



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. Price Malatsi – 031 314 7217

Works Management – Mr V. Khumalo

REQUEST FOR QUOTATION

You are hereby invited to submit a quotation for the supply and delivery of the following service to be rendered at **DOJ: Dukuza (Bergville) Magistrate Court**

Bid response documents to be deposited in the bid box situated at: **National Department of Public Works and Infrastructure: 157 Monty Naicker Road**

Item	Description	Quantity / Period
1	Repair/replacement of booster borehole pump.	Once off

CLOSING DATE: 24/02 /2025, CLOSING TIME @ 11h00 AM

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:

THOKOZANI ZWANE
ASD - SCM ACQUISITION

07/02/2025



public works
& infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE DURBAN REGIONAL OFFICE

REFERENCE NUMBER – DBNQ-3215971

SERVICE DESCRIPTION : DEPARTMENT OF JUSTICE: DUKUZA (BERGVILLE) MAGISTRATE COURT: REPAIR/REPLACEMENT OF BOOSTER BOREHOLE PUMP.

SUBMITTED BY:

Company Name: _____

CSD registration: _____

CLOSING DATE: 24/02/2025 @11:00
Box Number 16 – 157 Monty Naicker Street

TECHNICAL ENQUIRIES	OTHER ENQUIRIES
Name : Vama Khumalo Contact number : 067 416 7424 Email: vama.khumalo@dpw.gov.za	Name : Price Malatsi Tel no. : 031 314 7217/7046 Email : price.malatsi@dpw.gov.za



PA 32: INVITATION TO BID PART A

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	DBNQ-3215971	CLOSING DATE:	24/02/2025	CLOSING TIME:	11:00am
DESCRIPTION	DEPARTMENT OF JUSTICE: DUKUZA (BERGVILLE) MAGISTRATE COURT: REPAIR/REPLACEMENT OF BOOSTER BOREHOLE PUMP.				
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 16 157 Monty Naicker Road, by Securities. (bidders to note that entrance in Dr Pixley Ka Seme is temporarily closed)					
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:
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)		R
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).

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.

1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND 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.

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



REPAIR/REPLACEMENT OF BOOSTER PUMPAT DUKUZA(BERGVILLE) MAGISTRATE COURT: ID-3215971

SCOPE BRIEFING

This scope of work covers the repairs or replacement of water booster pump

Vama Khumalo

Chief Works Manager

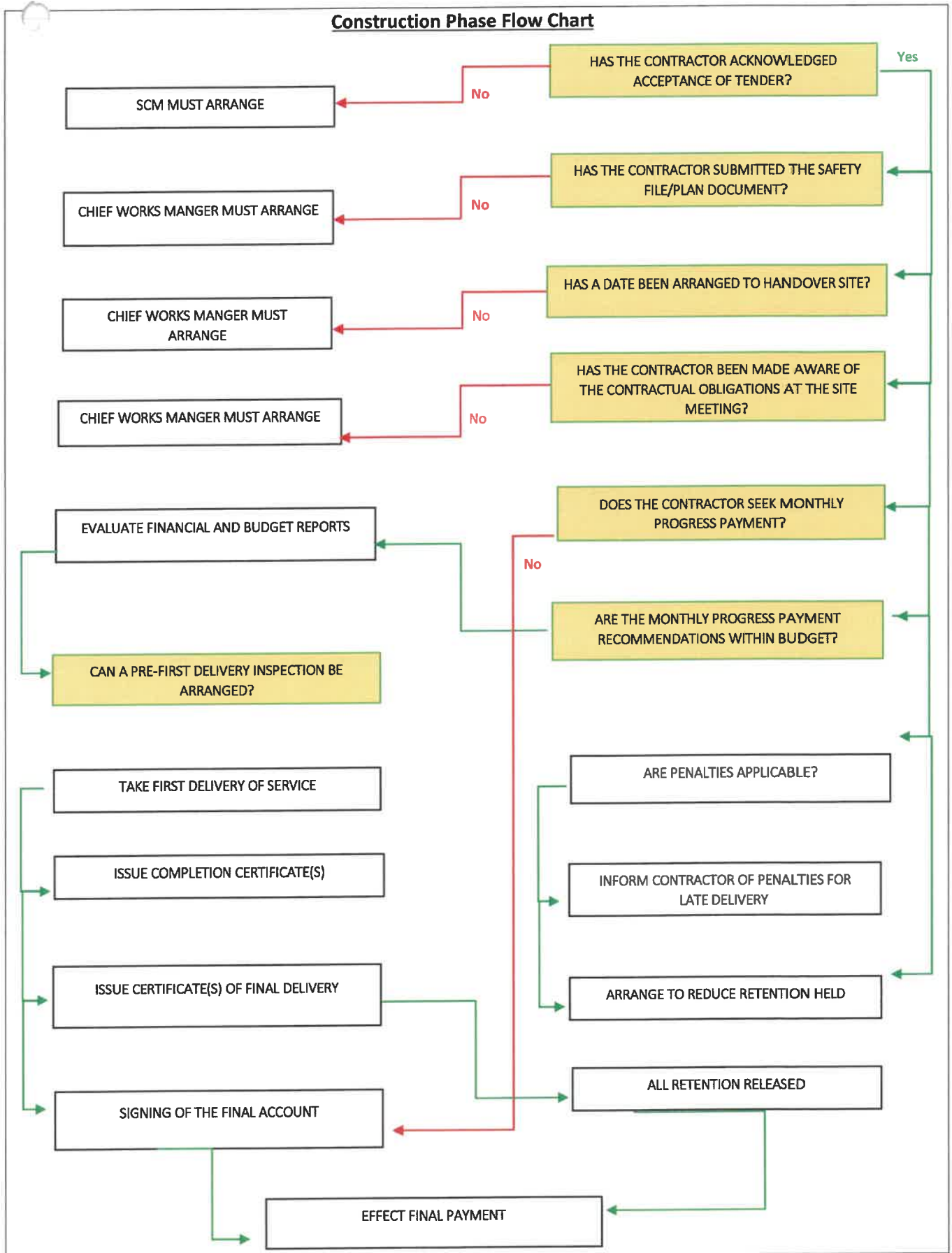
It is to be noted that clauses in this specification are referenced from the PA-10 Condition of contract and should any clauses in this specification contrast with those of the PA-10, the clauses in the PA-10 will rule over these.

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Construction Phase Flow Chart



1 DETERMINATION OF COMMENCEMENT DATE OF THE CONTRACT

The Contract agreement comes into effect on the date when the contractor receives one fully signed copy of the Form of Offer and Acceptance, a copy of Suppliers Advise which may be interpreted as Purchase Order or a copy of a fully signed Appointment Letter. These document are processed and sent via by the Supply Chain Management Department, therefore for contractual reasons the commencement date will be determined by the Chief Works Manager following approval of the Safety File or Safety plan document by Departmental Safety Official.

As a background to the above matter the following information is provided in order to give guidance to the Department of Public Works & Infrastructure personnel in dealing with contractual matters.

- i. The Contractor is given a letter (Purchase Order, Form of Offer or Appointment letter) for tender in which an intent for a contract award is given provided that within seven (7) calendar days of date of communication, Depending on the terms of the Contract Agreement the following standard information is furnished:-

- a) A Construction Safety, Health and Environmental Plan
- b) Proof of having insurance cover.

(NOTE: A further seven (7) calendar days extension may be granted resulting in a maximum of fourteen (14) calendar days to furnish all information. A letter must be issued to the Contractor granting the seven (7) days extension.

- ii. An Approved Construction Safety Plan will be given to the Contractor at Site handover.
- iii. The Commencement date of the contract will start on the site handover date.
- iv. After the site has been handed over, the contractor must establish himself on the site and actually commence work within five (5) calendar days. If this does not happen then the contractor is to be ordered in writing by the employer to commence both site establishment and work, failing which the contractor is in breach of the contract.

2 HANDING OVER OF SITE – ALSO TO BE READ WITH ITEM 1 ABOVE

The date for the handing over of the site to the Contractor must be arranged by the Chief Works Manager, in consultation with all persons concerned. The date and time decided upon must be communicated, in writing, to all involved in the process and a record of this arrangement to be placed on the Project File.

The Chief Works Manager / principle Agent is to notify the Contractor of the date on which the site is to be handed over.

It is necessary to calculate the length of the contract construction period correctly. For example if the contract period is 4 weeks and the site is handed over on 1 July on a Monday, the contact period from construction commencement date to practical completion is 28 July (not 29 July).

The site handover shall commence with a site handover meeting. The site handover meeting must be chaired by the Chief Works Manager / Principle Agent, and the site handed over by the Chief Works Manager to the Contractor.

The following persons must be present:

- (i) Chief Works Manager (NDPWI)
- (ii) OHS representative (NDPWI)
- (iii) Client Department (Head of Facility, to be invited in writing)
- (iv) Contractor

Ensure that a Site Handover Certificate is completed and distributed to all concerned at the earliest possible day after the site handover. Copies to be placed on Project file and emailed to Contractor.

The following items must be thoroughly discussed (as minimum) at the handing over of the site and form the site handover agenda:

- (i) Site meetings
- (ii) Site instructions
- (iii) Site records
- (iv) Contract programme
- (v) Weekend and holiday work
- (vi) Claims for delays
- (vii) Site establishment
- (viii) Security of the site
- (ix) Identification of site representative and key personnel
- (x) EPWP (Expanded Public Works Programme), if applicable
- (xi) Safety (OHS Act)
- (xii) Planned site visits by Chief Works Manager

2.1 Site Establishment

Working space is to be defined and protected areas identified by both the Chief Works Manager / Control Works Manager and Head of Institution concerned. These matters must be finalised prior to completing the tender document. The type and location of fencing to the work area is to be decided and specified. If the contract is to be carried out in phases, cognisance must be taken of this factor when placing site huts and fencing work areas.

- (i) **Access to Site and Public Roads, Kerb Etc.**
Hoardings, fencing requirements, access from public roads (which matters should have been finalised prior to completing the tender document) are to be agreed between the Contractors and Local Authority.
- (ii) **Name Board**
The Chief Works Manager must issue a drawing showing the wording to be used. The sitting is to be agreed with the Chief Works Manager. The Contractor's boards are to be displayed in an orderly manner after approval by the Head: Public Works.
- (iii) **Plant**
No noisy plant is to be located near existing buildings which are occupied.
- (v) **Municipal Services and Connections (used during construction)**
The Contractor is to organise the following as soon as possible:-
 - a) A separate electrical connection. Alternatively the Contractor is to supply and install his own meter connected to the institution's supply and pay the institution for all current consumed on a monthly basis. Monthly readings are to be noted in the Site Minutes. Or supply of his own electrical generator and accessories required.
 - b) The contractor may ask the head: Public Works support his application for a telephone if he has difficulties. The Contractor must pay for the installation and all costs.
 - c) **Water for the Works.**

- **For earthworks contracts** the meter and connection is to be arranged and paid for by the Contractor in the name of the KwaZulu-Natal National Administration.
- **For building contracts** the Contractor is to arrange for his own connection and meter or forfeit ½% of contract to the institutions supply and pay the institution for all water consumed on a monthly basis. Monthly readings are to be noted in the Site Minutes.

The Contractor's decision is to be noted in the site meeting minutes.

d) Toilets

- The type of temporary toilets must be established and the toilets provided immediately. The local Authority's approval of the facilities must be obtained. Where it is practical, a temporary connection to a municipal sewer must be made.
- Contractor's may under no circumstances use facilities of an occupied site.

(vi) Protection of Trees Etc.

The Deputy Director is to indicate trees and other features which must be protected. No trees are to be removed without prior authority, nor are any trees which are to remain to be damaged in any way.

(vii) Identification of Personnel

Personnel of the contractor must wear identification clothing at all times.

3 SITE MEEINGS AND STANDARD AGENDA ITEMS

Where the complexity of the project warrants the holding of regular site meetings, these meetings are to be held at least once monthly.

The project site meetings are to be held at least once monthly.

It's is the duty of the Chief Works Manager to see that business proceedings and any decisions taken at site meetings are adequately recorded and that minutes of the meetings are produced within five (5) working days after meeting

The Chief Works Manager/Principle Agent as conveyor of the meetings, must be informed by the Contractor as to who of his staff requires to attend the meetings. The Chief Works Manager/Principle Agent will indicate approval or otherwise of these nominations

Minutes of site meetings must be taken and kept by Chief Works Manager/Principle Agent; and they must contain the following minimum information in addition to the business content of the meetings.

- (i) Relevant Project File number
- (ii) Name of the project, which must relate to the title on the Bills of Quantities document
- (iii) Number, time of day and date of meeting.

- (iv) List of persons attending the meeting, their designation and the organisation which they represent (i.e. Contractor, Client, Projects Manager, etc.).
- (v) Apologies from persons who would normally attend the meetings but are not present.
- (vi) Confirmation (signed) or otherwise of the minutes of the previous meeting and any necessary amendments or comments.
- (vii) Matters arising from previous meetings which require finalisation.
- (viii) New matters.
- (ix) Items which arise for the first time and require recording.
- (x) A brief Progress report, including
 - a) % Time lapsed
 - b) % Money spent
 - c) % Overall completion
- (xi) Delays: These should be reflected separately in the minutes i.e.
 - a) Inclement Weather.
 - b) Material Supply problems
- (xii) Safety issues
- (xiii) The date and time for the holding of the next meeting.
- (xiv) The contract duration.
- (xv) Approved extensions to practical completion.
- (xvi) List of the distribution of the minutes (containing where applicable, the addresses of the recipients – this is to forestall a claim for non-receipt of minutes due to incorrect address) – duty of the Chief Works Manager/Control Works Manager.
 - a) 2 copies to Head of Department
 - b) Number of copies required by the Contractor with a maximum of 6
 - c) Any person authorised to receive copies of the minutes may request extra copies but must make private arrangements with the Chief Works Manager/Control Works Manager with regards to payment for the extra copies.

It is the duty of the Chief Works Manager/Control Works Manager to see that the business proceedings and any decisions taken at site meetings are adequately recorded and that minutes of the meetings are produced as soon as possible after the meeting.

3.1 Site Instructions

These must be recorded and officially confirmed by the Chief Works Manager/Control Works Manager. As soon as possible. An Instruction Book must be available at all times, and its use limited to defined people such as the Inspectorate Staff and Chief Works Manager.

3.2 Site Records

The Contractor is to maintain his own records on site for labour and plant, which must be available to the Chief Works Manager/Control Works Manager. Site instruction books are available from the Regional Office.

3.3 Phased Completion

Any special requirements by the Client Department are to be explained in the tender documents together with special conditions relating to retention and reduction of penalties where applicable. Details must be incorporated in the contract programme.

3.4 Contract Programme

The Contractor must prepare a realistic programme chart for the work which must be approved by the Chief Works Manager/Control Works Manager, and keep it up-to-date. The phasing of the contract (where specified in the tender document) must be indicated.

3.5 Weekend and Holiday Work

This may be undertaken on written request to the Chief Works Manager/Control Works Manager for approval and if acceptable to the Client Department.

- (i) All work undertaken must remain exposed for inspection
- (ii) No work shall be done unless proper arrangements for inspection have been made with the Chief Works Manager/Control Works Manager.

3.6 Claims for Delay

The contract period includes all statutory holidays and holidays recognised in the building industry. The Chief Works Manager will maintain his own records on weather conditions and also note any delays in the delivery of materials. The Chief Works Manager/Control Works Manager shall be responsible to capture this information with copies of records at each site meeting.

4 SITE INSTRUCTION BOOK AND VISITORS DIARY

4.1

A site instruction book must be issued at the handing over of the site. Arrangements must be made where the Site Instruction Book will be kept on site should the contractor not require a Site Office to be provided by the Contractors.

The Site Instruction Book must not be removed from the site until "completion" of the contract has been taken. In the event of the Site Instruction book being mislaid. It must be replaced with the cost thereof being for the account of the Contractor.

Site instructions, commencing from the front of the book, must be recorded and officially confirmed by the Chief Works Manager as soon as possible. A site instruction book must be available on site at all times, and its use limited to specific persons such as the Inspectorate and Chief Works Managers.

The site instruction must contain

- (i) Contact numbers and addresses of Contractor, Chief Works Manager and Head of Department.
- (ii) The contract description and contract number. (this information must be reflected on the front cover page of the Site Instruction Book)

Instructions as to the use of the Site Instruction Book must be prepared and pasted on the back of the front cover with a role requesting visitors to sign at the back of the book.

All site, and other instructions, relating to the contract, whether verbal or telephonic, must be recorded in the Site Instruction Book and signed / countersigned by the Chief Works Manager

and the Contractor. Any site instruction with a financial implication must be counter signed for approval of funding available by the accounting officer.

No changes or alterations to the service, discussed during the course of site meetings, are to be implemented until a formal instruction has been recorded in the Site Instruction Book and where a site instruction necessitates it.

On the day that "completion" of any project is taken and the Completion Certificate is issued, the last site instruction is to be numbered, signed by the officer taking delivery of the project and issued to and signed by the Contractor and is to be worded as follows:

His site instruction, number.....indicates that "Practical Completion" of this project has been taken and this is the last site instruction that will be issued on this project."

4.2 Visitors Diary

The Site Instruction Book will be used as the official records of visits to the site. The recording of visits to site will commence from the end of the Site Instruction Book and be carried towards the front of the book until a stage is reached where this information meets with the issued Site Instructions. When this occurs the book must be safely kept for conclusion with the contract document file and a new Site Instruction Book be taken into use.

Visitors to the site, e.g. Chief Works Manager, Client Department representative's members and other involved persons must, except when attending official site meetings, must be requested to complete the back section of the Site Instruction Book, known as the Visitors Diary, and provide:

- (i) Names,
- (ii) Contact number and addresses,
- (iii) Date and times of visits , and
- (iv) Comments.

A visitor may keep one page as a record of the comments made and, if so desired, forward a copy thereof to the Chief Works Manager for nothing. The copies are distributed as follows:

- (i) One to Chief Works Manager
- (ii) One to the Contractor
- (iii) One to remain in the book

5 SUPERVISION BY WORKS MANGER/ INSPECTOR, IF APPOINTED

Due to the non-availability of works inspectors in the region the task to supervise works lies with the Chief Works manager/Chief Works Manager.

The main functions are: Quality Control

- (i) Foundation re-measurement
- (ii) Monthly / weekly reports
- (iii) Compilation of Daily Diary
- (iv) Control of Site Instruction Book 5.1
- (v) Assistance with the setting out of buildings, and in general to see that what is specified on the drawings is in fact built. Where possible, instructions to Contractor should be through the Works Manager

5.1 Contractor To provide A Site Representative

The Contractor shall constantly keep upon the works a competent foreman/Contractor's Site Representative.

5.2 Supervision By Departmental Personnel

Supervision by Officers of the Department of Public Works may carry out inspections at any time. Any comment or amendments which they may consider necessary as a result of these inspections must be conveyed to the Chief Works Manager/Control Works Manager, through whom all instructions to the Contractor will normally be given.

In the event of any difference of opinion between a Regional Inspectorate concerning any particular finish, method of construction or detail, the matter must be referred by the Deputy Director to the accounting Head of Department for a decision.

5.3 Progress Reports

The Chief Works Manager must prepare the weekly / monthly reports.

6 EXTENSION OF PRACTICAL COMPLETION DATE

Approval of request received from contractors for the extension of the Practical Completion Dates of contracts are processed in terms of the relevant clause and stated time of the particular Agreement and SCM Delegation

The Contractor must submit within the specified time of the relevant Clause of the Agreement and any requests for extension to the Practical Completion Dates to the Chief Works Manager/Control Works Manager

The Chief Works Manager must submit any request made by the Contractor for extension of the Practical Completion Dates to the BEC

The Chief Works Manager/Control Works Manager must indicate whether he/she supports the application or not before submission for acceptance and final approval or not by either the delegated Deputy Official or the BEC

All extensions to Practical Completion Dates must be recorded in the minutes of Site Meetings

The extension to Practical Completion Date are to be calculated in working (not calendar) days

NB No extension to the Construction Period may be granted after the expiry of the Contract.

7 PENALTIES

7.1 Introduction

Both the Treasury and the approved that in the case of Building and Allied Industry contracts, the Department of public Works & Infrastructure has the authority to specify, in tender / contract documents which include the Department's adopted Agreement, the penalty for failure to render the service within the stipulated or extended contract period in a specific monetary amount per day **based on 0.04% of the contract sum of the project at the time of preparing the tender document**. The Scale of Penalties to apply for *estimating purpose only* is set out in the table below. The *actual penalty* amount is calculated on the following basis.

The Penalty for failing to complete the whole of the Works is:

- 0.04% of the contract sum excluding VAT round up to the nearest R10

If the Works is to be completed in portions, the following is also applicable:

- The penalty for failing to complete particular portions of the Works shall be 0.04% of the value of that Section round up to the nearest R 10

In the case of contracts resulting from the acceptance of quotation, the penalty is calculated as set out in the quotation documents.

7.2 Penalties For Late Completion

The scale of Penalties below for estimating purposes only has been calculated applying 0.04%

ESTIMAED COST R			PENALTY PER DAY R	ESTIMATED COST R			PENALTY PER DAY R
0	-	10 000,00	4	1 000 001,00	-	1 050 000,00	420
10 001,00	-	20 000,00	8	1 050 001,00	-	1 100 000,00	440
20 001,00	-	30 000,00	12	1 100 001,00	-	1 150 000,00	460
30 001,00	-	40 000,00	16	1 150 001,00	-	1 200 000,00	480
40 001,00	-	50 000,00	20	1 200 001,00	-	1 250 000,00	500
50 001,00	-	60 000,00	24	1 250 001,00	-	1 300 000,00	520
60 001,00	-	70 000,00	28	1 300 001,00	-	1 350 000,00	540
70 001,00	-	80 000,00	32	1 350 001,00	-	1 400 000,00	560
80 001,00	-	90 000,00	36	1 400 001,00	-	1 450 000,00	580
90 001,00	-	100 000,00	40	1 450 001,00	-	1 500 000,00	600
100 001,00	-	110 000,00	44	1 500 001,00	-	1 550 000,00	620
110 001,00	-	120 000,00	48	1 550 001,00	-	1 600 000,00	640
120 001,00	-	130 000,00	52	1 600 001,00	-	1 650 000,00	660
130 001,00	-	140 000,00	56	1 650 001,00	-	1 700 000,00	680
140 001,00	-	150 000,00	60	1 700 001,00	-	1 750 000,00	700
150 001,00	-	160 000,00	64	1 750 001,00	-	1 800 000,00	720
160 001,00	-	170 000,00	68	1 800 001,00	-	1 850 000,00	740
170 001,00	-	180 000,00	72	1 850 001,00	-	1 900 000,00	760
180 001,00	-	190 000,00	76	1 900 001,00	-	1 950 000,00	780
190 001,00	-	200 000,00	80	1 950 001,00	-	2 000 000,00	800
200 001,00	-	210 000,00	84	2 000 001,00	-	2 050 000,00	820
210 001,00	-	220 000,00	88	2 050 001,00	-	2 100 000,00	840
220 001,00	-	230 000,00	92	2 100 001,00	-	2 150 000,00	860
230 001,00	-	240 000,00	96	2 150 001,00	-	2 200 000,00	880
240 001,00	-	250 000,00	100	2 200 001,00	-	2 250 000,00	900
250 001,00	-	275 000,00	110	2 250 001,00	-	2 300 000,00	920
275 001,00	-	300 000,00	120	2 300 001,00	-	2 350 000,00	940
310 001,00	-	325 000,00	130	2 350 001,00	-	2 400 000,00	960
325 001,00	-	350 000,00	140	2 400 001,00	-	2 450 000,00	980
350 001,00	-	375 000,00	150	2 450 001,00	-	2 500 000,00	1000
375 001,00	-	400 000,00	160	2 500 001,00	-	2 550 000,00	1020
400 001,00	-	425 000,00	170	2 550 001,00	-	2 600 000,00	1040
425 001,00	-	450 000,00	180	2 600 001,00	-	2 650 000,00	1060
450 001,00	-	475 000,00	190	2 650 001,00	-	2 700 000,00	1080
475 001,00	-	500 000,00	200	2 700 001,00	-	2 750 000,00	1100
500 001,00	-	525 000,00	210	2 750 001,00	-	2 800 000,00	1120
525 001,00	-	550 000,00	220	2 800 001,00	-	2 850 000,00	1140
550 001,00	-	575 000,00	230	2 850 001,00	-	2 900 000,00	1160
575 001,00	-	600 000,00	240	2 900 001,00	-	2 950 000,00	1180
600 001,00	-	625 000,00	250	2 950 001,00	-	3 000 000,00	1200
625 001,00	-	650 000,00	260	3 000 001,00	-	3 100 000,00	1220
650 001,00	-	675 000,00	270	3 100 001,00	-	3 200 000,00	1280
675 001,00	-	700 000,00	280	3 200 001,00	-	3 300 000,00	1320
700 001,00	-	725 000,00	290	3 300 001,00	-	3 400 000,00	1360
725 001,00	-	750 000,00	300	3 400 001,00	-	3 500 000,00	1400
750 001,00	-	775 000,00	310	3 500 001,00	-	3 600 000,00	1440

775 000,00	-	800 000,00	320	3 600 001,00	-	3 700 000,00	1480
800 001,00	-	825 000,00	330	3 700 001,00	-	3 800 000,00	1520
825 001,00	-	850 000,00	340	3 800 001,00	-	3 900 000,00	1560
850 001,00	-	875 000,00	350	3 900 001,00	-	4 000 000,00	1600
875 001,00	-	900 000,00	360	4 000 001,00	-	4 100 000,00	1640
900 001,00	-	925 000,00	370	4 100 001,00	-	4 200 000,00	1680
925 001,00	-	950 000,00	380	4 200 001,00	-	4 300 000,00	1720
950 001,00	-	975 000,00	390	4 300 001,00	-	4 400 000,00	1760
975 001,00	-	1 000 000,00	400	4 400 001,00	-	4 500 000,00	1800

7.3 Penalties – Imposition and Applications for Waiving of Penalties

Penalties must be strictly imposed when a contract has not been completed by the completion date or any approved extension thereof. The necessary deductions must be made in all payments processed after the due date or extended due date for completion of the Contract. Should a contractor appeal in writing against the imposition of penalties and motivate for the waiving of same, the appeal must be considered and receive a written response.

The Treasury Regulations issued in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999) and amendments thereof makes provision in Clause 11.4 to write-off debts owed to the State or to waive debts if the Accounting Officer (Head of Department) is satisfied that it would be to the advantage of the State to effect a settlement. All debts written off must be disclosed in the Annual Financial Statements of the Department of Public Works.

8 PROCEDURE FOR CONTRACT PAYMENTS

Valuations must be made each month, regardless of whether the contractor has requested a payment or not.

9 COMPLETION CERTIFICATE (“Practical Completion”)

This is the stage reached in the contract, as described in the particular Agreement, dealing with the Completion Certificate.

9.1 Pre-Inspection

When the Contractor has stated that, in his opinion, the Works are complete and ready for occupation, the Chief Works Manager, and the Client Department’s Planner or his authorised representative must carry out an inspection of the Works.

Where necessary, any outstanding work, defects or inadequacies, in terms of the Contract, are to be listed and such list handed to the Contractors for attention.

The list is for guidance only and is not to be deemed to be all-inclusive. It must also not be used by the Contractor to relieve him of his responsibilities in terms of the Contract.

9.2 Practical Completion

On completion of all unsatisfactory or incomplete works, a further inspection will be carried out by the Chief Works Manager and the Client Department’s Planner or representative and if the Works are acceptable, “Practical Completion” will be taken.

The Chief Works Manager, must arrange the preparation of a Key Schedule and obtain all keys from the Contractor, to which suitable identifying tags must be securely attached.

Arrangements are to be made for the keys of the section and completed work to be handed over and signed for on behalf of the Client Department concerned.

Arrangements are also to be made for the handing over of all operating and maintenance manuals as specified / required in the tender documents.

10 MANAGING DEFAULT BY CONTRACTOR IN TERMS OF THE PROJECT CONTRACT CONDITIONS

10.1 Introduction

At all times it is of utmost importance that the Chief Works Manager ensures that the project is implemented in accordance with the agreed project plan, applicable contract conditions and tender documents submitted, and that any deviations are addressed timeously.

This section relates to the contractor defaulting on any of its obligations in terms of the aforementioned. Default on the part of the contractor extends to not performing any obligation on the project and may include but not limited to:

- In the case of PA-10 Conditions of Contract - refusing to comply with contract instruction in terms of clause 5, and
- The circumstances set out in clause 12

Please note: - Addressing the defaulting of the contractor occurs prior to the request for cancellation of the contract and needs to be well documented, outlining the steps to remedy the non-compliance.

The clause 12 process map provided below helps diagrammatically show the steps to be followed when the contractor defaults. The written text provides activities and actions that should be followed and takes precedent over the process map.

10.2 Addressing Default by the Contractor

At the outset it must be noted that projects may only have a Departmental official appointed as a Chief Works Manager, thus any reference to him/her in this chapter will apply to the Chief Works Manager.

Whenever it becomes apparent to the Chief Works Manager that a Contractor is defaulting in the terms of the Project, the default must be addressed immediately as set out hereunder.

10.2.1 The Chief Works Manager must:

- 10.2.1.1 Point out the default to the contractor and instruct the contractor on the remedial steps to be taken to comply with obligations and the time-frame by which such default must be remedied. The time-frame shall not be less than 10 working days from the date of the instruction to comply.

Please note that whilst the time-frame will apply to all instances of non-compliance, it was important to set the minimum number of 10 days as indicated, so as to align with the PA-10 Conditions of contract, which make provision for

- The enforcement of strict compliance with the terms and conditions of the contract.
- The termination of this contract without prejudice to any other rights it may have;
- The suspension of any further payments to the service provider;
- The appointment of other service providers to complete the execution of the service, 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.

- 10.2.1.2 The instruction shall also be recorded and communicated in the Site Instruction Book. The instruction in the site instruction book must be agreed to and countersigned by the contractor.

- 10.2.1.3 It is important that the default is clearly stated and explained to the contractor, in addition, the remedial instructions(s) must be clear and have precise time-frame, as

- this will mark the first point that may be constantly referenced should the non-compliance not be timeously remedied.
- 10.2.1.4 If the default affects the agreed construction programme the instruction must include that the contractor furnish a revised construction programme and construction cash flow to the Chief works Manager that will be evaluated and, if approved by the Chief works manager, used to monitor the progress of the Project.
- 10.2.1.5 The default must also be recorded at the Site Meeting. The Site Meeting Agenda shall have a standing item for recording non-compliance and the status of these items.
- 10.2.2 The Contractor must:
- 10.2.2.1 Upon receiving the instruction from the Chief Works Manager, the contractor must remedy the default within the time-frames provided.
- 10.2.2.2 If the Contractor alleges that it has remedied its default, the Chief Works Manager shall inspect, approve and sign off that the default has been remedied to his satisfaction, it shall also be recorded at the Site Meeting that the default has been remedied and no further action will be taken against the Contractor.
- 10.2.2.1 If the Contractor has not remedied its default, the Chief Works Manager must record this at the Site Meeting and report the non-compliance with the instruction to the Departmental Control Works Manager.
- 10.2.3 The Departmental Chief Works Manager must then submit a report immediately to the Departmental Deputy Director, which report shall include:
- a. The nature of the default
 - b. Photographs if applicable;
 - c. The instruction given to the default, including the time given and the time lapsed;
 - d. A record of the monitoring actions and any follow-up actions if applicable; and
 - e. a draft warning letter for signature by the Deputy Director.
- 10.2.4 Upon receiving the report, the Deputy Director must action and sign off an official warning letter, which shall include the following:
- a. A brief history of the default and the Department's attempt to address same;
 - b. A request that a revised work programme be forwarded to the Department indicating how lost time will be made up to meet the contract completion date. The plan or programme of remedial action must also include how the contractor shall make a concerted effort to remedy its default within then (10) working days.
- Please Note:**
- (1)** *That this does not mean that the default must be remedied in ten (10) working days; rather, a concerted effort (with physical means of verification) must be made to remedy the default within this 10-day period. At the end or during this 10-day period, the Department should be able to assess as to whether the effort made by the contractor, although not wholly remedying the default, is the concerted effort must*

be sufficient to convince the Department that the contractor will be able to remedy its default and complete the Project timeously.

(2) This step means that the project is at a high risk stage of being cancelled and the department is mitigating the high risk in accordance with the contractual conditions. Daily due diligent management oversight from the Department must be carried out and recorded and may be used as evidence should the cancellation notice be approved.

- c. A condition that the Contractor is given f (5) working days, from the date of receipt of this letter, to furnish the aforementioned programme and plan to the Department.
- d. All implications in respect of penalties, taking into account clause....
- e. A paragraph clearly informing the contractor that any further failure to comply shall leave the Department with no alternative but to proceed with termination of the contract.

The letter must be forwarded to the Contractor at its appointed address and a copy must be retained by the Deputy Director, Control Works Manager and Chief Works Manager.

10.2.5 The Chief works Manager must during and at the end of the remedial time period, monitor whether the default is or is not being remedied in accordance with the Contractor's remedial plan and/or programme and report this to the Control Works Manager.

10.2.6 At the end of the 10 day period, the Control Works Manager immediately submit a report to the Deputy Director, which shall conclude that:

- a. The default has been remedied, or that the contractor has made a concerted effort to remedy the default and the contractor will be able to complete the project successfully in accordance with its revised programme; or
- b. The default has not been remedied or that the contractor has not made a concerted effort to remedy the default and the contractor shall not be able to complete the project successfully.
 - Where the PA-10 is the applicable contract and the contractors non-performance falls within the categorised listed under clause 33.1 to 34.5.3, the Chief Works Manager must issue a notice to the Department and to the contractor certifying that in terms of clause 33, it is his opinion that the Contractor falls within one of those categories (these must be specifically stated in his notice with applicable clauses cited), The notice must accompany the Chief Works Manager's report to the Deputy Director.
 - The report must address the issues in paragraph 11.2.3 above and also include the full financial situation of the project including penalties to be imposed on cancellation.

10.2.7 The Deputy Director must, on receipt of the report from the Control Works Manager, consult with the Chief Works Manager and shall then:

- a. Grant approval for the contract to continue against the remedial plan and the default remedied shall be recorded in the Site Instruction Book and at the Site Meeting; or
- b. Recommend that the contract be cancelled. The Chief Works Manager is to then start preparing the submission for cancellation as set out in chapter 14. During the interim period, whilst awaiting approval of the cancellation, the Deputy Director is to submit a notice to the contractor:
 - Citing receipt of the clause 34 notice, if applicable;
 - Advising that the Department has noted that the contractor has failed to remedy its default to the satisfaction of the Department;
 - Advising that the Department is currently considering the future of the Project and that the contractor will be notified of Department's stance herein.

11. GUIDELINES FOR CANCELLATION – TERMINATION OF A CONTRACT BY EMPLOYER DUE TO DEFAULT BY A CONTRACTOR

This process will guide the process for cancellation by the Employer where the Contractor has defaulted. A flow chart below explains the process to cancel/terminate a Contract and is in sequence to the following tasks:

11.1. Decision to Cancel Defaulting Contractor's Contract

Once The Deputy Director has made a decision to cancel a contract due to default by the contractor in terms of Chapter 13; he/she must instruct the Chief Works Manager:

- 11.1.1. Firstly, prepare a submission to cancel the contract; and
- 11.1.2. Secondly, consider all procurement options and develop a plan to secure a replacement contractor clearly stating the options available and the process with estimated timelines that can be activated once the Head of Department approves all cancellation.
- 11.1.3. Thirdly, instruction to Legal Services in respect of the cancellation.

11.2. Cancellation Submission to Bid Committees for Recommendation

The Deputy Director after review shall sign and submit the submission through to the Departmental Evaluation & Adjudication Committees for recommendation.

11.3. Assessment of Cancellation Submission by Bid Committees

Once the Evaluation & Adjudication Committees have recommended cancellation, SCM secretariat shall forward the submission to the Head of Department for approval.

11.4. Submission to Head of Department

- 11.4.1. If the HoD approves the cancellation, the SCM secretariat shall deliver the approved submission to the Deputy Director to effect the cancellation.
- 11.4.2. HoD notes/supports the plan to secure a replacement contractor.

11.5. Effect the Approved Cancellation Process

The Chief Works Manger shall prepare the following:

- 11.5.1. First, prepare draft notice of cancellation and forward to Legal Services for vetting, together with a detailed instruction memo, signed off by the Deputy Director, attaching the various reports and the submission for cancellation approved by HoD – see draft Notice attached.

11.5.2. Second, prepare a draft application/motivation report to appoint a new contractor. There may be a few options to consider based on the project status and project circumstances; in the report include the appropriate procurement options that are available in the department and then based on an opinion, recommend the most appropriate procurement option to appoint a new contractor; and

11.5.3. Third, prepare and urgently proceed with

- I. The preparation of "Completion Document" (of the cancelled contractor) and
- II. Keep a record of the additional costs in having to arrange for the new contractor to complete the Works (Additional costs that may arise subsequent to the cancellation of the contractor due to the original Scope of works must be kept separate and not added for recovery from the defaulting Contractor).

11.6. Legal Services Vetting of Notice

Legal Service is to vet the notice and return to the Deputy Director.

11.7. Sign Cancellation Notice

The Deputy Director will be required to sign and forward same (cancellation letter) by registered mail to the contractor.

11.8. Cancellation in Effect

Cancellation will take effect within 14 calendar days (PA-10) of the date of the termination letter. This means that 14 days from the date of the termination letter, the contract will be regarded as being cancelled and the contractor will be required to vacate the site.

11.9. Secure Site during Cancellation in Effect

- 11.9.1. Prior to or at the end of the notice period, the contractor must hand over the keys to site to the Chief Works Manager, and must sign that the keys and the site have been handed over to the Department with the contractor's consent.
- 11.9.2. Within the period mentioned above, the contractor will still be responsible for the site, unless it has notified the Department that it has vacated the site prior to the end of the notice-period.
- 11.9.3. Once the Department has obtained possession of the site, the Chief Works Manager must ensure that the site is secured.

11.10. The Contractor Dispute the Cancellation

Where the contractor disputes the cancellation and/or refuses to hand over possession of the site to the Department, the Deputy Director must refer the matter to Legal Service who will advise on best course of action to pursue. **N.B. If the contractor has engaged attorneys to dispute the cancellation, do not directly contact or communicate with the contractor and negotiate any proposals – the matter is now a legal matter.** Please also note the contractor must not be locked out or removed off the site!

11.11. Defaulting Contractor Cost Recovery Process

The Chief Works Manager and or Control Works Manager must prepare a full status report, covering quality and quantity of work and payments made, with supporting photographs is to be completed at the time of cancellation (Copy to be given to the Contractor).

- 11.11.1. The Chief Works Manager to urgently proceed with the preparation of the completion documents and to keep record of additional costs in having to arrange for another contractor to

complete the Works. Additional costs that may arise subsequent to the cancellation of the Contract due to changes to the original Scope of Works must be kept separate and not added for recovery from the defaulting Contractor.

12. SECURE SITE IF ABANDONED BY THE CONTRACTOR OR CONTRACT TERMINATED

If the contractor has abandoned the site or the contract has been terminated; then the Deputy Director instructs the Chief Works Manager (and/or the Control Works manager) to immediately secure the site.

12.1. Secure the Site

Given that each site condition is different, the following points are provided as a guideline and should be actioned as a minimum requirement.

- All occupation safety measures on the site are assessed and addressed (the site should be secured such that there is no danger to life or property);
- Security to the site has been arranged if necessary with relevant approval from Deputy Director (and if required from the Client Department – depends on the project status / nature and security cost);
- Relevant notices are issued to the facility administration (i.e. in the event the project is part of an existing operational facility. The administrator is notified that the contractor has abandoned the site and of the measures to secure the site).

12.2. Cost to Secure the Site

The contractor must be informed by the Chief Works Manager (and or the Control Works Manger) that the cost to secure the site will be recovered from the contractor in terms of the conditions of contract.

The cost to secure the site is initially paid by DoPW. The cost to secure the site shall be recovered from contractor when the project has reached "*Final Completion Certificate Stage*" (this task is conducted at the Final Account assessment and statement stage).

END OF SPECIAL CONDITIONS OF CONTRACT

It is to be noted that clauses in this specification are referenced from the PA-10 Condition of contract and should any clauses in this specification contrast with those of the PA-10, the clauses in the PA-10 will rule over these.

13. TECHNICAL SPECIFICATION

13.1. Introduction

The Dukuza (Bergville) Magistrate Court facility has a borehole water booster pump which is utilised for the supply of water to the facility the identified equipment is being maintained by National Department of Public Works & Infrastructure maintenance department as part of maintenance, a contractor is required to carry out repairs/replacement as indicated on the scope of work for the repairs/replacement of the damaged pumps and control panel in the facility.

13.2. Supporting Clauses

13.2.1. Scope

The scope of work covers the repairing/replacement and testing of the borehole booster pump and electrical components, provision is to be made for replacement of valves, pilot lights and warning alarms.

13.2.2. Purpose

The aim of this document is to define scope of work for the repairs/replacement for the borehole booster pumps and electrical components.

13.3. Facility

Name & Client	District	Address
DOJ: Dukuza (Bergville) Magistrate court	uThukela District	127 King Shaka street, KwaDukuza 4449

13.4. Roles and Responsibilities

The Contractor is to ensure that the requirements of this scope are met. It is the responsibility of the Chief Works Manager to ensure that the scope is executed in accordance with this document.

13.5. Related/Supporting Documents

- Suppliers invoices
- Warranty/ guarantee documents

14. Scope of Works

14.1. General

The Contractor's provision includes the following:

- Qualified labour to carry out work on the pumps and electrical components.
- Spares, equipment, consumables and transport requirements to carry out the work, it is to be noted that travelling is only for spare procurement, and transportation of equipment to and from workshop.
- Ensure the safety of own personnel, other contractors and SAPS employees in the vicinity of the works by complying with the OHS Act.
- Perform quality control on own work as per approved control plans.
- Perform work within the specified period and to the acceptable quality and standards.

The Contractor shall provide a project co-ordinator to supervise, monitor, control and co-ordinate all activities during the execution of this contract and report to NDPWI Chief Works Manager.

The Contractor remains liable for complete repairs of damaged pumps, electrical panels and pipelines as per requirements of this scope and in compliance with the relevant standards.

The Contractor submits a comprehensive damage and repair report of the pumps, electrical panel and leak detection to the Employer for the completion of the damage repairs.

The Contractor provides all tools, equipment and personnel required to execute and implement the contractor's responsibility detailed in this document.

The Contractor remains liable for all works conducted as per the requirements of this document.

The Contractor submits a fully detailed Quality Control Plan (QCP) to the Employer prior commencing of work, for review and acceptance.

Any discrepancy or ambiguity between the Employer's scope of work is immediately brought to the attention of the Employer for clarification.

14.2 Mechanical Work Scope

The Contractor is to carry out the scope to repair damages on the submersible borehole pump and electrical components in the Dukuza (Bergville) Magistrate Court.

The scope includes:

- Collecting the damaged pumps from the facility,
- Transporting them to the contractors workshop,
- Assessing the damages and repairing the damages,
- Transporting and delivering of the pumps to the Facility after repairs.

14.2.1. Requirements for Performing Works on the Pumps at the Facility.

After receiving instruction by the CWM, the contractor must collect the damaged pumps from site, transport it the contractor's workshop, strip the pumps and assess the damages. The contractor must then compile a list of all the damaged items and work required to repair the damaged pump (with reference to the price list). The list must then immediately be submitted to the CWM for assessment, only after the contractor has received the go-ahead from the CWM can he proceed with the required repair work.

Standard of work – The contractor must work according to each pump's manufacturing specifications and drawings. It is the responsibility of the contractor to obtain the correct manufacturing specifications and drawings for each pump. Each pump that is repaired by the Contractor must be guaranteed for at least six months.

Hold points – The Employer's Representative can from time to time visit the Contractor's workshop to inspect the repair work and progress without prior notice.

The Employer's Representative must be contacted at the following times in order to conduct quality control inspections:

- Once the pumps have been stripped in order to verify the list of damaged parts compiled by the Contractor.
- Once new parts are ready to be assembled to the pumps.
- When the pump is assembled and ready to be tested.
- The Contractor is not relieved of his responsibilities if the Employer's Representative chooses to waive the witnessing of any tests or hold points.
- Test documentations and guarantees – once a pump has passed all hold points and has been assembled, it must undergo a test run, and during the test the pump performance at various heads must be noted documented in order to draw a pump performance curve.

- The following documentation must be supplied to the Employer's Representative before a pump will be accepted to site:
- All applicable guarantee.

Below is a list of all pumps at Dukuza (Bergville) Magistrate Court, The contractor may be required to inspect and refurbish other pumps that are not listed below:

Contractor to provide a name plate for the pumps from an authorised manufacture or distributor of the pumps.

Item no.	Description	Unit	Quantity
1	40L Tesla 1.1Kw Borehole motor 22v	1	1

14.3. Electrical Work Scope

The Contractor is to carry out the scope to replace damaged control panel, repair damaged DB boxes and all related electrical components and re-conditioning of electrical motors in the Facility.

The scope includes:

- Excavation to access underground cables.
- Replacing all damaged electrical components and cables,
- Restoring pump systems to automatic operation.
- The Contractor tests and repairs the Control Panels. Whenever there is damages on these panels in compliance with the SANS 10142-1.

14.3.1. Requirements for Performing Electrical work at the Dukuza (Bergville) Magistrate Court

The performance work for any electrical equipment shall be conducted by an experienced electrician after receiving instruction by the CWM, the contractor must.

- Replace automated control panel including main circuit breaker including all breakers required for pump circuit.
- Design electrical circuit to the required standards
- Restore electrical supply to the motor.

The Employer's Representative must be contacted at the following times in order to conduct quality control inspections:

- Upon Completion of all services.

15. Bill of Quantities

NB: 1) All supporting suppliers' material and documents must be provided with proof of purchase together with all claims, any material not accounted for via a POP from suppliers cannot be claimed for.

2) All quantities are re-measurable and remuneration is based on material provided for site usage.

Part No.	Description	Qty	Rate	Amount
1	PRELIMINARY & GENERALS			
1.1	1) Site establishment. (Cellular connection for communication, rental supply of specialized tools, generator rental).	1		
2	OCCUPATIONAL HEALTH AND SAFETY ACT SPECIFICATIONS (ACT 85 OF 93)			
2.1	1) Develop a health and safety plan for the contract 2) Provide risk assessment policy for the contract 3) Provide and manage resources to implement and maintain the a safety plan for the contract 4) Bidder to comply with all the requirements of the act and all its regulations and incorporated standards with regards to permanent works 5) bidder will be required to produce/submit safety plan only on award which will be verified and approved by departmental safety officer before work is commenced with)	1		
3	SUBMERSIBLE CENTRIFUGAL PUMP			
3.1	40L Tesla 1.1Kw Borehole motor 220v	1		
3.2	DAB S4 – 12/5 1.1Kw Hydraulic part	1		
3.3	Tesla Guardian M evolution 230v	1		
4	LABOUR & TRAVELLING RATES			
4.1	Artisan x 16 hours	1		
4.2	Assistant x 16 hours	1		
4.4	Travelling capped at 266km single trip	2		
5	CONTENGENCIES			
5.1	Contingencies	1		
6	Total Rate Brought Forward			
7	VAT @ 15%			
8	Sub Total Budget Amount			

Specification Prepared
By

V. KHUMALO

Signature



Date

28/01/2025

Specification authorised
By

S N Xuma / O

Signature



Date

28/01/2025.

I, _____, Representative of (Contractor Name) _____

_____, agree to have read and understand all requirements of the specification and
accept all conditions as specified in this document.

Signature: _____

PA-03 (EC): NOTICE AND INVITATION FOR QUOTATION

THE DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE INVITES QUOTATIONS FOR:

Project title:	DOJ: Dukuza (Bergville) Magistrate Court: Repair/ Replacement of booster borehole pump
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Quotation no:		Reference no:	ID-3215971
Advertising date:		Closing date:	
Closing time:	11:00 am	Validity period:	84 Calendar days

1. REQUIRED CIDB GRADING

It is estimated that tenderers should have a CIDB contractor grading designation of **1 ME or higher, or 1 ME* or higher.**

**Select tender value range and select class of construction works" or select "Not applicable" where only one class of construction works is applicable.*

It is estimated that potentially emerging enterprises should have a CIDB contractor grading designation of **Not applicable Not applicable PE or higher, or Not applicable Not applicable PE* or higher.**

**Select tender value range and select class of construction works" or select "Not applicable" where no or only one class of construction works is applicable.*

2. FUNCTIONALITY CRITERIA APPLICABLE YES ☐ NO ☒

Note 1: Failure to meet minimum functionality score will result in the tenderer being disqualified.

Functionality criteria ¹ :	Weighting factor:
Total	100 Points

3. METHOD TO BE USED TO CALCULATE POINTS FOR SPECIFIC GOALS

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

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

3.1. For procurement transaction with rand value greater than R2 000, 00 and up to R1 Million (Inclusive of all applicable taxes) the specific goals listed in table 1 below are applicable.

Table 1

Serial No	Specific Goals	Preference Points Allocated out of 20	Documentation to be submitted by bidders to validate their claim
1.	An EME or QSE which is at least 51% owned by black people (Mandatory)	10	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
2.	Located in a specific Local Municipality or District Municipality or Metro or Province area for work to be done or services to be rendered in that area (Mandatory)	2	<ul style="list-style-type: none"> Official Municipal Rates Statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Any account or statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Permission to Occupy from local chief in case of rural areas (PTO) which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Lease Agreement which is in the name of the bidder.
3.	An EME or QSE which is at least 51% owned by black women (Mandatory)	4	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
4.	An EME or QSE which is at least 51% owned by black people with disability (Mandatory)	2	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable. <p>and</p> <ul style="list-style-type: none"> Medical Certificate indicating that the disability is permanent. <p>Or</p> <ul style="list-style-type: none"> South African Social Security Agency (SASSA) Registration indicating that the disability is permanent. <p>Or</p> <ul style="list-style-type: none"> National Council for Persons with Physical Disability in South Africa registration (NCPDPSA).
5.	An EME or QSE which is at least 51% owned by black youth (Mandatory)	2	<ul style="list-style-type: none"> ID Copy and SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.


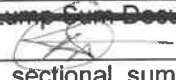
Black people mean Africans, Coloureds and Indians, who - (a) are citizens of the Republic of South Africa by birth or descent; or (b) became citizens of the Republic of South Africa by naturalisation - (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date. (BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT No 25899, 2003 of

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

9. (ARY 2004).

4. RESPONSIVENESS CRITERIA

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

1	<input checked="" type="checkbox"/>	Only those tenderers who satisfy the eligibility criteria stated in the Tender Data may submit tenders.
2	<input checked="" type="checkbox"/>	Tender offer must be properly received on the tender closing date and time specified on the invitation, completed either electronically (if issued in electronic format), or by writing legibly in non-erasable ink. (All as per Standard Conditions of Tender).
3	<input checked="" type="checkbox"/>	Use of correction fluid is prohibited.
4	<input checked="" type="checkbox"/>	Submission of a signed bid offer as per the DPW-07 (EO). 
5	<input checked="" type="checkbox"/>	Submission of DPW-08 (EO): Particulars of Tenderer's Projects. 2025/01/17
6	<input type="checkbox"/>	Bidders must comply with DPW-21 (EC): Record of Addenda to tender documents, if any.
7	<input type="checkbox"/>	Submission of DPW-16 signed by the authorised official and completion of bid briefing attendance register. insert motivation why the tender clarification meeting is declared compulsory
8	<input checked="" type="checkbox"/>	The tenderer shall submit his fully priced Bills of Quantities / Lump Sum Document (complete document inclusive of all parts) together with his tender. 
9	<input type="checkbox"/>	The tenderer shall submit his fully priced and completed sectional summary- and final summary pages with the tender.
10	<input checked="" type="checkbox"/>	Submission of PA32 - Invitation to bid.
11	<input checked="" type="checkbox"/>	Bidder to attach certified copies of Trade Test Certificate of Artisans employed to carry out repairs on pumps (fitter or millwright), electrical equipment(electrician) as well as desludging (plumber) with at least 7 years tangible experience. Subject to verification.
12	<input checked="" type="checkbox"/>	The Department reserves the right not to appoint if a bidder has been awarded 2 or more contracts of similar nature within the NDPWI in the last six months, for equity & fair distribution of work amongst service providers.
13	<input checked="" type="checkbox"/>	Bidder to submit 3 references, by means of Appointment letter with it's completion certificate(same reference number on the certificates), of similar services rendered between the year period 2021 to 2024. The references must be signed off by the client, references are to be confirmed via email verification from clients representative.
14	<input type="checkbox"/>	
15	<input type="checkbox"/>	

4.2. Indicate administrative responsiveness requirements applicable for this tender.

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

1	<input checked="" type="checkbox"/>	Any correction to be initialled by the person authorised to sign the tender documentation as per PA 15.1 or PA 15.2 resolution of board/s of directors / or PA15.3 Special Resolution of Consortia or JV's.
2	<input checked="" type="checkbox"/>	Submission of applicable (PA-15.1, PA-15.2, PA-15.3): Resolution by the legal entity, or consortium / joint venture, authorising a dedicated person(s) to sign documents on behalf of the firm / consortium / joint venture.
3	<input checked="" type="checkbox"/>	All parts of tender documents submitted must be fully completed in ink and signed where required.
4	<input checked="" type="checkbox"/>	Submission of (PA-11): Bidder's disclosure
5	<input checked="" type="checkbox"/>	Submission of PA-16.1 (EC): Ownership Particulars
6	<input type="checkbox"/>	Submission of documentation relating to risk assessment criteria as contained in C 2.1 of DPW-03 Tender Data.
7	<input checked="" type="checkbox"/>	Submission of (PA 40): Declaration of Designated Groups.
8	<input checked="" type="checkbox"/>	Submission of proof of Registration on National Treasury's Central Supplier Database (CSD). Insert the Supplier Registration Number on the form of offer, including proposed sub-contractors if any
9	<input type="checkbox"/>	Data provided by the tenderer in Part 2 of DPW-04 Contract Data (JBCC 2018) or DPW-05 Contract Data (GCC 2015) whichever applicable to be fully completed.
10	<input checked="" type="checkbox"/>	The tenderer shall submit his fully priced Bills of Quantities (complete document inclusive of all parts) within 14 calendar days from request.
11	<input type="checkbox"/>	Upon request, submission of fingerprints obtainable from local SAPS including any other additional documentation and information required for vetting purposes.
12	<input checked="" type="checkbox"/>	Upon request, submission of a fully completed security clearance application form with supporting documentation and information as required. The security clearance form will be provided by the Employer for projects requiring a security clearance.
13	<input checked="" type="checkbox"/>	Contractor to submit valid letter of good standing with Workman's Compensation
14	<input checked="" type="checkbox"/>	Certificate of Competency of Assigned Technicians and/or Artisan to the site (Trade Test Certificate) with a valid drivers license (Please attach the trade test certificate and drivers license card copies)
15	<input checked="" type="checkbox"/>	Project Plan Detailed Project Plan with required Services and Timeline
16	<input checked="" type="checkbox"/>	Spare parts for the pumps must be purchased from an Authorised Distributor. Submission of all certificates as stated on item 13.5 of the technical specification is required upon completion of the service.
17	<input checked="" type="checkbox"/>	Bidder must have a proper pump bay for testing of the pump service.
18	<input checked="" type="checkbox"/>	Submission of Public Liability Certificate

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

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

5. THE FOLLOWING EVALUATION METHOD FOR RESPONSIVE BIDS WILL BE APPLICABLE:

<input type="checkbox"/> Method 1 (Financial offer)	<input checked="" type="checkbox"/> Method 2 (Financial and Preference offer)
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5.1. This bid will be evaluated according to the 80/20 Preference points scoring system:

6. ELIGIBILITY IN RESPECT OF RISK TO THE EMPLOYER:

Standard risk management assessment criteria in respect of tenders received for routine projects in the engineering and construction works environments:

Tender offers will be evaluated by an Evaluation Committee based on the technical and commercial risk criteria listed hereunder. Each criterion carries the same weight / importance and will be evaluated individually based on reports presented to the Bid Evaluation Committee by the Professional Team appointed on the project. A tender offer will be declared non-responsive and removed from any further evaluation if any one criterion is found to present an unacceptable risk to the Employer.

In order for the evaluation reports to be prepared by the Professional Team, the Tenderer is obliged to provide comprehensive information on form DPW-09 (EC). Failure to complete the said form will cause the tender to be declared non-responsive and removed from any further consideration. The Employer reserves the right to request additional information over and above that which is provided by the Tenderer on said form. The information must be provided by the Tenderer within the stipulated time as determined by the Bid Evaluation Committee, failing which the tender offer will *mutatis mutandis* be declared non-responsive.

6.1 Technical risks:

Criterion 1: Experience on comparable projects during the past specify between 5 and 10 years.

The tendering Service Provider's experience on comparable projects during the past specify between 5 and 10 years. The number of current and previous comparable projects performed by the Tenderer as per the evaluation report prepared by the Consultant Team, based on its research and inspection of a representative sample of the Tenderer's current and previous work as reflected on form DPW-09 (EC), as well as, if necessary, of any additional work executed by the Tenderer, not reflected on form DPW-09 (EC). Failing to provide contactable references will result in the tender offer will be *mutatis mutandis* declared non-responsive.

Aspects to be regarded as "comparable" includes (but may be extended according to circumstances): size of projects (measured against monetary value or other project quantifying parameters), nature of projects (building, engineering, high/low rise, etc.), locality/area of execution (site-specific influences, knowledge of local conditions, etc.), complexity of project, projects for similar client department irrespective of end purpose of buildings/facilities created or in progress of being created and time scales of projects (normal, fast track, etc.) and stage of its/their development.

Criterion 2: Contractual commitment and quality of performance on comparable projects during the past specify between 5 and 10 years.

Adherence to contractual commitments and quality of performance of comparable current and previous projects performed by the Tenderer during the past specify between 5 and 10 years as per the evaluation report prepared by the Consultant Team, based on its research and inspection of a representative sample of the Tenderer's current and previous work as reflected on form DPW-09 (EC), as well as, if necessary, of any additional work executed by the Tenderer.

Aspects to be considered include, but are not limited to the following:

1. The level of progress on current projects in relation to the project programme or, if such is not available/applicable, to the contractual construction period in general;
2. The degree to which previous projects have been completed within the contractual completion periods and/or extensions thereto, and the extend of penalties imposed;

3. Project performance: time management & programming of works, timeous ordering of materials and appointment of subcontractors;
4. Financial management: payment to suppliers and cash flow problems;
5. Quality of workmanship: extent of reworks and timeous attention to remedial works;
6. Personnel resources: suitably qualified and experienced, turnover in site staff and labour force, specifically site manager and foreman;
7. Personnel management: extent of labour disputes and ability to resolving labour disputes amicably;
8. Sub-contractors: extent of turnover in subcontractors, general liaison and payment problems experienced;
9. Contract administration: contractual aspects such as complying to laws and regulations, insurances, security, submission of required documentation timeously, reaction to written contract instructions, appointments of subcontractors, etc. as can generally be expected in standard/normal conditions of contract.
10. Health & Safety: adherence to regulations and compliance, and number of transgressions & serious incidents.
11. Plant & equipment: sufficient resources on site and in time.
12. Delays: extent of causing delays, submission of claims timeously, and abuse of or exaggerated delay claims.
13. Final account: extent to which the contractor assisted in finalising the final account.

Criterion 3: Suitably qualified and appropriately experienced human resources

Allocation of suitably qualified and appropriately experienced human resources, both in respect of principals and/or other staff (contract manager, site agent, site foreman including other professional, technical and/or administrative) of the tendering Service Provider to the project, as proof that the tendering Service Provider will be able to react/respond appropriately to the Services required herein. The Company Organogram with CV's and certified ID's of all principals and employed workforce as well as proof of Professional Registration will be verified. Current and future workload of the tenderer in relation to capacity and capability will also be considered. The tenderer should demonstrate that he or she possesses the necessary professional and technical qualifications and -competence in relation to the scope of work and work to be undertaken.

Criterion 4: Attendance of compulsory bid clarification meeting, if applicable

If applicable, submission of confirmation of DPW-16.1 (PSB) attendance of compulsory bid clarification meeting or proof of attending the compulsory virtual meeting by a suitably qualified and experienced representative of the tenderer in terms of PA-04 (EC): Notice and Invitation to Tender.

6.2 Commercial risks:

The financial viability assessment evaluates the risk over the life of the construction period, as to whether the tenderer will be able to deliver the goods and services which are specified in the contract and / or be able to fulfil guarantees or warranties provided for in the contract in order to complete the project successfully for the amount tendered.

Aspects to be considered include but are not limited to, the respective rates tendered, bank rating, financial capability and capacity whether the tenderer has or has access to sufficient financial resources to deliver the goods or services described in the tender documentation (including fulfilling any guarantees or warranty claims), whether the tenderer is not subject to any current or impending legal action (either formal proceedings or notification of legal action) which could impact on the financial standing of the tenderer or the delivery of the goods or services, financial report from auditors as proof of current liquidity, and company or any parent company or investor guarantee/s and financial statements.

7. COLLECTION OF QUOTATION DOCUMENTS

☐ Quotation documents are available for collection during working hours

☐ Alternatively; quotation documents may be collected during working hours at the following address **insert physical address**. A non-refundable bid deposit of **R insert amount** payable (cash only) on collection of the bid documents.

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

8. SITE INSPECTION MEETING

Compulsory briefing session will be held in respect of this quotation.

The particulars for compulsory briefing session or virtual briefing session are:

Venue:	(type in here the place or "N/A")		
Virtual meeting Link:	(type in here the place or "N/A")		
Date:	(type in here the date or "N/A")	Starting time:	(type in here the time or "N/A")

9. ENQUIRIES

9.1. Technical enquiries may be addressed to:

DPWI Project Manager	Mr Vama Khumalo	Telephone no:	031 314 7067
Cellular phone no	067 416 7424	Fax no:	
E-mail	vama.khumalo@dpw.gov.za		

9.2. SCM enquiries may be addressed to:

SCM Official		Telephone no:	
Cellular phone no		Fax no:	
E-mail			

10. DEPOSIT / RETURN OF QUOTATION DOCUMENTS

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

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

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

Tender documents may be posted to: The Director-General Department of Public Works and Infrastructure Private Bag X i54315 Durban 4000 Attention: Procurement section: Room 5	OR	Deposited in the tender box at: Corner of Dr Pixley Ka Seme & Samora Machel Street NDPWI(DURBAN) Corner of Dr Pixley Ka Seme & Samora Machel Street ROOM 05 BOX16
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ANNEXURE TO PA-03 (GS):

NOTICE AND INVITATION FOR QUOTATION

Project title:	<i>DOJ: Dukuza (bergville) Magistrate Court</i>
Reference no:	ID-3215971

Quotation No:			
Advertising date:	/ /2024	Closing date:	/ /2025
Closing time:	11:00AM	Validity period:	84 Days

BIDDERS TO TAKE NOTE OF THE FOLLOWING

- Contractor must comply with OHS Act no. 85 of 1993 with Regulation.
- Contractor must be in good standing with Workman's Compensation. (COIDA)
- Certificate of Competency of Assigned Technician and/or Artisan to the site (Trade Test certificate) with a valid driver's license (please attach the trade test certificate and driver's license card copies)
- Project Plan – Detailed Project plan with required service and timeline.
- Spare parts for the pumps must be purchased from an authorized distributor. Submission of all certificate as stated on item 13.5 of the technical specification is required upon completion of the service.
- Bidder must have proper pump bay for testing of the pump service
- Submission of Public Liability Certificate

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 (TO BE FILLED IN 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..... 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;
 - Proof of tax compliance status;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
 - Bidder's Disclosure form;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; 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.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES

1

2

DATE:

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as..... accept your bid under reference numberdated.....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 (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	TOTAL PREFERENCE POINTS CLAIMED	POINTS CLAIMED FOR EACH SPECIFIC GOAL

4. I confirm that I am duly authorised to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE:

PA-11: BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest (1) 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.

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.
- 3.5 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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.

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

I 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

This form has been aligned with SBD4

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:

- 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)

- *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
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			

17			
18			
19			
20			

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:

1. * Delete which is not applicable.
2. **NB:** This resolution must, where possible, be signed by all the Directors / Members / Partners of the Bidding Enterprise.
3. In the event that paragraph 2 cannot be complied with, the resolution must be signed by Directors / Members / Partners holding a majority of the shares / ownership of the Bidding Enterprise (attach proof of shareholding / ownership hereto).
4. 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).
5. Should the number of Directors / Members / Partners exceed the space available above, additional names and signatures must be supplied on a separate page.

ENTERPRISE STAMP

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

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

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

Held at _____ (place)

on _____ (date)

RESOLVED that:

1. The Enterprise submits a 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)

Postal Address: _____

 _____ (code)

Telephone number: _____

Fax number: _____

	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

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
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

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).



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

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

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

1. GENERAL CONDITIONS

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

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

1.2 Preference Points System to be applied

(tick whichever is applicable).

- ☒ The applicable preference point system for this tender is the **80/20** preference point system.
- ☐ The applicable preference point system for this tender is the **90/10** preference point system.
- ☐ Either the **90/10** or **80/20** preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender shall be awarded for:

1.3.1 Price; and

1.3.2 Specific Goals

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

CHOOSE APPLICABLE PREFERENCE POINT SCORING SYSTEM	<input checked="" type="checkbox"/> 80/20	<input type="checkbox"/> 90/10
PRICE	80	90
SPECIFIC GOALS	20	10
Total points for Price and Specific Goals	100	100

1.5 Breakdown Allocation of Specific Goals Points



1.5.1. For procurement transaction with rand value greater than R2 000, 00 and up to R1 Million (Inclusive of all applicable taxes) the specific goals listed in table 1 below are applicable.

Table 1

Serial No	Specific Goals	Preference Points Allocated out of 20	Documentation to be submitted by bidders to validate their claim
1.	An EME or QSE which is at least 51% owned by black people (Mandatory)	10	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
2.	Located in a specific Local Municipality or District Municipality or Metro or Province area for work to be done or services to be rendered in that area (Mandatory)	2	<ul style="list-style-type: none"> Official Municipal Rates Statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Any account or statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Permission to Occupy from local chief in case of rural areas (PTO) which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Lease Agreement which is in the name of the bidder.
3.	An EME or QSE which is at least 51% owned by black women (Mandatory)	4	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
4.	An EME or QSE which is at least 51% owned by black people with disability (Mandatory)	2	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.

			<p>and</p> <ul style="list-style-type: none"> • Medical Certificate indicating that the disability is permanent. <p>Or</p> <ul style="list-style-type: none"> • South African Social Security Agency (SASSA) Registration indicating that the disability is permanent. <p>Or</p> <ul style="list-style-type: none"> • National Council for Persons with Physical Disability in South Africa registration (NCPDPSA).
5.	An EME or QSE which is at least 51% owned by black youth (Mandatory)	2	<ul style="list-style-type: none"> • ID Copy and SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.

1.5.2. For procurement transaction with rand value greater than R1 Million and up to R50 Million (Inclusive of all applicable taxes) the specific goals listed in table 2 below are applicable.

Table 2

Serial No	Specific Goals	Preference Points Allocated out of 20	Documentation to be submitted by bidders to validate their claim
1.	An EME or QSE or any entity which is at least 51% owned by black people (Mandatory)	10	<ul style="list-style-type: none"> • SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
2.	Located in a specific Local Municipality or District Municipality or Metro or Province area for work to be done or services to be rendered in that area (Mandatory)	2	<ul style="list-style-type: none"> • Official Municipal Rates Statement which is in the name of the bidder. <p>Or</p>

			<ul style="list-style-type: none"> Any account or statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Permission to Occupy from local chief in case of rural areas (PTO) which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Lease Agreement which is in the name of the bidder.
3.	An EME or QSE or any entity which is at least 51% owned by black women (Mandatory)	4	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
4.	An EME or QSE or any entity which is at least 51% owned by black people with disability (Mandatory)	2	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable. <p>and</p> <ul style="list-style-type: none"> Medical Certificate indicating that the disability is permanent. <p>Or</p> <ul style="list-style-type: none"> South African Social Security Agency (SASSA) Registration indicating that the disability is permanent. <p>Or</p> <p>National Council for Persons with Physical Disability in South Africa registration (NCPDSA).</p>

5.	An EME or QSE or any entity which is at least 51% owned by black youth (Mandatory)	2	<ul style="list-style-type: none"> ID Copy and SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
----	--	---	---

1.5.3. For procurement transaction with rand value greater than R50 Million (Inclusive of all applicable taxes) the specific goals listed in table 3 below are applicable.

NB. The use of one of goal numbers' 4 or 5 is mandatory. The BSC must select either one of the two, but not both.

Table 3

Serial No	Specific Goals	Preference Points Allocated out of 10	Documentation to be submitted by bidders to validate their claim
1.	An EME or QSE or any entity which is at least 51% owned by black people (Mandatory)	4	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.
2.	Located in a specific Local Municipality or District Municipality or Metro or Province area for work to be done or services to be rendered in that area (Mandatory)	2	<ul style="list-style-type: none"> Official Municipal Rates Statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Any account or statement which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Permission to Occupy from local chief in case of rural areas (PTO) which is in the name of the bidder. <p>Or</p> <ul style="list-style-type: none"> Lease Agreement which is in the name of the bidder.
3.	An EME or QSE or any entity which is at least 51%	2	<ul style="list-style-type: none"> SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable.

	owned by black women (mandatory)		
4. <input type="checkbox"/>	An EME or QSE or any entity which is at least 51% owned by black people with disability (Mandatory)	2	<ul style="list-style-type: none"> • SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable. <p>and</p> <ul style="list-style-type: none"> • Medical Certificate indicating that the disability is permanent. <p>Or</p> <ul style="list-style-type: none"> • South African Social Security Agency (SASSA) Registration indicating that the disability is permanent. <p>Or</p> <p>National Council for Persons with Physical Disability in South Africa registration (NCPDPSA).</p>
OR			
5. <input type="checkbox"/>	An EME or QSE or any entity which is at least 51% owned by black youth (Mandatory)	2	<ul style="list-style-type: none"> • ID Copy and SANAS Accredited BBBEE Certificate or Sworn Affidavit where applicable

Black people mean Africans, Coloureds and Indians, who - (a) are citizens of the Republic of South Africa by birth or descent; or (b) became citizens of the Republic of South Africa by naturalisation - (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date. (BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT No 25899, 2003 of 9 JANUARY 2004).

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

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations,

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \\ \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{Pmin}}{\mathbf{Pmin}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{Pmin}}{\mathbf{Pmin}} \right) \end{array}$$

Where

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

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \\ \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} + \frac{\mathbf{Pt} - \mathbf{Pmax}}{\mathbf{Pmax}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} + \frac{\mathbf{Pt} - \mathbf{Pmax}}{\mathbf{Pmax}} \right) \end{array}$$

Where

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



4. POINTS AWARDED FOR SPECIFIC GOALS

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

Table 4: Specific goals for the tender and points claimed are indicated per the table below.

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
1. An EME or QSE (or any entity for procurement transaction with rand value greater than R1 Million) which is at least 51% owned by black people	4	10		
2. Located in a specific Local Municipality or District Municipality or Metro or	2	2		

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system)	Number of points allocated (80/20 system)	Number of points claimed (90/10 system)	Number of points claimed (80/20 system)
	(To be completed by the organ of state)	(To be completed by the organ of state)	(To be completed by the tenderer)	(To be completed by the tenderer)
Province area for work to be done or services to be rendered in that area				
3. An EME or QSE (or any entity for procurement transaction with rand value greater than R1 Million) which is at least 51% owned by black women	2	4		
4. An EME or QSE (or any entity for procurement transaction with rand value greater than R1 Million) which is at least 51% owned by black people with disability	2	2		
5. An EME or QSE (or any entity for procurement transaction with rand value greater than R1 Million) which is at least 51% owned by black youth.*	2	2		

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company

☐ State Owned Company
[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

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

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

PA- 40: DECLARATION OF DESIGNATED GROUPS

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

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), 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



FACILITIES MANAGEMENT

CONDITIONS OF CONTRACT (DPW)

SEPT. 2005 VERSION 1



PA-10 (FM): CONDITIONS OF CONTRACT

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DEFINITIONS

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



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

2. INTERPRETATION

- 2.1. In this Contract, except where the context otherwise requires:
- 2.1.1 The masculine includes the feminine and the neuter, vice versa;
- 2.1.2 The singular includes the plural; and vice versa
- 2.1.3 Any reference to a natural person includes a body corporate, firm, association or consortium/joint venture/partnership, vice versa
- 2.2. The headings to the clauses of this Contract are included for reference purposes only and shall not affect the interpretation of the provisions to which they relate
- 2.3. Words and phrases defined in any clause shall bear the meanings assigned thereto.
- 2.4. The various parts of the Contract are severable and may be interpreted as such.
- 2.5. The expressions listed in clause 1 bear the meanings as assigned thereto and cognate expressions bear corresponding meanings.
- 2.6. If any provision in a definition clause is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Contract, notwithstanding that it is only contained in the interpretation clause.

3. DURATION

- 3.1. The rights and obligations of the Parties to this Contract shall commence on the Commencement Date.
- 3.2. Subject to the terms of clauses 33 and 34 relating to breach and termination respectively, the Contract will commence on the Commencement Date and terminate on the expiry of the Contract Period, unless it is extended in terms of clause 3.3.
- 3.3. The terms or duration of the Contract may be extended as a result of bona fide negotiations between the Parties. No extension of term or duration of the Contract shall however be valid unless the terms and conditions of such extension has been reduced to writing and signed by the authorised representatives of both Parties.

4. RIGHTS AND OBLIGATIONS OF THE EMPLOYER

- 4.1. The Employer shall give access to or supply the Service Provider with:
 - 4.1.1 All relevant, available data and information required and requested by the Service Provider for the proper execution of the Services; and
 - 4.1.2 Such assistance as shall reasonably be required by the Service Provider for the execution of its duties under the Contract.

5. RIGHTS AND OBLIGATIONS OF THE SERVICE PROVIDER

- 5.1. The Service Provider shall, in executing his obligations, comply with the Service Manager's written instructions on any matter relating to the Services.
- 5.2. The Service Provider shall take instructions only from the Service Manager or other persons authorised by the Service Manager in terms of Clause 6.
- 5.3. The Service Provider shall not have the power of attorney or authority to enter into any contract or to otherwise bind or incur liability on behalf of the Employer, save where prior written authorisation has been obtained.
- 5.4. The Service Provider shall ensure that it, its employees, agents and representatives have the relevant experience and capacity necessary for rendering of the Services with the reasonable degree of skill, care and diligence that may be expected of professionals providing services similar to the Services.
- 5.5. Should any member of the Service Provider's team, in the opinion of the Service Manager or occupants of the Facilities, misconduct himself or is incompetent or negligent in the delivery of the Services, or whose presence on the Facilities is otherwise considered by the Service Manager, or occupants of the Facilities, on reasonable grounds, to be undesirable, the Employer may, in writing and together with reasons therefor, request that such person be removed. Such person shall not again be employed on the Services without the prior written consent of the Employer.
- 5.6. The Service Provider undertakes to effect such removal, as referred to in 5.5 above, within a day of receipt of the Employer's written request.
- 5.7. The Service Provider shall ensure that reasonable levels of care and responsibility are exercised when using items belonging to the Employer in the delivery of the Services.
- 5.8. During the ongoing provision of the Services the Service Provider shall at all times keep the Facilities clean and in a safe condition.
- 5.9. Notwithstanding anything herein contained to the contrary, it is specifically agreed that the appointment of the Service Provider shall not create an employment contract or relationship between the Parties and the Service Provider or his employees shall therefore not be entitled to any benefits to which the employees of the Employer may be entitled.



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

9.1.2 the Employer shall be entitled to cancel the Contract

- 9.2. The Service Provider shall be entitled to disclose such confidential information to the following persons, who have a clear need to know interest, in order to assist with the rendering of the Services on the Contract:

9.2.1 employees, officers and directors of the Service Provider; and

9.2.2 any professional consultant or agent retained by the Service Provider for the purpose of rendering the Services, provided that the identity of such consultant or agent is made known to the Employer in writing and the Employer acknowledges in writing that the confidential information may be disclosed to such person.



- 9.3. The Service Provider shall be responsible for ensuring that all persons to whom the confidential information is disclosed under this Contract shall keep such information confidential and shall not disclose or divulge the same to any unauthorised person.
- 9.4. The confidential information shall remain the property of the Employer and the Employer may demand the return or destruction thereof, at the cost of the Service Provider, at any time upon giving written notice to the Service Provider. Within ten (10) days of receipt of such notice, the Service Provider shall return all of the original confidential information and shall destroy all copies and reproductions (both written and electronic) in its possession or in the possession of persons to whom it was disclosed and furnish a certificate to the Employer stating as much.

10. AMBIGUITY IN DOCUMENTS

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

11. INSURANCES

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

12. ACCESS TO THE FACILITIES AND COMMENCEMENT OF THE SERVICES

- 12.1. The Service Provider shall provide the Employer, within 21 days of the Commencement Date, with an acceptable health and safety plan and such other information required in terms of the Occupational Health and Safety Act (85 of 1993).
- 12.2. The Service Period shall commence 30 days from Commencement date, or on such other date as maybe specified in the Contract Data
- 12.3. Notwithstanding the provision of 12.2, the Service Provider shall be given access to the Facilities or portions thereof, only after the provision by the Service Provider of an acceptable health and safety plan and of security clearance being obtained in terms of Clauses 12.1 and 8.1 respectively.
- 12.4. The Service Provider shall be given access to the Facilities or portions thereof and shall render the Services in accordance with its programme, referred to in clause 13 or after the receipt by him of a written instruction to this effect.
- 12.5. If the Employer fails to give the Service Provider access to the facility or any portion thereof for any reason other than default by the Service Provider and the Service Provider suffers additional costs as a result thereof, the Service Provider shall be entitled to make a claim therefor provided that the Service Provider is able to prove his claim and that he has taken all reasonable steps to mitigate the additional costs.

13. PROGRAMME

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

- 13.2. The Service Provider shall, on receipt of a written request from the Service Manager, furnish the Employer with any documents or information, of whatever nature, in support of the programme and/or in relation to the manner in which the Services are to be rendered and/or the resources to be supplied and used in the rendering of the Services and/or progress of the various parts of the Contract; and/or a detailed cash flow forecast.
- 13.3. A programme and the cash flow forecast will be submitted in terms of 13.1 and reviewed quarterly or as circumstances may require.



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

14. SUBCONTRACTING

- 14.1. The Service Provider may subcontract any part of the Services at its discretion. The subcontracts shall incorporate the applicable terms, conditions and requirements of this Contract.
- 14.2. Subcontracting by the Service Provider shall not be construed as relieving the Service Provider from any obligations under the Contract or imposing any liability on the Employer.

15. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 15.1. The Service Provider undertakes to obtain the necessary consent from the proprietors or their licensees should the Service Provider make use of the intellectual property of any other person.
- 15.2. The Service Provider further indemnifies the Employer against any claim or action (including costs on an attorney and client scale) caused by or arising from the failure to obtain such consent.

16. COMPLIANCE WITH LEGISLATION

- 16.1. This clause applies to legislation emanating from national and provincial government as well as that of any local authorities in whose area of jurisdiction the Facilities fall and which have a bearing on the delivery of the Services and Facilities under this Contract.
- 16.2. All the applicable legislation, which does not specifically allow discretion in respect of compliance by the Employer, shall be followed exactly as intended by such legislation regardless of any instructions, verbal or in writing, to the contrary.
- 16.3. Should any applicable legislation allow discretion in respect of compliance by the Employer it shall be followed exactly as intended by the relevant legislation as if no discretion is allowed until such time as specific instructions in writing are issued to the Service Provider by the Service Manager.
- 16.4. The Service Provider shall in the provision of the Services comply with the provisions of, and give all notices and pay all fees, taxes, levies and other charges required to be given or paid in terms of any legislation or imposed by any other body or person. The Service Provider hereby indemnifies the Employer against any liability for any breach of the provision of this clause.
- 16.5. It is the responsibility of the Service Provider to obtain the consents, permissions and/or permits, referred to in Clause 16.4, in the provision of the Services.
- 16.6. The Service Provider shall not have a claim against the Employer, and the Employer shall not be liable to refund the Service Provider for any of the fees, taxes, levies and other charges referred to Clause 16.4.

17. REPORTING OF INCIDENTS

- 17.1. In addition to the above, the Service Provider shall, as soon as possible, notify the Employer in writing of any incidents at the Facilities, which result 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 an 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 to 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:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

23.12 Upon receipt of such written application, referred to in 23.10, the Employer may in writing extend the due completion date of the relevant Identified Project by a period to be determined by the Employer or may refuse to extend the due completion date of the relevant Identified Project. The due completion date of an Identified Project may not be extended beyond the end of the Contract Period stated in the Contract Data.

23.13 Any decision given by the Employer, in terms of 23.12, shall be final and binding on the Parties.

23.14 Should the Service Provider fail to apply in writing for an extension of the due completion date of the relevant Identified Projects within the 21 days referred to in 23.10, or should the Employer not grant an extension of the due completion date then the due completion date stipulated in the relevant written instruction referred to in 23.5 shall not be extended nor the Service Provider exonerated from liability to pay the penalty stipulated in 23.9 or from specific performance of the service/works within the period in the relevant written instruction.

24. SUSPENSION OF THE SERVICES

24.1 The Service Provider shall, on the written order of the Service Manager, suspend the provision of the Services or any part thereof for such time or times and in such manner as the Service Manager shall order and shall, during such suspension, properly protect the Services so far as is necessary.

24.2 If the Service Provider is instructed in writing by the Service Manager to suspend any or all of the Services, the Service Provider shall re-schedule the relevant Services. For the duration of such suspension all penalties applicable to that Service will be waived. Should the Service Provider suffer any additional costs resulting from such suspension, the Service Provider shall be entitled to make a claim therefor provided that the Service Provider shall prove his claim and that he has taken all reasonable steps to mitigate the additional costs.

24.3 If the Service Provider is unable to render any of the Services for any reason other than an instruction by the Employer to suspend the Services in terms of clause 24.1, the Employer shall not be liable for any claim of whatever nature, including a claim for costs, by the Service Provider.

25. PENALTY FOR NON-PERFORMANCE

The Service Provider shall be liable for a performance deduction, if the Service Provider in rendering any of the Services required under the Scope of Works, as amended from time to time:

25.1.1 delays in performing any of the Services;

25.1.2 fails to perform any of the Services;

25.1.3 fails to perform any of the Services to the standard required in the Scope of Works, as amended from time to time.

25.2 The performance deduction shall be calculated in accordance with the formula detailed in the Scope of Works.



- 25.3 The Service Provider shall not be liable for a performance deduction, if the Service Provider is unable to perform due to no fault of his own, his employees, agents or representatives.
- 26. PAYMENTS**
- 26.1 The Service Manager will evaluate the Service Provider's performance on a monthly basis.
- 26.2 The Service Provider shall submit a monthly certificate taking into account the following:
- 26.2.1 the assessment of the Services rendered during the assessment month, including routine services, management fees, and services using call down rates;
 - 26.2.2 adjustments in terms of the pricing data;
 - 26.2.3 additional work rendered by the Service Provider;
 - 26.2.4 CPAP adjustment where stated in the Contract Data; and
 - 26.2.5 VAT. Vat will be indicated separately in all documents.
- 26.3 If the Service Provider elects a security of 2,5% retention, or a 1,25% cash and 1,25% retention, then 5% of all moneys (excl. VAT) in the monthly certificate assessed by the Service Manager as being due to the Service Provider will be retained until such time as the amount retained equals 2.5% or 1,25%, whichever is applicable, of the Contract Sum (excl. VAT)
- 26.4 The monthly certificate shall be supported by a detailed report substantiating the Services rendered at each Facility during the month under assessment.
- 26.5 The monthly certificate shall be assessed by the Service Manager. If the Service Manager agrees with the certificate, he will issue a statement within 14 days of the receipt of the certificate, taking into account inter alia the following:
- (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 20(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 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.