) Prior to blasting a siren must be sounded, warning flags posted and guards placed at strategic locations points to prevent accidental entry to the blasting area.

2.6.5 Stacking of Materials

- 1) Stacking and storage of materials must be performed under the Supervision of a Competent Person whom has been appointed in writing as required by Annexure B.
- 2) Storage areas must be designated, kept neat and under control. In addition to the abovementioned the requirements of General Safety Regulations as promulgated by Government Notice No R1031 dated 30 May 1986 as amended must be complied with.
- 3) In the event that unauthorized persons may enter an area where materials are stacked such area must be barricaded off to prevent access to such area.

2.6.6 Speed Restrictions and Protections

- 1) Unless otherwise stipulated the speed limit on site to be adhered to is 10 Km/h.
- 2) Vehicle movement routes on site must be clearly indicated where applicable.
- 3) Signage to ensure the safe movement of vehicles on site as well as to ensure the health and safety of all employees and visitors on site must be displayed in strategic locations.

2.6.7 Hazardous Chemical Substances (HCS)

- 1) All employees required to use Hazardous Chemical Substances or products containing Hazardous Chemical Substances must be adequately and comprehensively trained with regard to the requirements of the Hazardous Chemical Substances Regulations as amended in Government Gazette No 25130 of June 2003, the potential sources of exposure and the potential risks to their health caused by exposure.
- 2) In addition to the abovementioned, Material Safety Data Sheets must be kept on site for all materials, which may contain hazardous chemical substances.

2.6.8 Asbestos

- 1) Asbestos work may only be performed subject to prior notification of the Provincial Director, Occupational Health and Safety, Department of Labour, in writing.
- 2) Proof of such notification must be supplied to the Client prior to work proceeding.
- 3) All asbestos work shall be carried out as per the Asbestos Regulations by an approved Asbestos Contractor.
- 4) All employees must be informed and receive training on aspects such as the contents and scope of the Asbestos Regulations as published in Government Gazette 23108 of February 2002, the potential risks of exposure to asbestos, precautionary measures employees have to take and all other requirements deemed necessary to provide a safe and healthy environment for all employees as specified by the Asbestos Regulations as indicated above.
- 5) All asbestos will be removed from site by an approved asbestos contractor to an approved asbestos dump site.

2.7 Plant and Machinery

2.7.1 Construction Plant

- 1) All Construction Plant must comply with and be used in conjunction with the requirements of Section 23 of the Construction Regulations and in specific that all records of inspections rendering such plant safe must be kept on site.
- 2) Operators will be competent and trained and copies of training certificates shall be placed on the health and safety file on site.
- 3) Operators shall be in possession of medical certificate declaring that they are physically and psychologically fit to operate such construction vehicle and plant and copy of medical certificate shall be on the file.
- 4) Original operating and medical certificates shall be kept by the operators and shall be on site in-possession of the operators at all times.

2.7.2 Vessels under Pressure (VUP) (SAQCC compliant)

The Principal Contractor and all relevant Contractors shall comply with the Vessels under Pressure Regulations, including:

- Providing competency and awareness training to the operators;
- Providing PPE or clothing;
- Inspecting equipment regularly and keeping records of inspections;
- Providing appropriate fire fighting equipment.

2.7.3 Fire Extinguishers and Fire Fighting Equipment (SAQCC compliant)

- 1) The Principal Contractor and Sub Contractors shall provide or ensure adequate provision of regularly serviced fire fighting equipment located at strategic points on site, specific to the classes of fire likely to occur.
- 2) The appropriate notices and signs must be posted up as required.
- 3) Contractors may not utilize fire protection equipment belonging to the client without prior consent.

2.7.4 Hired Plant and Machinery

- 1) The Contractor shall ensure that any hired plant and machinery used on site is safe for use.
- 2) The requirements as stipulated by the OHS Act 85/1993 and Construction Regulations of February 2014 shall apply.
- 3) The Principal Contractor shall ensure that operators hired with machinery are competent and that certificates are kept on site in the Site Health and Safety File. All relevant Contractors must ensure the same.

2.7.5 Scaffolding / Working at Heights

- 1) Working at heights includes any work that takes place in an elevated position in excess of 2m.
- 2) The Contractor must submit a risk-specific fall prevention plan and include a rescue plan in accordance with the Construction Regulations of February 2014 before this work is undertaken.
- 3) The fall prevention plan must be approved by the Client before work may commence.

2.7.6 Formwork and Support Work for Structures

- 1) The Principal Contractor shall ensure that the provisions of Section 10 of the Construction Regulations of February 2014 are adhered to.
- 2) These provisions must include but not be limited to ensuring that all equipment used is examined for suitability before use; that all Formwork and Support Work is inspected by a competent person immediately before, during and after placement of concrete or any other imposed load and thereafter on a daily basis until the Formwork and Support Work has been removed.
- 3) Records of all inspections must be kept in a register on site.

2.7.7 Lifting Machines and Tackle

- 1) The Contractor shall ensure that lifting machinery and tackle is inspected before use and thereafter in accordance with the Driven Machinery Regulations and the Construction Regulations (Section 20).
- 2) There must be a competent appointed lifting Machinery and Tackle Inspector on site who must inspect the equipment daily or before use, taking into account that:
 - All lifting machinery and tackle has a safe working load clearly indicated;
 - Regular inspection and servicing is carried out;
 - Records are kept of inspections and of service certificates;
 - There is proper supervision in terms of guiding the loads that includes a trained banksman to direct lifting operations and check lifting tackle;
 - The tower crane bases have been approved by an engineer;
 - The operators are competent as well as physically and psychologically fit to work and be in possession of a medical certificate of fitness which must be available on site.

2.7.8 Ladders and Ladder Work

- 1) The Contractor shall ensure that all ladders are inspected at least monthly, are in a good safe working order, are the correct height for the task, extend at least 1m above the landing, fastened and secured, and at a safe angle.
- 2) Records of inspections must be kept in a register on site.

2.7.9 General Machinery

The Contractor shall ensure compliance with the Driven Machinery Regulations, which include inspecting machinery regularly, appointing a competent person to inspect and ensure maintenance, issuing PPE or clothing, and training those who use machinery.

2.7.10 Portable Electrical Tools and Explosive Powered Tools

- 1) The Contractor shall ensure that use and storage of all explosive powered tools and portable electrical tools are in compliance with relevant legislation.
- 2) The Contractor shall ensure that all electrical tools, electrical distribution boards, extension leads, and plugs are kept in a safe working order.

- 3) The Contractor shall apply the following:
 - A competent person undertakes routine inspections and records are kept.
 - Only authorized trained persons use the tools.
 - The safe working procedures apply.
 - Awareness training is carried out and compliance is enforced at all times.
 - PPE and clothing is provided and maintained.
 - A register indicating the issue and return of all explosive rounds is implemented and maintained, and
 - That signs are posted up in the areas where explosive powered tools are being used.

2.7.11 High Voltage Electrical Equipment

- 1) All contractors must be made aware of the presence and location of High Voltage Equipment such as underground cables and overhead lines, and that the necessary precautionary steps are taken where work has to be executed in the vicinity of such equipment.
- 2) Precautionary measures such as Isolation and Lock-Out of electrical systems or the use of electrically isolated tools must be used.

2.7.12 Public and Site Visitor Health and Safety

- 1) The Contractor shall ensure that every person working on or visiting the site, as well as the public in general, shall be made aware of the dangers likely to arise from site activities, including the precautions to be taken to avoid or minimize those dangers.
- 2) Appropriate Health and Safety Notices and signs shall be posted up, but shall not be the only measure taken.

2.7.13 Night Work

The Contractors must ensure that adequate lighting is provided to allow for work to be carried out safely.

2.7.14 Transportation of Workers

- 1) The Contractor and shall not:
 - Transport persons together with goods or tools unless there is an appropriate area or section to store such goods.
 - Transport persons on the back of trucks except if a proper canopy (properly covering the sides and top) has been provided with suitable seating areas.
 - Permit workers to stand or sit on the edge of the transporting vehicle.
 - Transport workers in LDV's unless they are closed/covered and have the correct number of seats for the passengers.
- 2) No driver will transport more than six people on the back of a 1 Ton LDV and more than four passengers on the back of a ½ Ton LDV.
- 3) The driver of any LDV will not permit more than 2 passengers to occupy the cab of any single cab LDV and 4 passengers of any double cab LDV.

- 4) All vehicles operated on the site will in all aspects comply with the requirements of the Road Traffic Ordinance Act
- 5) Drivers of such vehicles will have a valid license for the code of vehicle being driven by them.
- 6) No servicing of vehicles will be permitted on a Construction Site, which is occupied by staff working for the Client.
- 7) Servicing or repairs of vehicles on site may only take place if such activities are performed with the necessary procedures in place to prevent any harmful effects to the environment.
- 8) All waste generated from servicing vehicles must be disposed off in accordance with relevant Environmental legislation.
- 9) In the event where Earth Moving Equipment is present on site the following must be adhered to:
 - Drivers of vehicles must be instructed to avoid parking behind earth moving vehicles to ensure that their vehicles are visible to the operator of earth moving vehicles.
 - Right of way must be afforded to earth moving machinery at all times.
 - Vehicles must only be permitted to park where possible in designated areas

2.8 Occupational Health and Environmental Management.

2.8.1 Occupational Hygiene

- 1) Exposure of workers to occupational health hazards and risks is very common in any work environment, especially in construction.
- 2) Occupational exposure is a major problem and all Contractors must ensure that proper health and hygiene measures are put in place to prevent exposure to these hazards.
- 3) Contractors must prevent inhalation, ingestion, absorption, and noise induction.
- 4) Site-specific health risks are tabled in Annexure D such as cement - dust, wood-dust, noise and so on but is not limited to these items.
- 5) Water to be utilized for drinking purposes may only be drawn from taps designated for drinking water purposes. Fire hydrants and fire hose reels may not be utilized for drinking water purposes.
- 6) In the event where staff is required to be away from home due to the work they have to perform on behalf of the Contractor, the Contractor will provide suitable clean dry and hygienic accommodation, the cost thereof shall be borne by the Contractor.

2.8.2 Environmental Management

- 1) The Contractor shall take all precautionary steps to prevent any pollution of the Environment.

- 2) Any material, which may pose a harmful effect when disposed of by normal means, must be disposed of in an appropriate manner to eliminate its harmful effect on the environment after disposal.
- 3) The Contractor will ensure that adequate procedures are implemented and maintained to ensure that all waste generated including asbestos waste is placed in suitable receptacles and removed from the site promptly.
- 4) Plans to deal with spillages must be in place and maintained.
- 5) No waste materials liquid or solid may be disposed of in drains.
- 6) No burning of waste material may take place where such material being burned may result in pollution of the air or give off toxic vapors which could be harmful to the health of employees or any other person present on site.

2.8.3 Welfare Facilities

- 1) Contractors will supply sufficient toilets (1 toilet per 30 workers). Toilets will be so positioned that it is in close proximity of the workers. If more toilets are required contractors must make provision for this.
- 2) Showers (1 for every 15 workers).
- 3) Changing facilities.
- 4) Hand washing facilities, soap, toilet paper, and hand drying materials.
- 5) Waste bins must be strategically placed and emptied regularly.
- 6) Safe, clean storage areas must be provided for workers to store personal belongings and personal protective equipment.
- 7) Workers must not be exposed to hazardous materials/substances while eating and must be provided with sheltered eating areas.

2.8.4 Alcohol and other Drugs

- 1) No alcohol and other drugs will be allowed on site without the express permission of the Principal Contractor.
- 2) No person may be under the influence of alcohol or any other drugs while on the construction site.
- 3) Any person on prescription drugs must inform his/her Employer, who shall in turn report this to the Principal Contractor forthwith.
- 4) Any person suffering from any illness/condition that may have a negative effect on his/her safety performance must report this to his/her Employer, who in turn must report this to the Principal Contractor forthwith.
- 5) Any person suspected of being under the influence of alcohol or other drugs must be sent home immediately, to report back the next day for a preliminary inquiry. A full disciplinary procedure must be followed by the Contractor concerned and a copy of the disciplinary action must be forwarded to the Principal Contractor for his records.

2.9 Electrical fencing

- 1) Contractor must comply with sect 12, 13 and 14 of the Electrical Machinery Regulations.

ANNEUXRE A

The Contractor must submit proof of compliance with Annexure A with the construction phase H&S plan where applicable.

HSS Item No.	Requirement	OHSA Requirement	Submission Date
2.3.1	Notification of Intention to Commence Construction/Building Work	Complete Annexure 2 (Construction Regulations)	Before commencement on site
2.3.2	Assignment of Responsible Persons	All relevant appointments as per OHS Act, Con Regs and Annexure B	Together with SHE Plan
2.3.3	Competence of Responsible Persons	Client Requirement & OHS Act	Together with SHE Plan
2.3.4	Compensation of Occupational Injuries and Diseases Act (COIDA) 130 of 1993	Construction Reg and Client Requirement	Together with SHE Plan
2.3.5	Occupational Health and Safety Policy	OHS Act	Together with SHE Plan
2.3.6	Health and Safety Organogram	Client Requirement	Together with SHE Plan
2.3.7	Initial Hazard Identification and Risk Assessment	Construction Regs.	Together with SHE Plan

ASSIGNMENT OF CONTRACTOR'S RESPONSIBLE PERSONS

ANNEXURE B

The Principal Contractor shall make the following appointments according to the initial risk assessment or as deemed necessary: (further appointments could become necessary as the project progresses)

Appointment	OHSA Reference	Requirement abbreviated
CEO Assignee	Section 16(2)	A competent person to assist with the on-site H&S, overall responsibility – Contractor's Responsible Person
Construction Manager	CR 8(1)	A competent person(s) to supervise and be responsible of Health & Safety related issues on site. The person is appointed to assist the CEO with his/her overall duties.
Construction Work Supervisor	CR 8(7)	A competent person(s) to supervise and be responsible of Health & Safety related issues on site. The person is appointed to assist the CEO with his/her overall duties.
Subordinate Construction Work Supervisors	CR 8(8)	A competent person to assist with daily supervision of construction work. The person assists the Construction Work Supervisor.
Health and Safety Officer	CR 8(5)	A competent Health and Safety officer in the control of all safety related aspects on site for the duration of the repair phase of this project.
Health & Safety	Section 17	A competent person(s) to inspect H&S in reference to plant, machinery and Health & Safety of persons in the workplace.
Health & Safety Committee Member(s)	Section 19	A competent person(s) representing the employer to assist with the on site Health & Safety matters.
Incident /Accident Investigator	GAR 8	A competent person(s) to investigate incidents/accidents on site and could be: <ul style="list-style-type: none"> • The employer • H&S Representative • Designated person • Members of the H&S Committee
Risk Assessment Co-ordinator	CR 9	A competent person(s) to co-ordinate all risk assessments on behalf of the Principal Contractor. The same applies to Contractors.
Fall Protection Plan Co-ordinator	CR 10	A competent person(s) to prepare & amend the fall protection plan.
First Aiders	GSR 3	A qualified person(s) to address all on site first aid cases.
Lifting Machine & Equipment inspector	DMR 18	A competent person(s) to inspect lifting machines, equipment & tackle.
Scaffolding Erector	CR 16.1	A competent person(s) to erect scaffolding
Scaffolding	CR 16.2	A competent person(s) to inspect

Inspector		scaffolding before use and every time after bad weather etc
Temporary Works	CR 12	A competent person(s) to inspect formwork & support work
Excavation Inspector	CR 13	A competent person(s) to inspect excavation work and ensure that approved safe working procedures, are followed at all times
Ladder Inspector	GSR 13A	A competent person(s) to inspect monthly and ensure they are safe for use, keeping monthly record
Stacking Supervisor	CR 28	A competent person(s) to supervise all stacking and storage operations
Demolition Supervisor	CR 14(1)	A competent person(s) to supervise all demolition work
Explosive Powered Tools Inspector/Supervisor	CR 21	A competent person(s) to inspect & clean the tool daily and controlling all operations thereof.
Temporary Electrical Installations Supervisor	CR 24	A competent person(s) to control all temporary electrical installations.
Construction vehicles and Mobile Plant Supervisor.	CR 23(1)(k)	A competent person to inspect vehicles and plant on a daily basis prior to use and record such finding in register.
Fire-Fighting Equipment Inspector	CR 29	A competent person(s) to inspect fire-fighting equipment with required training certificate.

OTHER REQUIREMENTS

ANNEXURE C

The Principal Contractor shall comply but not be limited to the following requirements: report on these to the Client at progress meetings or at least monthly which ever is sooner.

What	When	Output	Accepted by Client & date
Induction training	Every worker before he/she starts work.	Attendance registers	
Awareness Training (Tool Box Talks)	At least weekly	Attendance registers	
Health & Safety Reports	Monthly	Report covering: <ul style="list-style-type: none"> • Incidents/accidents and investigations • Non conformances by employees & External H&S audit reports 	
Emergency procedures	Ongoing evaluation of procedure	Table procedure in writing as well as tel. Numbers	
Risk assessment	Continuous	Documented risk assessment	
Safe work procedures	Drawn up before workers are exposed to new risks	Documented set of safe work procedures (method statements) updated and signed off.	
General Inspections	Weekly & daily	Report OHS Act compliance: <ul style="list-style-type: none"> • Scaffolding • Excavations • Formwork & support work • Explosive tools 	
General Inspections	Monthly	<ul style="list-style-type: none"> • Fire fighting equipment • Portable electrical equipment • Ladders • Lifting equipment/slings 	

What	When	Output	Accepted by Client & date
List of contractors	List to be updated weekly	Table list, number of workers and Company tel. Numbers	
Workman's Compensation	Ongoing	Table a list of Contractors' Workman's Compensation proof of good standing	
Construction site rules & Section 37.2 Mandatory Agreement	Ongoing	Table a report of all signed up Mandatory's	

ANNEXURE D

Project/site Specific Requirements

The following is a list of activities and considerations that have been identified for the project and site and for which the Risk Assessment, Standard Working Procedures (SWP), management and control measures and Method Statements (where necessary) have to be developed by the Principal Contractor.

- Demolition work
- Creating openings in walls
- Preparation of paint surfaces
- Painting of walls
- Working with cement products
- Dust
- Metal/Steel work
- Exposure to noise
- Establishment of site office
- Locating of existing services
- Loading and offloading of trucks
- Aggregate/sand and other material delivery
- Protection against dehydration and heat exhaustion
- Manual and mechanical handling
- Lifting and lowering operations.
- Use of Potable electrical Equipment
 - Angle grinder
 - Electric Drilling Machine
 - Skill Saw
- Use and storage of flammable liquids and other Hazardous substances
- Site works
- Excavations
- Electrical installation work
- Mechanical works
- Working in the vicinity of the public, inmates (prisoners) and staff of the client
- Working at heights
- Working with construction machinery and plant
- Persons working in close vicinity of construction machinery and plant.
- Working with asbestos products i.e. gutters, down pipes, insulation etc.
- Hot works i.e. Welding, flame cutting etc.

NOTE:

The above list is by no means exhaustive and should not be limited to these activities but must cover all activities that forms part of the said construction work. Each activity must be split down to individual tasks and all associated hazards identified and listed in the risk assessment. This ensures that the critical tasks and subsequent critical hazards are not missed.

NB:-

Although some of the work related to health and safety work is mentioned /noted in certain measured items in the bill of quantities it is still the contractor's responsibility to allow in his tender price for all work related to health and safety and the requirements as per this Health and Safety Specification

FACILITIES MANAGEMENT

CONDITIONS OF CONTRACT (DPW)

SEPT. 2005 VERSION 1



PA-10 (FM): CONDITIONS OF CONTRACT

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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 therefrom 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.



- 1.18. "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.



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.

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.

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.

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:

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

- 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.



- 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:

- (1) deductions for penalties;
- (2) deductions for overpayments;
- (3) deductions for retention
- (4) 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 overpayment 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.