



**CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

**TENDER NUMBER:**

GPM 24-2025/26

**TENDER DESCRIPTION:**

TENDER INVITATION FOR THE LONG-TERM LEASE AND DEVELOPMENT OF THE FOLLOWING COUNCIL OWNED PROPERTY:  
**ERVEN 38 AND 39 GA-RANKUWA INDUSTRIAL**

**NAME OF BIDDER:** .....

**CSD NUMBER:** .....

**VENDOR NUMBER (WHERE APPLICABLE)** .....

Prepared by:  
City of Tshwane Metropolitan Municipality  
Tshwane House  
320 Madiba Street  
Pretoria CBD  
0002  
Tel: 012 358 9999

**BID CLOSING DATE**

**19 MAY 2026**

Only bidders registered on the central supplier database (CSD) and with a CSD number will be considered for this tender, as this is a requirement from the National Treasury.

“Note: Bidders are required to submit electronic copies of the bid either by memory stick/USB.



**CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

**DEPARTMENT: GROUP PROPERTY MANAGEMENT**

Bids are hereby invited from suppliers for the following bid:

| <b>Bid number</b> | <b>Description</b>  | <b>Department</b>         | <b>Contact person</b>   | <b>Non-Compulsory briefing session</b>  | <b>Closing date</b>  |
|-------------------|---|---------------------------|---|---|----------------------|
| GPM 25-2025/26    | TENDER INVITATION FOR THE LONG-TERM LEASE AND DEVELOPMENT OF THE FOLLOWING COUNCIL OWNED PROPERTY:<br><b>ERVEN 38 AND 39 GA-RANKUWA INDUSTRIAL.</b> | Group Property Management | Technical enquiries:<br>Sabelo J. Hlatshwayo<br>( <a href="mailto:sabeloh@tshwane.gov.za">sabeloh@tshwane.gov.za</a> or 012 358 8643) | Venue: Sammy Marks Council Chamber, 1st Floor, cnr Lilian Ngoyi and Madiba Street, Pretoria CBD<br><br>Date: 23 March 2026 at 10:00 | 19 May 2026 at 10:00 |

**THE DOCUMENT IS DOWNLOADABLE ON THE TSHWANE WEBSITE ([www.tshwane.gov.za](http://www.tshwane.gov.za)) and on the E-tender portal ([www.etenders.gov.za](http://www.etenders.gov.za)).**

**Each tender shall be enclosed in a sealed envelope that bears the correct identification details and shall be placed in the tender box located at:**

**“Note: Bidders are required to submit electronic copies of the bid either by memory stick/USB together with the hard copy of the Bid/Proposals”**

**Tshwane House  
320 Madiba Street  
Pretoria CBD  
0002**

**Documents must be deposited in the bid box not later than 10:00 on 19 May 2026**

**Bidders must contact the following officials for any enquiries:**

- Technical enquiries: Sabelo Hlatshwayo ([sabeloh@tshwane.gov.za](mailto:sabeloh@tshwane.gov.za) or 012 358 8643),
- Supply chain enquiries: Magda de Vos ([Magdadv@tshwane.gov.za](mailto:Magdadv@tshwane.gov.za) or 012 358-0481)

**Bids will remain valid for a period of 90 days after the closing date.**

The validity period for the tender after closure is 90 days. CoT shall have right and power to extend any tender validity period beyond any initial validity period set and subsequent extensions. SCM shall ensure that an extension of validity is requested in writing from all bidders before the validity expiry date. Extension of validity shall be finalised while the quotations/bids are still valid

## INDEX

| Number  | Details  | Document | Page |
|---|--|----------|------|
| 1.  | Very important notice on disqualifications   |          |      |
| 2.  | Certificate of authority for signatory   |          |      |
| 3.  | Scope of work  |          |      |
| 4.  | Pricing schedule   |          |      |
| 5.  | Invitation to bid  | MBD 1    |      |
| 6.  | Pricing schedule: Firm prices (purchases)  | MBD 3.1  |      |
| 7.  | Pricing schedule: Non-firm prices (purchases)  | MBD 3.2  |      |
| 8.  | Declaration of interest  | MBD 4    |      |
| 9.  | Declaration for procurement above R10 million (all applicable taxes included)          | MBD 5    |      |
| 10.   | Preference points claim form in terms of the preferential procurement regulations 2022 | MBD 6.1  |      |
| 11.   | Contract form: Rendering of services   | MBD 7.2  |      |
| 12.   | Declaration of past supply chain management practice                                   | MBD 8    |      |
| 13.   | Certificate of independent bid determination   | MBD 9    |      |
| 14.   | General conditions of contract   |          |      |
| <b>LIST OF RETURNABLE DOCUMENTS THAT SHOULD FORM PART OF BID DOCUMENT</b> |  |          |      |
| 15.   | Company registration certificate   |          |      |
| 16.   | Rates and taxes or lease agreement   |          |      |
| 17.   | Unique PIN (SARS)  |          |      |
| 18.   | CSD summary report   |          |      |

## **VERY IMPORTANT NOTICE ON DISQUALIFICATIONS**

A bid that does not comply with the peremptory requirements stated hereunder will be regarded as not being an “acceptable bid”, and such a bid will be rejected. An “acceptable bid” means any bid which, in all respects, complies with the conditions of the bid and the specifications as set out in the bid documents, including the conditions as specified in the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and related legislation as published in *Government Gazette 22549*, dated 10 August 2001, in terms of which provision is made for this policy.

1. If any pages have been removed from the bid document and have therefore not been submitted or if a copy of the original bid document has been submitted.
2. If the bid document is completed using a pencil or Tippex corrections were made, or any other colour ink. Only black ink must be used to complete the bid document.
3. The bidder attempts to influence or has in fact influenced the evaluation and/or awarding of the contract.
4. The bid has been submitted after the relevant closing date and time.
5. If any bidder who, during the last five years, has failed to perform satisfactorily on a previous contract with the municipality, municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
6. The accounting officer must ensure that, irrespective of the procurement process followed, no award may be given to a person –
  - (a) who is in the service of the state;
    - i. if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
    - ii. who is an advisor or consultant contracted to the municipality in respect of a contract that would cause a conflict of interest.
7. Bid offers will be rejected if the bidder or any of his/her directors are listed on the Register of Bid Defaulters in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) as a person prohibited from doing business with the public sector.
8. Bid offers will be rejected if the bidder has abused the City of Tshwane supply chain management system.
9. Failure to complete and sign the certificate of independent determination or disclosure of wrong information.
10. Duly Signed and completed MBD forms (MBD 1, 4, 5, 8 and 9) The person signing the bid documentation must be authorised to sign on behalf of the bidder. Where the signatory is not a Director / Member / Owner / Shareholder of the company, an official letter of authorization or delegation of authority should be submitted with the bid document.

11. All MBD documents fully completed and fully signed? By the authorized personnel.
12. False or incorrect declarations on any of the MBD documents will result in the rejection of the bidder.
13. It is the responsibility of the bidder to disclose in MBD4 any interest in any other related companies or business whether they are bidding for this contract. Failure to disclose this interest will result in the rejection of the bid.
14. Joint Ventures (JV) – (Only applicable when the bidder tender as a joint venture)
  - i. Where the bidder bid as a Joint Ventures (JV), the required or relevant documents under administrative requirements must be provided/submitted for all JV parties. (These include MBD4, MBD5, MBD8, MBD 9, CSD and/ or SARS pin, Confirmation that the bidder's municipal rates and taxes are up to date.)
  - ii. In addition to the above the bidder must submit a Joint Venture (JV) agreement signed by the relevant parties.
  - iii. It is a condition of this bid that the successful bidder will continue with same Joint Venture (JV) for the duration of the contract, unless prior approval is obtained from City of Tshwane.
  - iv. JV agreement must be complete, relevant and signed by all parties.

Failure to comply with the above will lead to immediate disqualification.

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**Bidder**

**CERTIFICATE OF AUTHORITY FOR SIGNATORY**

Status of concern submitting tender (delete whichever is not applicable):

COMPANY/PARTNERSHIP/ONE-PERSON BUSINESS/CLOSE CORPORATION/JOINT VENTURE

**A. COMPANY**

If the bidder is a company, a certified copy of the resolution of the board of directors that is personally signed by the chairperson of the board, authorising the person who signs this bid to do so and to sign any contract resulting from this bid, and any other documents and correspondence in connection with this bid or contract on behalf of the company, must be submitted with this bid.

An example is shown below:

By resolution of the board of directors on ..... 20.....,  
Mr/Ms ..... has been duly authorised to sign all documents in connection with Bid Number .....

**SIGNED ON BEHALF OF THE COMPANY:** .....

**IN HIS/HER CAPACITY AS** .....

**DATE:** .....

**SIGNATURE OF SIGNATORY:** .....

**WITNESSES:** 1. ....

2. ....



**B. PARTNERSHIP**

The following particulars in respect of every partner must be furnished and signed by every partner:

| <b>Full name of partner</b> | <b>Residential address</b> | <b>Signature</b> |
|-----------------------------|----------------------------|------------------|
| .....                       | .....                      | .....            |
| .....                       | .....                      | .....            |
| .....                       | .....                      | .....            |

We, the undersigned partners in the business trading as ....., hereby authorise ..... to sign this bid as well as any contract resulting from the bid and any other documents and correspondence in connection with this bid or contract on our behalf.

.....  
**Signature**                      **Signature**                      **Signature**

.....  
**Date**                              **Date**                              **Date**

**C. ONE-PERSON BUSINESS**

I, the undersigned, ....., hereby confirm that I am the sole owner of the business trading as .....

.....  
**Signature**                      **Date**

**D. CLOSE CORPORATION**

In the case of a close corporation submitting a bid, a certified copy of the founding statement of such corporation shall be included with the bid with a resolution by its members, authorising a member or other official of the corporation to sign the documents and correspondence in connection with this bid or contract on behalf of the company.

An example is shown below:

By resolution of the members at the meeting on ..... 20..... at .....  
....., Mr/Ms ....., whose signature appears below, has been duly authorised to sign all documents in connection with Bid Number .....

**SIGNED ON BEHALF OF THE CLOSE CORPORATION:** .....

**IN HIS/HER CAPACITY AS:** .....

**DATE:** .....

**SIGNATURE OF SIGNATORY:** .....

**WITNESSES:**     1. ....

                          2. ....

**E. CERTIFICATE OF AUTHORITY FOR JOINT VENTURES**

This returnable schedule is to be completed by joint ventures.

We, the undersigned, are submitting this bid offer in joint venture and hereby authorise Mr/Ms ..... , authorised signatory of the company..... , acting in the capacity of the lead partner, to sign all documents in connection with the bid offer and any contract resulting from it on our behalf.

| NAME OF FIRM | ADDRESS | DULY AUTHORISED SIGNATORY                                      |
|--------------|---------|--|
| Lead partner |         | Signature:<br>.....<br>Name:<br>.....<br>Designation:<br>..... |
|              |         | Signature:<br>.....<br>Name:<br>.....<br>Designation:<br>..... |
|              |         | Signature:<br>.....<br>Name:<br>.....<br>Designation:<br>..... |
|              |         | Signature:<br>.....<br>Name:<br>.....<br>Designation:<br>..... |

**GROUP PROPERTY DEPARTMENT**

**TENDER INVITATION FOR THE LONG-TERM LEASE AND DEVELOPMENT OF THE  
FOLLOWING COUNCIL OWNED PROPERTY:**

**ERVEN 38 AND 39 GA-RANKUWA INDUSTRIAL**

**BID NUMBER:GPM 25-2025/26**

## TABLE OF CONTENTS

|   |  |
|---|--|
| 1. INTRODUCTION AND PURPOSE .....             |  |
| 2. OBJECTIVE .....                            |  |
| 3. REGIONAL SPATIAL ANALYSIS .....            |  |
| 4. MICRO MARKET ANALYSIS.....                 |  |
| 5. BACKGROUND AND PROPERTY INFORMATION .....  |  |
| 6. PROJECT SCOPE .....                        |  |
| 7. EXECUTION OF THE IMPLEMENTATION PLAN ..... |  |
| 8. DELIVERABLES .....                         |  |
| 9. STAGES OF EVALUATION .....                 |  |
| 10. RENTAL OFFER .....                        |  |
| 11. TYPE OF AGREEMENT REQUIRED .....          |  |
| 12. VALIDITY PERIOD.....                      |  |

## 1. INTRODUCTION AND PURPOSE

The City of Tshwane Metropolitan Municipality (CoT) hereby invites interested persons and entities to submit proposals for the Long-Term Lease and Development of strategically located industrial land, comprising of Erven 38 and 39 Ga-Rankuwa Industrial. This portfolio represents a combined extent of approximately 42, 537 m<sup>2</sup>, zoned Industrial 1.

| Property Information                  | Extent (Approximately) | Zoning       |
|---------------------------------------|------------------------|--------------|
| Erven 38 and 39 Ga-Rankuwa Industrial | 42, 537 m <sup>2</sup> | Industrial 1 |



Group Property Department is intending to promote the highest and best utilisation of the City's property assets and to create an opportunity for economic development, revenue generation through leasing property assets by way of public tender based on opportunities depicted by current and anticipated market demands and trends.

This initiative forms a critical component of the City's broader asset optimisation and revenue enhancement strategy. Historically, the Ga-Rankuwa Industrial Precinct has functioned below its potential, representing a significant untapped economic asset within a region characterised by high population density and a robust labour force. This tender is a deliberate intervention to correct historical under-investment and activate a key township economy node, aligning with the City's commitment to spatial justice and inclusive economic growth.



Alternatively, the properties are well-suited for a Specialized Supplier Park with units designed to house Tier-2 and Tier-3 businesses that supply the larger anchors like MINACO Contratt. A complementary development could include commercial and workforce amenities, such as retail outlets and restaurants, to serve the substantial employee base generated by the neighboring factories, thereby improving the overall functionality and appeal of the industrial corridor.

The subject properties are situated in a pivotal urban core within the City of Tshwane's northern development corridor. The area is poised for transformative growth, driven by its proximity to a large residential catchment, major institutions such as the Tshwane University of Technology and the Dr. George Mukhari Hospital, and strategic transport linkages including the R80 and N4 highways. The proposed alienation for industrial development is designed to yield significant mutual benefits for the local community and the municipal fiscus. Through bringing this strategically located land into productive use, the municipality aims to catalyse private sector investment in manufacturing, logistics, and support industries. This is anticipated to stimulate meaningful job creation, foster skills development within the local community, and sustainably expand the municipal revenue base through long-term lease rentals, property rates, and service charges.

## **OBJECTIVE**

Ga-Rankuwa is established as a critical township economy and emerging industrial node within the City of Tshwane's Region 1, strategically positioned to function as a major employment hub for the surrounding communities of Ga-Rankuwa, Soshanguve, and Mabopane. The area benefits from direct access to the R80 highway, a crucial arterial route that provides a direct link to the N4 Platinum Corridor and the established Rosslyn Automotive Hub. This connectivity is further reinforced by the presence of major institutional anchors, including the Tshwane University of Technology (Ga-Rankuwa Campus) and the Dr. George Mukhari Hospital, which provide a stable ecosystem of knowledge, skills, and services.

The industrial property market in Ga-Rankuwa is currently characterised by growing demand for affordable, well-located industrial space. This demand is primarily driven by Small, Medium and Micro Enterprises (SMMEs) and light manufacturing firms seeking viable alternatives to saturated and higher-cost industrial nodes like Rosslyn and Pretoria West. This trend is underpinned by the broader economic imperative to localise supply chains, reduce operational costs, and foster resilient industrial networks. The comprehensive development of this precinct is therefore essential for generating sustainable employment opportunities close to where people live, directly addressing the spatial legacy of apartheid and actively fostering inclusive economic growth.

Ga-Rankuwa is strategically well-positioned for accelerated industrial growth, a trajectory supported by committed public sector investment in strategic infrastructure. Key projects such as the planned K217 road are designed to significantly enhance multi-modal connectivity to the N4, thereby improving freight mobility and regional integration. The presence of a large, youthful population and proximate educational institutions provides a consistent pipeline of talent, ranging from semi-skilled labour to technical graduates. To fully capitalise on this considerable potential, challenges such as targeted infrastructure upgrades and the need for focussed skills development programmes must be collaboratively addressed. With coordinated public-private planning and investment, Ga-Rankuwa is primed to become a premier node for SMME-driven industrialisation and innovation within Tshwane.

## **STRATEGIC PRIORITY/PILLARS**

The successful development of this precinct is expected to align with and advance the following strategic pillars of the City:

- **SMME Development and Light Manufacturing Advancement**

The development should prioritise the creation of affordable, high-quality industrial space tailored for emerging manufacturers, fabricators, and logistics operators. The objective is to foster a supportive and integrated ecosystem for black-owned and local industrial enterprises, enabling them to participate meaningfully in the mainstream economy.

- **Township Economy Revitalisation and Local Beneficiation**

A core outcome of the project must be the creation of substantive local employment opportunities for semi-skilled and skilled workers residing in the surrounding townships. The development agreement will be structured to promote local beneficiation, enterprise development, and the empowerment of the local community through its supply chain and operational phases.

- **Logistics, Distribution and Automotive Support Services**

The development must leverage the precinct's superior proximity to the R80 and N4 corridors to establish modern logistics and distribution hubs. These facilities will serve to support the broader automotive, manufacturing, and retail value chains operating across the Rosslyn-Pretoria North corridor, positioning Ga-Rankuwa as an integral link in the regional logistics network.

## **2. REGIONAL SPATIAL ANALYSIS**

The Ga-Rankuwa Industrial Precinct constitutes an integral component of the northern economic corridor of Tshwane, a strategic regional growth zone explicitly prioritised in the Regional Spatial Development Framework (RSDF) for its potential to drive economic inclusion and reverse spatial inequalities. This corridor, which extends from Akasia through Rosslyn to Soshanguve and Ga-Rankuwa, is anchored by large-scale manufacturing in Rosslyn but requires the activation of supporting nodes like Ga-Rankuwa to provide broader-based employment, SMME incubation, and logistical support. The precinct is therefore strategically positioned to function as a critical employment hub for the surrounding residential areas, which are characterised by high population densities but have historically suffered from a deficit of local economic opportunities.

Spatially, the precinct sits at the heart of a major urban confluence, facilitating a synergistic relationship between industrial production, residential housing, and labour supply. The surrounding urban fabric, comprising the established townships of Ga-Rankuwa, Soshanguve, and Mabopane, provides a substantial and readily accessible labour pool alongside an emerging consumer market. Contemporary spatial policy direction strongly emphasises the need for strategic densification and economic diversification along this corridor to enhance spatial integration and economic inclusivity. Consequently, the Ga-Rankuwa node is envisaged to play a catalytic role in advancing Tshwane's regional spatial vision by consolidating industrial activity, unlocking significant private investment in supporting land uses, and improving economic connectivity between the northern townships and the metropolitan core.

### **Metropolitan Nodes:**

The subject site is located within the Ga-Rankuwa Industrial Precinct, which is formally identified in the Tshwane RSDF (Region 1) as a Major Employment Opportunity Area. This designation underscores its importance within Tshwane's broader northern metropolitan development zone, marking it for strategic industrial expansion with a specific focus on SMME support, light manufacturing, and logistics. Its parallel status as an Urban Core in the Metropolitan Spatial Development Framework (MSDF) further highlights that Ga-Rankuwa is targeted for significant

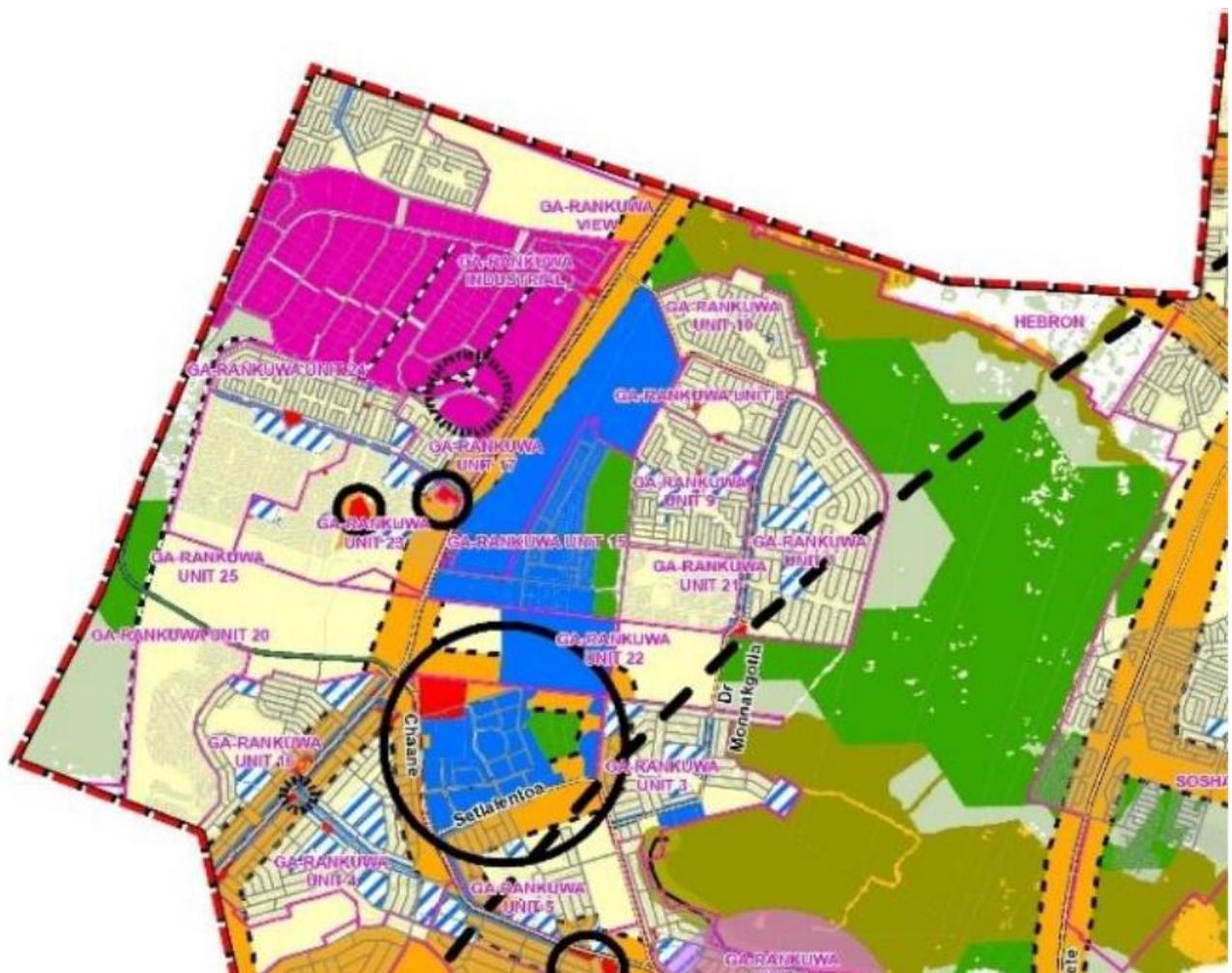
social and economic restructuring, with the industrial area positioned as a primary catalyst for this transformative agenda.

**Neighbourhood Nodes:**

The properties benefit from a highly strategic location, situated adjacent to the Ga-Rankuwa CBD and in immediate proximity to major residential townships and social facilities, including the Tshwane University of Technology and the George Mukhari Hospital. These neighbouring areas provide the essential human capital and support services required to sustain a vibrant industrial base. The close proximity of these educational institutions, retail centres, and public transport facilities reinforces the site’s intrinsic role as a dynamic interface between employment and community activity. This context naturally enables the seamless introduction of complementary land uses such as convenience retail, logistics support services, and commercial functions, which will collectively strengthen Ga-Rankuwa’s position as a well-balanced and integrated employment and service node.

**Bulk Infrastructure Feedback:**

Region 1 has been designated a priority area for infrastructure investment to support its rapid development trajectory and overarching economic importance to the city. The Ga-Rankuwa Industrial Precinct is currently served by existing bulk water and sanitation infrastructure; however, it is anticipated that upgrades or contributions will be required to support new large-scale industrial developments. The City’s forward-looking infrastructure planning explicitly prioritises the northern corridor, with specific, high-impact projects like the K217 road being designed to enhance multi-modal connectivity and unlock latent economic potential. The Energy and Electricity Department has provided preliminary confirmation that capacity can be allocated to support new industrial development, with all connection and reinforcement costs to be borne by the developer.





#### 4. MICRO MARKET ANALYSIS

From a metropolitan economic perspective, Tshwane’s key sectors include manufacturing, community services, finance, and trade. While Region 2 hosts the major Babelegi industrial area, Region 1, which encompasses Ga-Rankuwa is a strong and growing contender, contributing a significant 15.3% of the city's manufacturing Gross Value Added (GVA). This substantial share is largely attributable to the scattered but vibrant industrial activities within the area, the established Ga-Rankuwa Industrial Park, and positive spill-over effects from the world-class automotive industry centred in Rosslyn.

The micro-market surrounding the subject properties is an established and functional industrial environment characterised by a predominance of Small, Medium and Micro Enterprises (SMMEs) operating in light manufacturing, metal fabrication, automotive repairs, and logistics. Current market behaviour indicates a steadily increasing demand for affordable industrial land and facilities among emerging industrial operators and established SMMEs, particularly those seeking cost-effective alternatives to the premium-priced industrial zones of Rosslyn and Pretoria West. Empirical market evidence suggests that rental levels and land values in Ga-Rankuwa are typically 20-30% more competitive than in these established nodes, decisively positioning it as a cost-effective and strategic location for new industrial entrants, expansion projects, and supply-chain localisation.

The contribution of the "wholesale, retail trade and repair of vehicles" sector to the regional economy is significant and noteworthy. Regions 1 and 2, which include the Rosslyn and Ga-Rankuwa corridors, demonstrate robust output shares of 14.3% and 14.2% respectively, indicating a strong and deeply rooted market for automotive-related services, parts supply, and distribution. The subject properties are therefore exceptionally well-positioned to capture and catalyse further growth in these supporting sectors, leveraging their superior proximity to the R80 and N4 highway corridors to serve the broader regional automotive and manufacturing ecosystem.

A key structural advantage of the precinct is the presence of the Tshwane University of Technology and other Further Education and Training (FET) colleges, which provide a consistent and reliable pipeline of both skilled and semi-skilled labour, thereby supporting industries that require technical expertise and operational agility. The surrounding high-density residential communities provide a deep and stable labour catchment area, which has the dual benefit of reducing employee transport costs for businesses and increasing operational convenience. With planned public infrastructure upgrades and a renewed focus on public-private partnerships, the Ga-Rankuwa micro-market is poised for a new cycle of investment, growth, and maturation, making this tender a uniquely timely and strategic opportunity.

## 5. BACKGROUND AND PROPERTY INFORMATION

|   |   |
|---|---|
| <b>Property Description</b>             | <b>Erven 38 and 39 Ga-Rankuwa Industrial Region 1 – Ward 30</b>   |
| <b>Structures and physical features</b> | Vacant and undeveloped land   |
| <b>Size (approximate)</b>               | 42, 537 m <sup>2</sup>  |
| <b>Title Deed</b>                       | T52804/2001   |
| <b>Zoning</b>                           | <p><b>“Industrial 1”</b></p> <p><b>Permitted Land Use:</b> Access Control, Auto Body Repair Centre, Business Buildings, Cafeteria, Commercial Use, Control Centre, Crematorium, Funeral Undertaker, Industry, Light Industry, Market Garden, Micro-brewery, Micro-distillery, Mortuary, Parking Garage, Parking Site, Place of Refreshment, Recycling Centre, Retail Industry, Shops subject to Schedule 10, Solar Power Plant, Transport Terminus, Vehicle Sales Mart, Vehicles Sales Showroom</p>   |
| <b>Access/ Parking requirements</b>     | <p>The property must be utilised strictly in accordance with the permitted land use rights applicable to Industrial 1 zoning. Any vehicular access to and from the premises must comply with the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996), as amended, including but not limited to access design, sight distances, turning requirements, and accommodation of heavy vehicles where applicable.</p>   |
| <b>Bulk Service Contribution</b>        | <p><b>Water and Sanitation</b></p> <p>Bulk water and sanitation services are available in the Ga-Rankuwa Industrial precinct and can support future development on the property.</p> <p>A detailed engineering assessment must be undertaken to determine whether the existing municipal water and sewer networks in the vicinity can accommodate the proposed industrial development. Should upgrades, extensions, or capacity enhancements be required, such costs shall be borne by the applicant.</p> <p>Any alteration, relocation, or protection of municipal water and sanitation pipelines required as a result of the development must be undertaken at the applicant’s cost and to the satisfaction of the City. Where services traverse the site or conflict with the proposed layout, the applicant must submit a <b>comprehensive water and sewer reticulation plan</b> indicating how such infrastructure will be accommodated or relocated.</p> <p>No water or sewer reticulation lines serving other properties may traverse the subject property without being placed within a properly registered servitude. All servitudes must be designed, protected, and registered to the satisfaction of the City of Tshwane. The Municipality will not accept responsibility for the provision, replacement, upgrading, or removal of such services.</p> <p><b>Energy and Electricity</b></p> <p>Electrical infrastructure is available in the surrounding industrial node, and supply to the subject property may be obtained through</p> |

|                                       |   |
|---------------------------------------|---|
|                                       | the approved application process. The applicant must apply for electricity capacity allocation and connection as per municipal procedures and/or relevant authority. Any relocation, diversion, or protection of existing electrical services required due to the proposed development will be at the applicant's full cost. All such works must be carried out in consultation with, and to the satisfaction of ESKOM or any other relevant authority.   |
| <b>Health Department Requirements</b> | The lease, use and occupation of the land will comply with all health and safety legislation and relevant health bylaws. Notwithstanding this current support. The Health Department reserves the right to legally intervene should there be a suspicion or actual violation of any legal health requirements in future. The economic benefit of this transaction should be extended to accommodate objectives of the city, such as poverty reduction, spatial transformation, SMME support and local beneficiation, integrated human settlement, improving health of the communities.  |
| <b>Other Requirements</b>             | Any applications required for the facilitation of the proposed development would be at cost and risk of the lessee.<br>Any future structures/buildings being erected on the abovementioned premises must conform to the provisions of the National Building Regulations, SANS 10400 Part T1(1)(a-e), read with the Deemed to Satisfy rules.<br>When the premises are used for any other purpose than as covered in the application or for a purpose which causes a change in the class of occupancy, amended plans must be submitted to the Local Authority for approval in accordance with the provisions of Regulation A2 of the National Building Regulations and Standard Act, 103 of 1977, as amended.<br>During the development stage, access for firefighting and rescue purposes must be provided in accordance with Regulation T1(1)(e) of the National Building Regulations, read with the Deemed to Satisfy rules, Clause 4.54 of SANS 10400 Part T. |
| <b>Minimum Upset Rental</b>           | R 76, 705.00 Incl. VAT per month, excluding Rates and Taxes and escalating at 7% per annum.   |

## 6. PROJECT SCOPE

The Council Property is being made available in accordance with the Property Information Section of which Proposed Development Controls are subject to Council Approval.

6.1 The Property is made available by means of a long-term lease agreement in accordance with City of Tshwane's (CoT) standard agreement. The following terms of contract are non-negotiable:

a) The Property shall be leased out to the lessee for a period of 30 years. Upon expiry or termination of the Development and Lease agreement, possession of the Property will revert to the CoT without any compensation.

b) That since the proposed lease agreement constitutes a long-term lease and is thereby due to be registered against the title deed of the Property at the instance and cost of the Lessee.

c) That a development Program and/or schedule must be provided to demonstrate when the development is expected to commence and the anticipated completion date; a development will be granted a maximum of 3 years (36 months) for construction to complete, of which Land Use Rights that must be obtained (if applicable) within that period from the date of signature of the agreement. Consideration will be made on reasonable explanation and request for extension by the developer of which such consent and permission shall not be unreasonable withheld.

**Project Implementation Plan - Bids must provide the chronological order and time frames events and activities are due to transpire at land preparation, implementation, and completion of the development.**

d) The communication channels for close liaison between the developer's professional team and the operational divisions of (Fire and Rescue Operations, Emergency Medical Operations and Disaster Management) must be established in the planning, construction, and commissioning phase of the development, for purposes of the fire protection, fire installation, pre-incident and emergency plans as required.

e) All costs incurred for the provision or relocation of any services as a result of this application will be borne by the lessee.

6.2. All existing services shall be protected by the lessee at all times during construction of any kind and should any services of the CoT be affected detrimentally or need to be upgraded, relocated and/or repaired as a result of this application, such services shall be upgraded, relocated and or repaired at the expense of the lessee and to the standards and satisfaction of the CoT.

- a) The lessee shall be liable for the payment of all bulk services contributions and pay the normal tariffs and fees to obtain connection to services.
- b) That if a separate electrical connection (metering point) is required, an application has to be lodged at the relevant Division in which case a quota charge has to be paid.
- c) Access to the property and the disposal of storm water shall be to the satisfaction of the Group Head: Roads and Transport.
- d) During development, access for fire-fighting and rescue purposes, must be provided In accordance with Regulations T(1)(1)(e) of the National Building Regulations, read with the Deemed to Satisfy rules, Clause 4.54 of SANS 10400.
- e) The lessee shall at his/ her own cost maintain, secure and keep the property in a safe, clean and tidy condition in compliance with all relevant legislation i.e. Safety Act, by-laws, Environment (OHASA). Repairs of any damage caused by negligent or willful action of any person within the facility shall be for the lessee's account.
- f) The communication channels for close liaison between the developer's professional team and the operational divisions of (Fire and Rescue Operations, Emergency Medical Operations and Disaster Management) must be established in the planning, construction, and commissioning phase of the development, for purposes of the fire protection, fire installation, pre-incident

and emergency plans as required.

6.3 In demonstrating the ability and capacity to deliver and manage the proposed development, a submission of the following must accompany the proposal:

- a) previous project profiles of successfully completed developments with accompanying contactable and traceable references.
- b) development conceptual design plan that outlines the envisaged multiple uses and their interaction and integration within the development including parking and ancillary uses.

6.4 The City of Tshwane has developed an ambitious Climate Action Plan (CAP) with the aim of becoming net zero and climate resilience by 2050. The target set out in the CAP for buildings and /or the built environment is to have all new & existing City-owned buildings to be net-zero carbon and resource efficient by 2030, following requirements as stipulated in the City of Tshwane Green Buildings By- Law.

**The consideration and inclusion of green building elements including energy efficiency, use of renewable energy, sustainable water consumption, waste separation and use of other natural resources towards achieving Sustainable Development Goals etc. must be prioritised to comply with existing City, Provincial and National requirements. These initiatives include, but are not limited to:**

- Water conservation
- Pitch fertilisation
- Energy efficiency including “intelligent” LED lighting systems
- Waste management and cleaning

6.5 The cost implications of the long-term lease agreement are as follows:

- a) A minimum deposit amount of R 76, 705.00 together with the proof of payment on the contract administrative fee of R620, 59 including VAT is payable upon signing the Lease Agreement. The successful bidder shall provide proof of payments made upon signing the Lease Agreement - a deposit is the direct equal amount of one months' rent.
- b) Rent must not be below the set minimum upset rental of R 76, 705.00. The first rent is payable at the month end of the issued date of the Occupational Certificate, and thereafter on a month-to-month basis and is subject to an escalation as further specified in the pricing schedule. The rent is exclusive of rates and taxes.
- c) The successful bidder to discuss with the Accounting to grant a period of up to 24 months rental break to the developer to enable development of the property.
- d) The lessee will take responsibility for the payment of Municipal property rates and taxes. The rates and taxes will be levied by the City's Group Financial Services Department in accordance with approved tariffs and will become payable from the date the lessee takes possession of the site.
- e) The lessee shall be liable for the payment of all bulk services contributions and pay the normal tariffs and fees to obtain connection to services.
- f) The lessee shall be liable for the payment for consumption and maintenance of all services within and related to the property.

## 6.6 The signing of Lease Agreement and Contract:

- a. The successful bidder shall sign a Lease Agreement within 60 Calendar Days after receiving the offer.
- b. Upon signature it becomes the responsibility of the Lessee/ Developer to secure and maintain the property, failure to do so shall be considered a material breach of agreement.
- c. In the event that the successful bidder fails to comply with the above-mentioned conditions, the property shall be offered to the second successful bidder.

6.7 The Municipality is not liable for any defects, latent or patent, in or on the Property. The size of the Property as indicated is not guaranteed.

## 7. EXECUTION OF THE IMPLEMENTATION PLAN

**The Investment Summit has positioned the city as a turning point in how it partners with business, a declaration that “Tshwane is open for business.” With pledges spanning from various industries and notably at least 10 companies in property and construction making commitments, underscoring investor appetite for real assets and urban regeneration.**

**The city curated a pipeline of under-utilized strategic assets of which the Pretoria Showgrounds Events Centre is part of the targeted investment opportunities that this Request for Proposal is responding to. Though still undergoing Council approval processes, the following incentive measures stand to reinforce investors' confidence and certainty:**

- Strategic Investment Committee (STRIC): a vehicle to fast track the town planning application processes of qualifying projects;
- New Application Process System (NAPS): digitized approvals to cut red tape for land-use and building plans;
- VIP Business Line: direct, accountable access for top investors; and
- The successful bidder to negotiate with the Accounting Officer or delegate to grant a period of up to 24 months rental break to the developer to enable development of the property.

## 8. DELIVERABLES

- ❖ Administrative and mandatory requirements
- ❖ Demonstrate financial capacity
- ❖ Development plan

## 9. STAGES OF EVALUATION

The following tenders will be evaluated according to the following stages:

- Stage 1: Administration Compliance
- Stage 2: Mandatory Requirements
- Stage 3: Functionality Criteria
- Stage 4: Preferential Point System

## STAGE 1: ADMINISTRATIVE COMPLIANCE

All the bids will be evaluated against the administrative responsiveness requirements as set out in the list of returnable documents.

| <b>Compulsory Returnable Documentation (Submission of these are compulsory)</b>   | <b>Submitted (YES or NO)</b> | <b>Checklist (Guide for Bidder and the Bid Evaluation Committee)</b>  |
|---|------------------------------|---|
| <p>a) To enable The City to verify the bidder's tax compliance status, the bidder must provide;</p> <ul style="list-style-type: none"> <li>• Tax compliance status PIN.</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• Central Supplier Database (CSD)</li> </ul>  |                              | Tax status must be compliant before the award.  |
| <p>b) A copy of their Central Supplier Database (CSD) registration; or indicate their Master Registration Number / CSD Number;</p>  |                              | CSD must be valid.  |
| <p>c) Confirmation that the bidding company's municipal service charges, rates and taxes are up to date: Original or copy of Municipal Account Statement of the Bidder (bidding company) not older than 3 months and account must not be in arrears for more than ninety (90) days; or ,signed lease agreement or In case of bidders located in informal settlement, rural areas or areas where they are not required to pay Rates and Taxes a letter from the local councillor confirming they are operating in that area</p>  |                              | Was a Municipal Account Statement, or signed lease agreement or letter from the local councillor provided for the bidding company? The name and / or addresses of the bidder's statement correspond with CIPC document, Address on CSD or Company profile? Are municipal service charges, rates and taxes up to date (i.e. not in arrears for more than 90 days)? |
| <p>d) In addition to the above, confirmation that all the bidding company's owners / members / directors / major shareholders municipal service charges, rates and taxes are up to date: • Original or copy of Municipal Account Statement of all the South African based owners / members / directors / major shareholders not older than 3 months and the account/s may not be in arrears for more than ninety (90) days; or a signed lease agreement of owners / members / directors / major shareholders or In case of bidders located in informal settlement, rural areas or areas where they are not required to pay Rates and Taxes a letter from the local councillor</p> |                              | Was a Municipal Account Statement, or signed lease agreement or letter from the local councillor provided for the company's owners / members / directors / major shareholders? Are municipal service charges, rates and taxes up to date (i.e. not in arrears for more than 90 days)?   |

| Compulsory Returnable Documentation (Submission of these are compulsory)   | Submitted (YES or NO) | Checklist (Guide for Bidder and the Bid Evaluation Committee)  |
|--|-----------------------|--|
| confirming they are residing in that area  |                       |  |
| <p>e) Duly Signed and completed MBD forms (MBD 1, 4, 5, 8 and 9) The person signing the bid documentation must be authorized to sign on behalf of the bidder. Where the signatory is not a Director / Member / Owner / Shareholder of the company, an official letter of authorization or delegation of authority should be submitted with the bid document.</p> <p><b>NB: Bidders must ensure that the directors, trustees, managers, principal shareholders, or stakeholders of this company, declare any interest in any other related companies or business, whether or not they are bidding for this contract. <u>See Question 3.14 of MBD 4. Failure to declare interest will result in a disqualification</u></b></p>   |                       | <p>All documents fully completed (i.e. no blank spaces), All documents fully signed by (any director / member / trustee as indicated on the CIPC document, alternatively a delegation of authority would be required, Documents completed in black ink (i.e. no "Tippex" corrections, no pencil, no other colour ink, or <b>non-submission of the MBD forms</b>, will not be considered)</p> |
| <p>f) Audited Financial Statements for the most recent three (3) years or Audited Financial Statements from date of existence for companies less than three years old.</p> <p><b>NB: The bidder must submit signed audited annual financial statements for the most recent three years, or if established for a shorter period, submit audited annual financial statements from date of establishment. If the bidder is exempted or not required by law to prepare signed annual financial statements for auditing purposes, then the bidder must submit proof from an "independent accounting professional as defined in regulation 26 of Companies Regulation, 2011, stating that the bidder is exempt or not required by law to prepare audited financial statements.</b></p> |                       | <p>Applicable for tenders above R10m in conjunction with MBD 5)</p> <p>Are Audited financial statements provided (Audited financials must be signed by auditor) Or proof from an "independent accounting professional as defined in regulation 26 of Companies Regulation, 2011, stating that the bidder is not required by law to prepare audited financial statements.</p>                 |
| <p>g) Joint Ventures (JV) – (Only applicable when the bidder tenders as a joint venture) Where the bidder bids as a joint venture (JV), the</p>  |                       | <p>If applicable. JV agreement provided? JV agreement complete and relevant?</p>   |

| <b>Compulsory Returnable Documentation (Submission of these are compulsory)</b>   | <b>Submitted (YES or NO)</b> | <b>Checklist (Guide for Bidder and the Bid Evaluation Committee)</b>   |
|---|------------------------------|--|
| <p>required or relevant documents as per (a) to (f) above must be provided for all JV parties. In addition to the above the bidder must submit a Joint Venture (JV) agreement signed by the relevant parties.</p> <p><b>NB:</b> It is a condition of this bid that the successful bidder will continue with the same Joint Venture (JV) for the duration of the contract unless prior approval is obtained from the City.</p> |                              | <p>Agreement signed by all parties? All required documents as per (i.e. a to f) must be provided for all partners of the JV.</p>   |
| <p>h) Bidder attended a compulsory briefing session where applicable</p>  |                              | <p>A compulsory briefing register must be signed by the bidder.</p> <p><b>Bidders will be disqualified should they fail to attend compulsory briefing session</b></p>  |
| <p>i) Pricing schedule (All items must be quoted for in pricing schedule and if not, all items are quoted the bidder will be disqualified). Unless the tender is awarded per item or per section where the bidder only quoted the items or sections, they are interested in.</p>  |                              | <p>Incomplete pricing schedule results in totals being incomparable. Bidder must be disqualified.</p> <p><b>Bidder will be disqualified should they make corrections on the price schedule without attaching a signature or initialising thereto.</b></p> <p><b>Bidder will be disqualified should they use tippex/ correction ink, on the price schedule.</b></p> |

## **STAGE 2: MANDATORY REQUIREMENTS**

### **Proof of Access to Financial Capacity**

Bidders must provide proof of access to financial facility issued by institutions accredited by Financial Sector Conduct Authority (FSCA) and/or National Credit Regulator (NCR). Bidders must provide a Letter of Intent from institution by Finance Sector Conduct Authority (FSCA) and /or National Credit Regulator (NCR). The Letter of Intent must confirm the bidder's own funds and/or access to a credit facility equivalent to the value of the estimated development cost determined on development proposal.

| PROPERTY DESCRIPTION                  | EXTENT(Approximately)  | ESTIMATED DEVELOPMENT COST |
|---------------------------------------|------------------------|----------------------------|
| Erven 38 and 39 Ga-Rankuwa Industrial | 42, 537 m <sup>2</sup> |                            |

\*Submission to the relevant department every three months, proof by your company the availability of funding letter from the Bank or recognised Financial Institution.

## 2.1 Development Plan Presentation

The bidders must prepare and submit a precise development proposal which must cover all the six (6) aspects below. If a bidder does not comply with any of these requirements, they will not be taken to the Functionality stage. All bidders who comply with Stage 2 i.e. Mandatory Requirements, they will be invited to present their Development Proposals.

| Activity  | Yes/No |
|---|--------|
| 1. Concept Design showing proposed development in a form of Sketch Plan/Site Plan/3D Design   |        |
| 2. Project Implementation Plan/Gant Chart with a project duration of 3 Years  |        |
| 3. Economic Impact, the proposal must contain total investment, job opportunities and overall impact on the city's economy.   |        |
| 4. Climate Action Plan: The Development Proposal must demonstrate how the development will adhere to Net-Zero and Climate Resilience by 2050. The consideration must provide a plan on energy efficiency, use of renewable energy, sustainable water consumption, waste separation and use of other natural resources |        |
| 5. Community Empowerment Plan   |        |
| 6. Development Cost, VAT Incl. accompanied by a feasibility model of the project and payment of the monthly rental.   |        |

**\*All the bidders who have complied with Stage 2 Mandatory requirements will proceed to Stage 3, Functionality Criteria present their Conceptual Development Plan to the Bid Evaluation Committee**

### STAGE 3: FUNCTIONALITY CRITERIA

Bids will be evaluated to establish whether they meet a minimum threshold of 70 points out of 100 for Functionality, based on the following criteria:

| CRITERIA         | SUB-CRITERIA  | SCALE | WEIGHT | SCORE |
|------------------|---|-------|--------|-------|
| 1. KEY PERSONNEL | CAPACITY AND EXPERIENCE OF THE BIDDER'S S PROFESSIONAL TEAM IN DELIVERING PROJECTS OF A SIMILAR NATURE: |       | 5      | 20    |





- Non-compliance with specific goals will not lead to disqualification but bidders will not be allocated specific goal points. Bidders will score points out of 90 for price only and zero (0) points out of 10 for specific goals.
- City of Tshwane shall act against any bidder or person when it detects that the specific goals were claimed or obtained on a fraudulent basis.

The specific goal for this bid is outlined below.

| Specific goals  | 90/10 preference point system   | Proof of specific goals to be submitted   |
|---|---|---|
| BB-BEE score of companies <ul style="list-style-type: none"> <li>• Level 1</li> <li>• Level 2</li> <li>• Level 3</li> <li>• Level 4</li> <li>• Level 5</li> <li>• Level 6</li> <li>• Level 7</li> <li>• Level 8</li> <li>• Non-compliant</li> </ul> | <ul style="list-style-type: none"> <li>• 4 Points</li> <li>• 3.5 Points</li> <li>• 3 Points</li> <li>• 2.5 Points</li> <li>• 2 Points</li> <li>• 1.5 Points</li> <li>• 1 Point</li> <li>• 0.5 Points</li> <li>• 0 Points</li> </ul> | Valid Certified copy of BBEE certificate. Sworn Affidavit for B- BBEE qualifying small enterprise or Exempt Micro Enterprises or CIPC BBEE certificate.   |
| EME and/ or QSE   | 1 Point   | Valid Sworn affidavit for B-BBEE qualifying small enterprise or Exempt Micro Enterprises or CIPC BBEE certificate   |
| At least 51% of Women-owned companies   | 1 Point   | Certified copy of Identity Document/s <b>and</b> proof of ownership (Sworn affidavit for B-BBEE qualifying small enterprise or Exempt Micro Enterprises, CIPC registration or any other proof of ownership)   |
| At least 51% owned companies by People with disability  | 1 Point   | Medical Certificate with doctor's details (Practice Number, Physical Address, and contact numbers) and proof of ownership (Sworn affidavit for B-BBEE qualifying small enterprise or Exempt Micro Enterprises, CIPC registration or any other proof of ownership) |
| At least 51% owned companies by Youth   | 1 Point   | Certified copy of Identity Document/s <b>and</b> proof of ownership (Sworn affidavit for B-BBEE qualifying small enterprise or Exempt Micro Enterprises, CIPC registration or any other proof of ownership)   |
| Local Economic Participation <ul style="list-style-type: none"> <li>• City of Tshwane</li> <li>• Gauteng</li> <li>• National</li> </ul>   | 2 Points<br>1 Point<br>1 Point  | Municipal Account statement/Lease agreement.  |

For points to be allocated as per above the tenderers will be required to submit proof of documentation as evidence for claims made. Any tenderer that does not submit evidence as stated in the bid document to claim applicable points will be allocated zero points.

**Bidders are to note that the following tender is a revenue generating tender and the below formula will be used.**

$$P_s = 90 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

## 10. RENTAL OFFER

| PROPERTY DESCRIPTION                     | EXTENT                 | MINIMUM UPSET RENTAL PER MONTH (EXCL. VAT) | VAT.     | MINIMUM UPSET RENTAL (INCL. VAT) |
|--|------------------------|--|----------|----------------------------------|
| Erven 38 and 39 Ga-Rankuwa Industrial    | 42, 537 m <sup>2</sup> | R 66, 700 @<br>7% escalation per annum     | R10, 005 | R 76, 705.00                     |
| <b>INDICATE RENTAL OFFER (EXCL. VAT)</b> |                        |  |          |                                  |
| <b>VAT</b>                               |                        |  |          |                                  |
| <b>INDICATE RENTAL OFFER (INCL.VAT)</b>  |                        |  |          |                                  |

### Risk Analysis

**The City of Tshwane reserves the right to award the tender to the tenderer who scores the highest number of points overall in line with Phase of the process, unless there are objective criteria which will justify the award of the tender to another tenderer.**

**The objective criteria to be applied in this bid process include:**

Where a bidder has an active Award/s that is outstanding, on hold or has stalled for a period of 12 months or more, the bidder may be excluded for further evaluation and/or recommendation for award.

The City of Tshwane has a discretion to apply an objective criteria.

## 11. TYPE OF AGREEMENT REQUIRED

A 30 Year Lease Agreement will be signed by the successful bidder.

A Notarial Lease Agreement will be registered against the Title Deed at the successful bidders' cost.

## **12. VALIDITY PERIOD**

The validity period for the tender after closure is **90 days**. The City of Tshwane shall have right and power to extend any tender validity period beyond any initial validity period set and subsequent extensions. SCM shall ensure that an extension of validity is requested in writing from all bidders before the validity expiry date. Extension of validity shall be finalized while the quotations/bids are still valid.

## **13. DRAFT LEASE AGREEMENTS**

A Long-term Lease Agreement will be entered into with the successful bidder.

MBD.1

**PART A  
INVITATION TO BID**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE CITY OF TSHWANE MUNICIPALITY**

|             |   |               |             |               |       |
|-------------|---|---------------|-------------|---------------|-------|
| BID NUMBER: | GPM 25-2025/26  | CLOSING DATE: | 19 May 2026 | CLOSING TIME: | 10:00 |
| DESCRIPTION | TENDER INVITATION FOR THE LONG-TERM LEASE AND DEVELOPMENT OF THE FOLLOWING COUNCIL OWNED PROPERTY:<br><b>ERVEN 38 AND 39 GA-RANKUWA INDUSTRIAL.</b> |               |             |               |       |

**THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).**

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (*STREET ADDRESS*)

**Tshwane House**

**Supply Chain Management**

**320 Madiba Street**

**Pretoria CBD**

**0002**

**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  |   |  |                                     |         |   |
| TAX COMPLIANCE STATUS  | TCS PIN:  |  | OR                                  | CSD No: |   |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX] | <input type="checkbox"/> Yes<br><input type="checkbox"/> No |  | B-BBEE STATUS LEVEL SWORN AFFIDAVIT |         | <input type="checkbox"/> Yes<br><input type="checkbox"/> No |

**[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]**

|   |  |  |  |
|---|--|--|--|
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES ENCLOSE PROOF] | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES, ANSWER PART B:3 ] |
| TOTAL NUMBER OF ITEMS OFFERED   |  | TOTAL BID PRICE  | R  |
| SIGNATURE OF BIDDER   | .....  | DATE   |  |
| CAPACITY UNDER WHICH THIS BID IS SIGNED   |  |  |  |
| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>  |  | <b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>                         |  |
| DEPARTMENT  | Supply Chain Management  | DEPARTMENT   | Group Property Management  |
| CONTACT PERSON  | Magda de Vos   | CONTACT PERSON   | Sabelo J. Hlatshwayo   |
| TELEPHONE NUMBER  | 012 358 0481   | TELEPHONE NUMBER   | 012 358 8643   |
| EMAIL ADDRESS   | Magdadv@tshwane.gov.za   | EMAIL ADDRESS  | <a href="mailto:sabeloh@tshwane.gov.za">sabeloh@tshwane.gov.za</a>                     |

**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 THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER 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 THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE 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 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.7 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 ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?  
YES  NO
- 3.2 DOES THE ENTITY HAVE A BRANCH IN THE RSA?  
YES  NO
- 3.3 DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  
YES  NO
- 3.4 DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?  
YES  NO
- 3.5 IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?  
YES  NO

**IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS 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. NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: .....

**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
  - 3.1 Full Name of bidder or his or her representative: .....
  - 3.2 Identity Number: .....
  - 3.3 Position occupied in the Company (director, trustee, hareholder<sup>2</sup>) .....
  - 3.4 Company Registration Number: .....
  - 3.5 Tax Reference Number: .....
  - 3.6 VAT Registration Number: .....
  - 3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.
  - 3.8 Are you presently in the service of the state? **YES / NO**
  - 3.8.1 If yes, furnish particulars. ....  
.....

<sup>1</sup> **MSCM Regulations: “in the service of the state” means to be –**

- (a) **a member of –**
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the national Assembly or the national Council of provinces;
- (b) **a member of the board of directors of any municipal entity;**
- (c) **an official of any municipality or municipal entity;**
- (d) **an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);**
- (e) **a member of the accounting authority of any national or provincial public entity; or**
- (f) **an employee of Parliament or a provincial legislature.**

**<sup>2</sup> Shareholder” means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.**

3.9 Have you been in the service of the state for the past twelve months? **YES/NO**

3.9.1 If yes, furnish particulars. ....  
.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.10.1 If yes, furnish particulars. ....  
.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars. ....  
.....

3.12 Are any of the company’s directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars. ....  
.....

3.13 Are any spouse, child or parent of the company’s directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.13.1 If yes, furnish particulars. ....  
.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars: ....  
.....

4. Full details of directors / trustees / members / shareholders.

| Full Name | Identity Number | State Employee Number |
|-----------|-----------------|-----------------------|
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |
|           |                 |                       |

.....

**Signature**

.....

**Date**

.....

**Capacity**

.....

**Name of Bidder**



**DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)**

For all procurement expected to exceed R10 million (all applicable taxes included), bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing? **\*YES / NO**

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

.....  
.....

2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days? **\*YES / NO**

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days. **\*YES / NO**

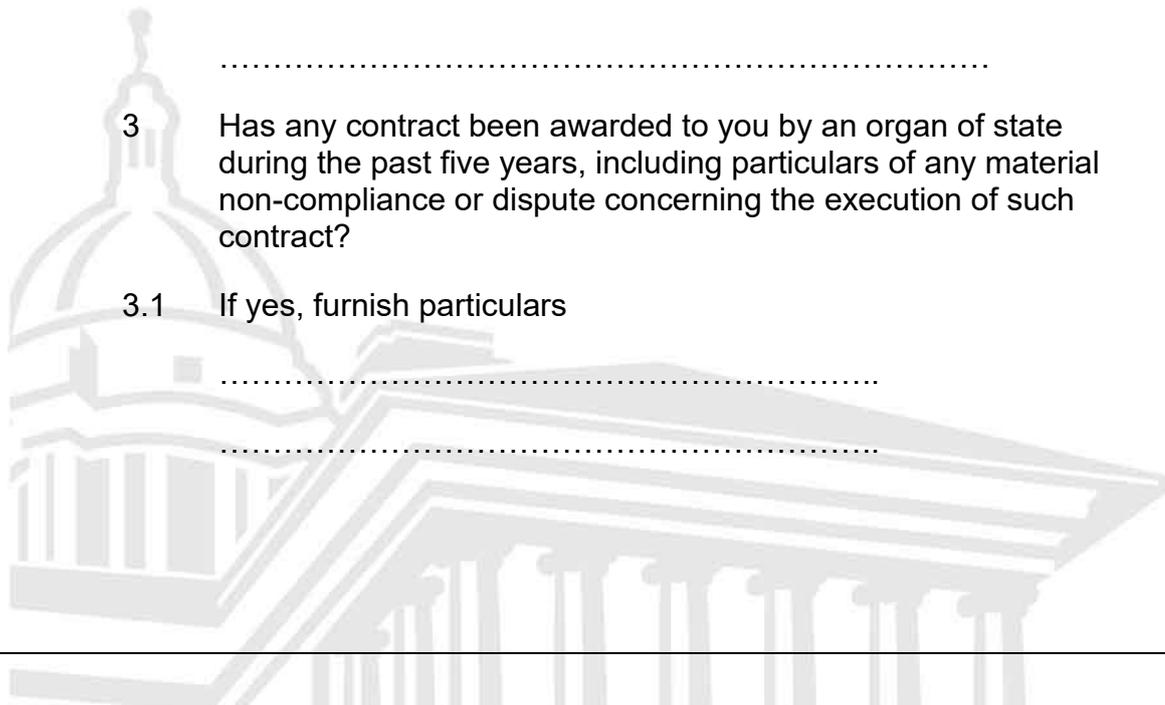
2.2 If yes, provide particulars.

.....  
.....  
.....  
.....

3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract? **\*YES / NO**

3.1 If yes, furnish particulars

.....  
.....



4.1 Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic? **\*YES / NO**

4.1 If yes, furnish particulars

.....  
.....

**CERTIFICATION**

**I, THE UNDERSIGNED (NAME) .....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM  
IS CORRECT. I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD  
THIS DECLARATION PROVE TO BE FALSE.**

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**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 **To be completed by the organ of state**

a) The applicable preference point system for this tender is the 90/10 preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

|  | POINTS     |
|--|------------|
| <b>PRICE</b>                                     | 90         |
| <b>SPECIFIC GOALS</b>                            | 10         |
| <b>TOTAL POINTS FOR PRICE AND SPECIFIC GOALS</b> | <b>100</b> |

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed

- 1.6 The organ of state reserves the right to require of a 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. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.1.1. POINTS AWARDED FOR PRICE

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

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

Where

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

**4. POINTS AWARDED FOR SPECIFIC GOALS**

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

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

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

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

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

| Specific goals  | 90/10 preference point system   | Number of points claimed (90/10 system)<br>(To be completed by the tenderer) |
|---|---|--|
| BB-BEE score of companies <ul style="list-style-type: none"> <li>• Level 1</li> <li>• Level 2</li> <li>• Level 3</li> <li>• Level 4</li> <li>• Level 5</li> <li>• Level 6</li> <li>• Level 7</li> <li>• Level 8</li> <li>• Non-compliant</li> </ul> | <ul style="list-style-type: none"> <li>• 4 Points</li> <li>• 3.5 Points</li> <li>• 3 Points</li> <li>• 2.5 Points</li> <li>• 2 Points</li> <li>• 1.5 Points</li> <li>• 1 Points</li> <li>• 0.5 Point</li> <li>• 0 Points</li> </ul> |  |
| EME and/ or QSE   | 1 Point   |  |

| Specific goals  | 90/10 preference point system  | Number of points claimed (90/10 system)<br>(To be completed by the tenderer) |
|---|--------------------------------|--|
| At least 51% of Women-owned companies   | 1 Point                        |  |
| At least 51% owned companies by People with disability  | 1 Point                        |  |
| At least 51% owned companies by Youth   | 1 Point                        |  |
| Local Economic Participation <ul style="list-style-type: none"> <li>• City of Tshwane</li> <li>• Gauteng</li> <li>• National</li> </ul> | 2 Points<br>1 Point<br>1 Point |  |

**N.B** For points to be allocated as per above the tenderers will be required to submit proof of documentation as evidence for claims made. Any tenderer that does not submit evidence as stated in the bid document to claim applicable points will be allocated zero points.

#### **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:** .....

.....

.....

**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 **GPM 25-2025/26** 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;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claims for specific goals in terms of the Preferential Procurement Regulations 2022;
    - Declaration of interest;
    - Declaration of Bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - 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 number ..... dated..... for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

| DESCRIPTION OF SERVICE | PRICE (ALL APPLICABLE TAXES INCLUDED) | COMPLETION DATE | B-BBEE STATUS LEVEL OF CONTRIBUTION |
|------------------------|---------------------------------------|-----------------|-------------------------------------|
|                        |                                       |                 |                                     |

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

SIGNED AT ..... ON .....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1 .....

2 .....

DATE: .....

**DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
  - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

| Item  | Question  | Yes                             | No                             |
|-------|---|---------------------------------|--------------------------------|
| 4.1   | Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?<br>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).<br><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b> | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.1.1 | If so, furnish particulars:   |                                 |                                |

|       |   |                                 |                                |
|-------|---|---------------------------------|--------------------------------|
| 4.2   | Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?<br><b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b> | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.2.1 | If so, furnish particulars:   |                                 |                                |
| 4.3   | Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?  | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.3.1 | If so, furnish particulars:   |                                 |                                |
| 4.4   | Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?  | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.4.1 | If so, furnish particulars:   |                                 |                                |
| 4.5   | Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?  | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.7.1 | If so, furnish particulars:   |                                 |                                |

### CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME) .....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM  
TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION  
MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE  
FALSE.**

.....  
**Signature**

.....  
**Date**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a. take all reasonable steps to prevent such abuse;
  - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

**<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.**

**<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid: **GPM 25-2025/26**

TENDER INVITATION FOR THE LONG-TERM LEASE AND DEVELOPMENT OF THE FOLLOWING COUNCIL OWNED PROPERTY: **ERVEN 38 AND 39 GA-RANKUWA INDUSTRIAL** in response to the invitation for the bid made by:

**CITY OF TSHWANE MUNICIPALITY**

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. 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 consortium<sup>3</sup> will not be construed as collusive bidding.

**<sup>3</sup> 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.**

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. 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.
10. 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.

.....  
Signature Date

.....  
Position Name of Bidder

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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**GOVERNMENT PROCUREMENT**

**GENERAL CONDITIONS OF CONTRACT**

**July 2010**

## GOVERNMENT PROCUREMENT

# GENERAL CONDITIONS OF CONTRACT

July 2010

### NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

## TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 “Day” means calendar day.
  - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
  - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
  - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
  - 1.12 ”Force majeure” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
  - 1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

- 1.14 “GCC” means the General Conditions of Contract.
- 1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 “Project site,” where applicable, means the place indicated in bidding documents.
- 1.21 “Purchaser” means the organization purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa.
- 1.23 “SCC” means the Special Conditions of Contract.
- 1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

**1. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

**3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid.  
Where applicable a non-refundable fee for documents may be charged.

- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)
- 4. Standards** 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information inspection.** 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights** 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 7. Performance security** 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.
- 8. Inspections, tests and analyses** 8.1 All pre-bidding testing will be for the account of the bidder.

- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

**9. Packing**

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

**10. Delivery and documents**

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

- 11. Insurance** 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.
- 12. Transportation** 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
- 13. Incidental services, services** 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts** 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
  - (b) in the event of termination of production of the spare parts:
    - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty** 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the

final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

**16. Payment**

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

**17. Prices**

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

**18. Contract**

18.1 No variation in or modification of the terms of the contract shall be made **amendments** except by written amendment signed by the parties concerned.

**19. Assignment**

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

**20. Subcontracts**

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

**21. Delays in the supplier's performance**

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

**22. Penalties**

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

**23. Termination for default**

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
  - (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
  - (b) if the Supplier fails to perform any other obligation(s) under the contract; or
  - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated

fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

**24. Anti-dumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or antidumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him

**25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all

|                                       |      |   |
|---------------------------------------|------|---|
|                                       |      | reasonable alternative means for performance not prevented by the force majeure event.  |
| <b>26. Termination for insolvency</b> | 26.1 | The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.   |
| <b>27. Settlement of Disputes</b>     | 27.1 | If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.   |
|                                       | 27.2 | If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.   |
|                                       | 27.3 | Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.   |
|                                       | 27.4 | Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.  |
|                                       | 27.5 | Notwithstanding any reference to mediation and/or court proceedings herein, <ul style="list-style-type: none"> <li>(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and</li> <li>(b) the purchaser shall pay the supplier any monies due the supplier.</li> </ul>   |
| <b>28. Limitation of liability</b>    | 28.1 | Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6; <p>the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and</p> <p>the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.</p> |
| <b>29. Governing language</b>         | 29.1 | The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.  |
| <b>30. Applicable law</b>             | 30.1 | The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.   |
| <b>31. Notices</b>                    | 31.1 | Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice  |

- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties**
- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation (NIP) Programme**
- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation
- 34. Prohibition of Restrictive practices**
- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

Js General Conditions of Contract (revised July 2010)

**SERVICE LEVEL AGREEMENT**

Entered into between

**THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

**Duly represented by the City Manager:**

**AND**

**MESSRS**

**Registration Number 2012/043988/07**

**Duly represented by the**

**SERVICE LEVEL AGREEMENT**

Entered into between

**THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

a municipality as described in Section 2 of the Local Government: Municipal Systems Act, 2000 and as contemplated in section 155 of the Constitution of the Republic of South Africa, 1996 as a category A municipality, or the Assignee, if applicable, herein represented by ..... in his capacity as City Manager duly authorised thereto under and by virtue of a resolution passed on 11 November 2015, and who by his signature hereto warrants that he is properly authorised to sign this Agreement.

(Herein referred to as the “**CITY**”)

**AND**

**Company**

**Registration Number**

Herein represented by ..... in his capacity as Member duly authorised thereto under and by virtue of a resolution of the Board passed on ....., a copy of which is annexed as “Annexure A”, and who by his signature hereto warrants that he is properly authorised to sign this Agreement

(Herein referred to as the “**SERVICE PROVIDER**”)

## CONTENT

|                  |   |           |
|------------------|---|-----------|
| <b><u>1</u></b>  | <b><u>DEFINITIONS</u></b> .....                                   | <b>72</b> |
| <b><u>2</u></b>  | <b><u>INTERPRETATION</u></b> .....                                | <b>74</b> |
| <b><u>3</u></b>  | <b><u>APPOINTMENT</u></b> .....                                   | <b>75</b> |
| <b><u>4</u></b>  | <b><u>PURPOSE OF THE AGREEMENT</u></b> .....                      | <b>75</b> |
| <b><u>5</u></b>  | <b><u>RELATIONSHIP</u></b> .....                                  | <b>76</b> |
| <b><u>6</u></b>  | <b><u>DURATION</u></b> .....                                      | <b>76</b> |
| <b><u>7</u></b>  | <b><u>CONTACT PERSON</u></b> .....                                | <b>76</b> |
| <b><u>8</u></b>  | <b><u>SCOPE OF GENERAL SERVICES</u></b> .....                     | <b>77</b> |
| <b><u>9</u></b>  | <b><u>PRICE AND PAYMENT</u></b> .....                             | <b>77</b> |
| <b><u>10</u></b> | <b><u>PRICE RESTRUCTURING</u></b> .....                           | <b>79</b> |
| <b><u>11</u></b> | <b><u>SERVICE LEVELS</u></b> .....                                | <b>80</b> |
| <b><u>12</u></b> | <b><u>WITHHOLDING OF PERFORMANCE</u></b> .....                    | <b>80</b> |
| <b><u>13</u></b> | <b><u>PENALTY</u></b> .....                                       | <b>81</b> |
| <b><u>14</u></b> | <b><u>ACCESS</u></b> .....  | <b>81</b> |
| <b><u>15</u></b> | <b><u>INSPECTION</u></b> .....                                    | <b>82</b> |
| <b><u>16</u></b> | <b><u>SERVICE PROVIDER'S WARRANTIES AND INDEMNITIES</u></b> ..... | <b>84</b> |
| <b><u>17</u></b> | <b><u>SERVICE PROVIDER PERSONNEL</u></b> .....                    | <b>86</b> |

|                  |  |            |
|------------------|--|------------|
| <b><u>18</u></b> | <b><u>STATUTORY AND EMPLOYMENT ISSUES</u></b>  | <b>87</b>  |
| <b><u>19</u></b> | <b><u>SUB-CONTRACTING</u></b>                  | <b>88</b>  |
| <b><u>20</u></b> | <b><u>CONFIDENTIALITY</u></b>                  | <b>89</b>  |
| <b><u>21</u></b> | <b><u>INTELLECTUAL PROPERTY RIGHTS</u></b>     | <b>90</b>  |
| <b><u>22</u></b> | <b><u>FORCE MAJEURE</u></b>                    | <b>92</b>  |
| <b><u>23</u></b> | <b><u>CESSION</u></b>                          | <b>93</b>  |
| <b><u>24</u></b> | <b><u>CHANGE OF CONTROL / CIRCUMSTANCE</u></b> | <b>93</b>  |
| <b><u>25</u></b> | <b><u>BREACH</u></b>                           | <b>93</b>  |
| <b><u>26</u></b> | <b><u>EARLY TERMINATION</u></b>                | <b>94</b>  |
| <b><u>27</u></b> | <b><u>DISPUTES</u></b>                         | <b>94</b>  |
| <b><u>28</u></b> | <b><u>LAWS AND JURISDICTION</u></b>            | <b>97</b>  |
| <b><u>29</u></b> | <b><u>NOTICES AND COMMUNICATIONS</u></b>       | <b>97</b>  |
| <b><u>30</u></b> | <b><u>GENERAL AND MISCELLANEOUS</u></b>        | <b>99</b>  |
| <b><u>31</u></b> | <b><u>EXECUTION</u></b>                        | <b>100</b> |
|                  | <b><u>ANNEXURE “A”</u></b>                     | <b>102</b> |
|                  | <b><u>ANNEXURE “B”</u></b>                     | <b>102</b> |
|                  | <b><u>ANNEXURE “C”</u></b>                     | <b>104</b> |

**RECORDAL:**

**WHEREAS** the City requires the supply, delivery and off-loading of cationic polyelectrolytes blends and polyacrylamides for potable water purification sewage sludge conditioning, respectively for various Water and Wastewater Treatment Plants as when required over three years:

**AND WHEREAS** the City wishes to appoint

**AND WHEREAS** the service provider wishes to provide such services;

**AND WHEREAS** the service provider has indicated that it has the necessary expertise, skills and capabilities to provide the service;

**NOW THEREFORE** the Parties have agreed to enter into this Agreement, in terms of which ..... Supplies shall provide the Services in the Service Areas and/or Delivery Area and provide advice and support thereof, to the City in accordance with the terms and subject to the Conditions of this Agreement:

**DEFINITIONS**

Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Agreement, including this introduction, bear the meanings ascribed to them:

**“Agreement”** means this service level agreement and shall include the tender documentation, the general conditions of contract, any annexures and/or schedules and/or attachments and/or appendices and/or any addenda hereto or incorporated herein by reference, as amended from time to time;

**“Business Day”** means any day from Monday to Friday excluding Public Holidays as defined in the Public Holidays Act 36 of 1994 (“Public Holidays Act”) as amended from time to time;

**“Business Week”** means five consecutive Business Days, excluding Public Holidays as defined in the Public Holidays Act;

**“City”** means the City of Tshwane Metropolitan Municipality, a metropolitan municipality established in terms of section 12 of the Local Government: Municipal Structures Act 117 of 1998;

**“Contact Persons”** means persons identified by the Parties as persons who are responsible for the execution of the Agreement and whose names are set out in 0 below and who can be substituted in writing from time to time;

**“Contract Price”** shall mean the amount reflected as the contract price in Clause 9 below;

**“Contract Period”** means the contract period as reflected in Clause 6 below:

**“Effective Date”** means notwithstanding the Signature Date, or the date when the last signing party signs the agreement.

**“Intellectual Property”** means Patents, Designs, Know-How, Copyright and Trade Marks and all rights having equivalent or similar effect which may exist anywhere in the world, introduced and required by either Party to give effect to their obligations under this Agreement, owned in whole or in part by, or licensed to either Party prior to the Commencement Date or developed after the Commencement Date, and includes all further additions and improvements to the Intellectual Property, otherwise pursuant to this Agreement;

**“Month”** means a calendar month;

**“Parties”** means City and Service Provider and “Party” means either of them as the context requires;

**“Services”** means services to be provided by the Service Provider to the City as detailed in Clause 80 below;

**“Service Provider”** mean....., with company registration number.

**“Signature Date”** means the date of signature of this Agreement by the Party signing last;

**“Subcontract”** means any contract or agreement or proposed contract between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Services or any part thereof;

**“Subcontractor”** means the third party with whom the Service Provider enters into a Subcontract;

**“Tax Invoice”** means the document as required by section 20 of the Value Added Tax Act 89 of 1991, as amended from time to time; and

**“VAT”** means Value Added Tax as defined in terms of the Value Added Tax Act of 1991.

## **INTERPRETATION**

Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement.

Unless the context clearly indicates a contrary intention, any word connoting:

Any singular shall be deemed to include a reference to the plural and vice versa;

Any one gender shall be deemed to include a reference to the other two genders; and

A natural person shall be deemed to include a reference to a legal or juristic person.

The expiry or termination of this Agreement shall not affect provisions of this Agreement which expressly provide that they will operate after any such

expiry or termination of this Agreement. Provisions of necessity shall continue to have been effective after such expiry or termination of this Agreement, notwithstanding that the clauses themselves do not expressly provide for this.

The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that Agreement shall not apply.

Where figures are referred to in numerals and in words and there is any conflict between the two, the words shall prevail.

Any reference to any legislation is a reference to such legislation as at the Signature Date and as amended or re-enacted, from time to time.

If any provision in a definition is a substantive provision conferring any rights or imposing any obligations on any party, then notwithstanding that, it is only in this interpretation clause, effect shall be given to it as if it were a substantive provision in this Agreement.

## **APPOINTMENT**

The City hereby appoints the Service Provider, who accepts such appointment, to provide the Services in accordance with the terms and subject to the conditions of this Agreement.

## **PURPOSE OF THE AGREEMENT**

The Purpose of this Agreement is to:

Formalise and regulate the working relationship between the Parties;

Set out the roles and responsibilities of the Parties; and

Define process and procedures to be followed by the Parties.

## **RELATIONSHIP**

Nothing in this Agreement shall constitute, or be deemed to constitute a partnership or joint venture between the Parties. Furthermore the Service Provider acknowledges and agrees that its status under this Agreement is that of an independent service provider and its status shall in no way be deemed to be that of an agent or employee of the City, for any purpose whatsoever, and the Service Provider shall have no authority or power to bind the City or to contract in the name of the City, or create a liability against the City in any way or for any purpose.

## **DURATION**

This Agreement shall commence on the Effective Date and expire after 3 years, unless terminated earlier pursuant to Clause 0 below.

## **CONTACT PERSON**

The work to be performed by the Service Provider hereunder will be supervised by the City's Contact Person.

The Parties shall notify each other, in writing from time to time, of the details of their nominated Contact Person.

The Contact Persons shall liaise and update each other on the progress of the Services rendered and shall endeavour to resolve and remedy any problems or disputes that may arise in relation to the Services.

Either Party may substitute a Contact Person at its discretion provided that each Party shall give the other Party reasonable notice of such substitution and will provide replacement employees of equivalent ability.

Without derogating from the foregoing, should either Party replace a Contact Person for any reason whatsoever, it shall ensure, to the greatest extent possible in the circumstances, that the suitable period of hand-over and overlap takes place, at its cost, between the new and the encumbered Contact Person.

## **SCOPE OF GENERAL SERVICES**

The Service Provider shall, for the duration of this Agreement, provide the Services set out below, including but not limited to:

- 8.1.1 Supply, delivery and off-loading of cationic polyelectrolytes blends and polyacrylamides for potable water purification sewage sludge conditioning, respectively. to various Water and Wastewater Treatment Plants.

## **PRICE AND PAYMENT**

The City shall pay the Service Provider the supply, delivery and off-loading of cationic polyelectrolytes blends and polyacrylamides for potable water purification sewage sludge conditioning a total delivered price **(For different Treatment Plant)** for the for various Water and Wastewater Treatment Plants as when required over three years: with effect from 01 July 2018 or nearest date.

The contract price will be paid to the Service Provider per work done on submission of the invoice for the work done.

- 9.3 All payments under this Agreement shall be made by electronic fund transfer or other forms of payment as the Parties may agree from time to time, upon receipt of valid and undisputed Tax Invoices and month-end statements together with the supporting documentation from the Service Provider, once the undisputed Tax Invoices or such portion of the Tax Invoices which are undisputed become due and payable.

- 9.4 All amounts and other sums payable in terms of this Agreement and Schedules hereto will be stipulated exclusive of VAT, unless expressly stated otherwise.

- 9.5 Unless otherwise provided in the Schedules, valid Tax Invoices shall be submitted together with a month-end statement. Payment against such month-end statement shall be made by The City within 30 (thirty) days after the date of receipt by The City of the Service Provider's statement together with the relevant valid and undisputed Tax Invoice(s) and supporting

documentation, but in any event not later than 90 (ninety) days of receipt of such statement.

- 9.6 Where the payment of any valid and undisputed Tax Invoice, or any part of the said Tax Invoice which is not in dispute, is not made by the due date, the Service Provider shall be entitled to charge interest on the outstanding amount, at the Standard Bank's prime rate of interest in force, for the period from the due date of payment until the outstanding amount is fully paid.
- 9.7 There shall be no interest levied on a Tax Invoice that is in dispute between the Parties.
- 9.8 The City shall pay the amount reflected on a Tax Invoice once the City's Contact Person and finance department has verified that the Services set out in a schedule have been rendered and the Tax Invoice amount has been approved by the City.
- 9.9 All Tax Invoices shall be addressed to the City' Contact Person.
- 9.10 All payments shall be transferred, by the City to the Service Provider electronically into the Service Provider's bank account, the details of which are set out below:
- Name:
- Bank:
- Account type:
- Account No:
- Branch No:
- 9.11 Failure to comply with the clauses above may result in late payment of the total amount of an invoice by the Service Provider to the City. The City shall not be liable for any costs or damages suffered by the Service Provider as a result of such late payment.

## PRICE RESTRUCTURING

The Service Provider shall be subject to a price review every year. **Because of the volatility of foreign exchange markets the review must be quarterly for the imported content**

The City shall embark on a benchmarking exercise every 12 (twelve) months where the City shall benchmark the Service Provider's Contract Price against the prevailing market rates.

In the event it emerges that the Service Provider's charges in respect of the Contract Price and other charges under this Agreement are materially higher than the reasonable benchmark ascertained by the City or that the City can acquire similar Services of a like quality from another supplier at a total delivered cost that is lower than the total delivered cost of the Services acquired hereunder from the Service Provider, the City shall have the right to notify the Service Provider of such total delivered cost and the Service Provider shall have an opportunity to adjust the Contract Price and any other charges hereunder, on such a basis as to result in the same total delivered cost to the City, within 30 (thirty) calendar days of such notice.

If the Service Provider fails to do so or cannot legally do so, the City may:

acquire the Services from such other supplier in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of the City and the Service Provider hereunder shall be reduced accordingly;

Terminate this Agreement without any penalty, liability or further obligation; or

Continue under this Agreement.

Within 30 (thirty) calendar days of a notice by the City or at any time the City so requests, the Service Provider shall certify in writing to the City that it is in

compliance with this clause and shall provide all information that the City reasonably requests in order to verify such compliance.

## **SERVICE LEVELS**

The Service Provider recognises that the City has entered into this Agreement relying specifically on the Service Provider's representations regarding service levels including, *inter alia*:

Capacity allocations in accordance with the Service to be provided;

All work to be performed and Services rendered under this Agreement shall comply with industry norms and best practice acceptable within the Services industry and shall be executed by the Service Provider to the total satisfaction of the City.

The Service Provider shall provide suitably qualified and trained employees to provide the services to the City in terms of this Agreement, and shall allocate, in its discretion employee resources in accordance with the technical skill and knowledge required, provided that any exercise of such discretion by the Service Provider shall not negatively impact on the provision of the Services by the Service Provider to the City, and shall allocate employees with the technical skill and knowledge onsite at the City at all times during normal working hours, if the city so requires.

11.3 Amongst others, the Service Provider shall comply with and provide the Services as set out in clause 0 above.

## **WITHHOLDING OF PERFORMANCE**

The Service Provider may not under any circumstances, including, without limitation, non-payment by the City, withhold any Services from the City during the currency of this Agreement, unless it validly terminates this Agreement in terms of Clause 0 below.

## **PENALTY**

Should the Service Provider fail to comply with its obligations in terms of this Agreement, the City may:

Exercise its rights in terms of clause 0 below; alternatively

13.1.2 Impose a penalty on the Service Provider.

An election of the above by the City shall not mean that the City has waived any other rights which the City might have in law.

Should the City elect to impose a penalty on the Service Provider, the City shall provide the Service Provider with a written notice requiring the Service Provider to remedy the default within 7 (seven) working days from the date of delivery of the notice.

Should the Service Provider fail to remedy the default within 7 (seven) days after receiving the notice, then the City shall be entitled, without prejudice to any alternative or additional right of action or remedy available to the City and without further notice, impose a penalty, which penalty shall be a deduction of 10% of the monthly Contract Price for the Contract Period; and for the avoidance of doubt, the penalty amount shall be 10% of the monies due for payment to the Service Provider monthly in terms of Clause 9 above.

Should there be a dispute as to whether the failure to deliver was caused by the City or was the Service Provider's fault such dispute shall be dealt with in accordance to clause 270 below.

## **ACCESS**

The City shall allow the Service Provider reasonable access to its premises, provided that:

Access is related to the Services to be provided by the Service Provider;  
and

The Service Provider adheres to all rules, regulations and instructions applicable at the City's premises.

The Service Provider is required to notify the City monthly of employees who are to provide Services at the Service Areas.

The City shall grant the Service Provider and/or its employees, referred in clause 0 above, access to its premises to perform its obligations in terms of this Agreement.

The Service Provider and its employees shall at all time when entering the premises and/or Service Areas of the City comply with all rules, laws, regulations and policies of the City

## **INSPECTION**

The City may at any time inspect the Services levels of the Service Provider in terms of this Agreement.

If the City is, at any time, dissatisfied with the service levels then the Service Provider shall, within 7 (seven) days, notify the Service Provider in writing of the failure or default.

The Service Provider shall immediately upon receipt of written demand by the City, remedy such failure or default, within 7 (seven) Business Days from the date of receipt of the notice, free of charge.

Should the Service Provider fail to remedy the failure or default referred to above then the City shall have the right to impose penalties as provided for in clause 0 above or invoke the provisions of clauses and/or clause 0 below.

To enable the City to determine whether the Services rendered in terms of this Agreement are being complied with the Service Provider shall:

Provide the City with such information as it may reasonably require;

allow the City to inspect and take copies of any records of the Service Provider relating to the Services, including all hardware, software, data, information, visuals, procedures, event logs, transaction logs, audit trails, books, records, contracts and correspondence;

Allow the City or its authorised representatives to conduct interviews with any of the Service Provider's employees, subject to reasonable notice being given to the Service Provider.

### **Service Provider to Provide Reasonable Assistance**

Where any information is required for inspection in terms of this clause and the information is kept in a computer, the Service Provider shall give the City reasonable assistance required to facilitate inspection and obtain copies of the information in a visible and legible form or to inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the keeping of the information.

Any information required to be provided to the City pursuant to this clause 15 shall be provided by the Service Provider, as the case may be in such form (including a form otherwise than in writing) as the City may reasonably specify.

The cost of any inspection contemplated in terms of this clause 15 shall be for the account of the City unless any material irregularity or failure on the part of the Service Provider is determined by the City in the course of such inspection.

The inspection contemplated in this Agreement will be conducted:

During normal business hours;

Save where the circumstances justify it, on reasonable notice to the Service Provider; with the minimum interference in the provision of the Services and the Service Provider's other operations.

## **SERVICE PROVIDER'S WARRANTIES AND INDEMNITIES**

### **Service Warranties**

The Service Provider warrants that in relation to each Service provided in terms of this Agreement:

It has full capacity and authority to enter into and perform this Agreement, and that this Agreement is executed by duly authorised representatives of the Service Provider;

It possesses or has access to the requisite knowledge, skill and experience to provide the Services in an expert manner;

It will discharge its obligations under this Agreement and any annexure, appendix or Schedule hereto with all due skill, care and diligence;

All work performed and Services rendered under this Agreement shall comply with prevailing practice, standards and specifications within the industry;

it will be solely responsible for the payment of remuneration and associated benefits, if any, of its Personnel and for withholding and remitting income tax for its Personnel in conformance with any applicable laws and regulations;

The use or possession by The City of any Materials will not subject The City to any claim for infringement of any Intellectual Property Rights of any third party;

With promptness and diligence and in a skilful manner and in accordance with the practices and professional standards of operations while performing Services and/or delivering similar to the Services;

which Services will in all aspects comply with industry norms and best practice to the satisfaction of the City with regard to materials and workmanship; ;

Using and adopting any standards, processes and procedures required under this Agreement;

Warranting that it shall employ suitably qualified and trained employees to provide the Services to the City and it shall allocate employees in accordance with the technical skill and knowledge required;

Free from any defects in material and workmanship;

Maintaining and causing to be maintained the highest standard of workmanship and care in undertaking the Services;

Maintaining and caused to be maintained the highest standard of care and diligence in providing the Services, maintenance and support;

Ensuring that all applicable laws are observed;

without derogating from the generality of the foregoing, strictly adhering to any or all laws, regulations and accepted procedures with regard to health, hygiene and the maintaining of the environment in the manufacture, packaging, labelling, identification, storage and transportation of the Goods.

Guaranteeing that the Goods shall be in good working condition for the warranty and/ or maintenance period of the Goods, and that the Service Provider shall be responsible for the costs of repair of the Goods should the Goods require to be repaired to their normal use.

## **Indemnity**

The Service Provider hereby indemnifies the City against any claim which may be brought against the City by the Service Provider's personnel or a third party arising from the execution of this Agreement alternatively which arises against the City as a result of the Service Provider's breach of any of the provisions of this Agreement, provided that the City shall notify the Service Provider in writing within a reasonable time, and in any event not less than 14 (fourteen) Business days of the City becoming aware of any such claim to enable the Service Provider to take steps to contest it and shall provide the Service Provider with such reasonable assistance as may be necessary to enable the Service Provider to defend the claim to the extent only that it is in a position to render such assistance. The Service Provider may, within 5 (five) Business Days of receipt of written notice from the City aforesaid, elect in writing to contest such a claim in the name of the City and shall be entitled to control the proceedings in regard thereto, provided that the Service Provider indemnifies the City against all and any costs (including attorney and own client costs) which may be incurred by or awarded against the City as a consequence of the defence of the claim.

## **SERVICE PROVIDER PERSONNEL**

### **Liability for Criminal Acts of Employees**

The Service Provider shall be liable to the City for any loss that the City or any third party may suffer as a result of any theft, fraud or other criminal

act of any employee of the Service Provider which arises within the course and scope of such employees' employment with the Service Provider.

### **Character of Employees**

Due to the confidential nature of certain aspects of the Services and the position of trust which the Service Provider's employees will fulfil, the Service Provider hereby undertakes to use its best commercial endeavours to ensure that it only assigns to the City employees who are fit and proper persons and who display the highest standards of personal integrity and honesty and who have not, to their knowledge, being convicted of any crime.

The Service Provider shall, at its own cost, conduct all reasonable background checks into members of its employees prior to utilizing same to provide the Services in terms of this Agreement.

The City shall conduct all reasonable background checks into the Service Provider's employees from time to time, where it deems it necessary to do so.

## **STATUTORY AND EMPLOYMENT ISSUES**

### **The Service Provider shall comply with all employment legislation**

The Service Provider warrants that it has full knowledge of all relevant statutory, collective and other stipulations applicable to the relationship with its personnel and its relationship with the City. This includes, but is not limited to, the Labour Relations Act, the Basic Conditions of Employment Act, 1977, the Employment Equity Act, 1998 and any other applicable employment legislation currently in force.

The Service Provider warrants further that it is not and will not in future be in contravention of any of the provisions of any such legislation and in the event of such contravention, the Service Provider shall immediately take all steps to remedy such contravention. If the

City advises the Service Provider of any contravention of such legislation in writing, the Service Provider shall, within 10 (ten) days after receipt of such notice, take all steps necessary to remedy such contravention and shall keep the City informed regarding the steps taken and the implementation and the result thereof.

### **No employment**

The Service Provider warrants that none of its personnel shall be regarded as employees of the City. The Service Provider shall assist to defend and bear all costs in the event that the City is required to defend a claim, whether civil or employment related, instituted against it by the Service Provider's personnel should the City defend the matter, the Service Provider hereby indemnifies the City against all and any costs (including attorney and own client costs) which may be incurred by or awarded against the City as a consequence of the defence of the claim.

### **Occupational Health and Safety Act, 1993**

The Service Provider shall be responsible for ensuring compliance with all the provisions of the Occupational Health and Safety Act, 1993 and it indemnifies the City against any claim which may arise in respect of such Act by its personnel against the City.

### **SUB-CONTRACTING**

The Service Provider may not Subcontract the whole of or any portion of the Services in terms of this Agreement to any third party without the prior consent of the City.

In the event the Service Provider wishes to Subcontract the whole of or any portion of the Services in terms of this Agreement, it shall apply to the City in writing for consent to do so.

In its application, the Service Provider shall give the name of the Subcontractor, the Subcontractor's obligations, the proposed date of commencement of the Subcontract which shall include the fees payable to the Subcontractor, and a report of the background security check on the Subcontractor's suitability, financial and otherwise.

The City may, in its sole and absolute discretion refuse consent to Subcontract. In the event the City approves the Subcontracting of the whole of or any portion of the Services in terms of this Agreement, then:

The Service Provider shall ensure that the Subcontractor's B-BBEE level is equal or better than that of the Service Provider, their price is competitive and they have the capacity to provide the Service;

such Subcontracting shall not absolve the Service Provider from responsibility for achieving the Service Levels or complying with its obligations in terms of this Agreement and the Service Provider hereby indemnifies and holds the City harmless against any loss, harm or damage which the City may suffer as a result of such Subcontracting;

The Service Provider shall at all times remain the sole point of contact for the City in respect of the acquisition of Services by the City; and

No such Subcontracting shall have any effect on the Contract Price and charges payable by the City to the Service Provider in terms of this Agreement.

## **CONFIDENTIALITY**

The Service Provider acknowledge that all information relating to the City confidential business and technical information, data, documents or other information necessary or useful for the carrying on by the City of its business which shall include, but shall not be limited to operating procedures, quality control procedures, approximate operation personnel requirements, descriptions and trade names and trademarks, know how,

techniques, technology, information relating to clients, customers, suppliers, relevant authorities, copyright, trade secrets and all goodwill relating to the business and any other intellectual property rights, technical data and documents in whole or in part, used by the City in respect of its business; (“**Confidential Information**”), shall remain confidential and shall not be made known unless the City has given written consent to do so.

The information provided by the City in the context of this Agreement is Confidential Information and the Service Provider shall take all reasonable measures to keep the information confidential and will only use the information for the purpose for which it was provided.

The Service Provider undertakes to not disclose any such Confidential Information. However, there will be no obligation of confidentiality or restriction on use where:

The information is publicly available, or becomes publicly available otherwise than by action of the receiving Party; or

The information was already known to the receiving Party (as evidenced by its written records) prior to its receipt under this or any previous agreement between the Parties or their affiliates; or

The information was received from a third Party not in breach of an obligation of confidentiality.

## **INTELLECTUAL PROPERTY RIGHTS**

All Intellectual Property Rights of the Contractor and/or third party vest in the Contractor and/or third party, as appropriate.

All rights in the City name and logo remain the absolute property of the City.

The Contractor warrants that no aspect of the Services provided in terms thereof will infringe any Patent, Design, Copyright, Trade Mark or trade secret or other proprietary right of any third party.

The Contractor shall promptly notify the City, in writing, of any infringement or apparent or threatened infringement or any circumstances which may potentially give rise to an infringement, or any actions, claims or demands in relation to any Intellectual Property Rights.

In the event the City becomes aware of any such infringement, the Contractor shall, at its cost, defend the City against any claim that the Services infringe any such third party Intellectual Property Rights, provided that the City gives notice to the Contractor of such claim and the Contractor controls the defence thereof. The Contractor further indemnifies the City against, and undertakes that it will pay all costs, damages and attorney fees, if any, finally awarded against the City in any action which is attributable to such claim and will reimburse the City with all costs reasonably incurred by the City in connection with any such action.

Should any claim be made against the City by any third party in terms of clause 0 above, the City shall give the Contractor written notice thereof within 3 (three) days of becoming aware of such claim to enable the Contractor to take steps to contest it.

Should any third party succeed in its claim for the infringement of any third party proprietary rights, the Contractor shall, at its discretion and within 30 (thirty) days of the Services having been found to infringe, at its own cost:

Obtain for the City the right to continue using the subject of infringement or the parts thereof which constitute the infringement; or

replace the subject of infringement or the parts thereof which constitute the infringement with another product or service which does not infringe and which is materially similar to the subject of infringement; or

Alter the subject of infringement in such a way as to render it non-infringing while still in all respects operating in substantially the same manner as the subject of infringement; or

Withdraw the subject of infringement.

## **FORCE MAJEURE**

For the purposes hereof, Force Majeure shall mean civil strife, riots, insurrection, sabotage, national emergency, acts of war of public enemy, rationing of supplies, flood, storm, fire or any other like forces of nature beyond the reasonable control of the party claiming Force Majeure and comprehended in the terms thereof.

If Force Majeure causes delays in or failure or partial failure of performance by a Party of all or any of its obligations hereunder, this Agreement shall be suspended for the period agreed in writing between the Parties.

In the event of circumstances arising which the other Party believes that it constitutes a Force Majeure ("the Affected Party") then such Affected Party shall send, within 5 (five) days from the interrupting circumstances, a written notice of the interrupting circumstances specifying the nature and date of commencement of the interrupting event to the other Party. The Parties shall agree, in writing, to suspend the implementation of this Agreement for a specific period ("Agreed Period").

In the event that both Parties reasonably believe that the Affected Party shall be unable to continue to perform its obligations after the Agreed Period, then either Party shall be entitled to terminate this Agreement without further notice to the other Party.

The Party whose performance is interrupted by the interrupting circumstances shall be entitled, provided that such party shall give notice to that effect with a written notice of the interrupting circumstances as provided above, to extend the period of this Agreement by a period equal to the time that its performance is so prevented.

## **CESSION**

The Service Provider shall not be entitled to cede or assign or transfer in any other way and/or alienate its rights and obligations in terms of this Agreement without the prior written consent of the City.

## **CHANGE OF CONTROL / CIRCUMSTANCE**

The Service Provider shall notify the City, in writing, of any change in the Service Provider's shareholding or membership or any change in the Service Provider's subsidiary companies or holding or its affiliates (such change shall be considered a material change in the constitution and identity of the Service Provider. The City may terminate this Agreement upon becoming aware of such material change.

The Parties agree that should there be a change as envisaged in clause 0 above, the Service Provider will no longer exist and a new third party/entity shall have been constituted. In this regard, such third party shall not be entitled to inherit any of the Service Provider's rights and obligations in terms of this Agreement, which will only be transferred to the new entity in writing by the City following the City's satisfaction and approval in writing of such new entity.

The Service Provider shall further notify the City of any material changes or circumstance which might have led the City to appoint the Service Provider to Provide the Services. In the event that any material change or circumstance occurs and the Service Provider fails to inform the City of such a change or circumstance, the Service Provider shall be deemed to have breached a material term of this Agreement and the City shall be entitled to cancel the Agreement on 1 (one) month's prior notice.

## **BREACH**

Subject to clause 240 above, should either Party commit a breach of any term of this Agreement ("the Defaulting Party") then the affected party ("Aggrieved Party") shall be entitled to inform the Defaulting Party in writing to remedy

such failure or default within 5 (five) Business Days and should the Defaulting Party fail to remedy the breach within 5 (five) Business Days after receipt of the notice the so Aggrieved Party shall be entitled, without prejudice to any of its rights under this Agreement or law to:

Immediately terminate this Agreement without giving written notice and claim damages (which shall include legal costs on an attorney/client scale); or

Request specific performance and claim damages (which shall include legal costs on an attorney/client scale); or

Impose penalties as provided for in clause 0 above.

### **EARLY TERMINATION**

The City shall have the right to terminate this Agreement by giving 30 (thirty) days' notice in writing to the Service Provider of its intention to terminate the Agreement.

### **DISPUTES**

Save for clause 240 above or any other clause in this Agreement which provides for its own remedy, should any dispute arise between the Parties in respect of or pursuant to this Agreement, including, without limiting the generality of the foregoing, any dispute relating to:

The interpretation of the Agreement;

The performance of any of the terms of the Agreement;

Any of the parties' rights and obligations;

Any procedure to be followed;

The termination or cancellation or breach of this Agreement; or

The rectification or repudiation of this Agreement; then any Party may give the other Party written notice of such dispute, in which event the provisions below shall apply.

Within 7 (seven) days of the declaration of such dispute, the Parties representatives or their nominated persons shall meet in the spirit of goodwill and endeavour to resolve the dispute, failing which (and without prejudice to any other alternative dispute resolution to which the Parties may agree, either prior to or concurrently with arbitration) the provisions of this clause 0 above shall apply.

If the Parties are unable to resolve the dispute within 14 (fourteen) days of the notice of the dispute (or such longer period as they may have agreed to in writing), then either Party may, on written notice to the other Party, require that the dispute be submitted to and decided by arbitration, in terms of the Arbitration Act, 42 of 1965 of South Africa ("the Arbitration Act").

The arbitration shall be held under the provisions of the Arbitration Act provided that the arbitration shall be:

At any place which the Parties agree, in writing, to be mutually convenient.

in accordance with such formalities and/or procedures as may be settled by the arbitrator and may be held in an informal and summary manner, on the basis that it shall not be necessary to observe or carry out the usual formalities of procedure, pleadings and/or discovery or respect rules of evidence.

If the arbitration is:

A legal matter, then the arbitrator shall be a practicing advocate or a practicing attorney of not less than 10 (ten) years' standing;

An accounting matter, then the arbitrator shall be a practicing chartered accountant of not less than 10 (ten) years' standing;

Any other matter, then the arbitrator shall be any independent person agreed upon between the parties.

Should the Parties fail to agree on an arbitrator within 14 (fourteen) days after the arbitration has been demanded, then the arbitrator shall be nominated at the request of either of the Parties, by the president for the time being of the Law Society of the Northern Provinces.

Should the Parties fail to agree whether the dispute is of a legal, accounting or other nature within seven (7) days after the arbitration has been demanded, then it shall be deemed to be a dispute of a legal nature.

The arbitrator may:

investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with the dispute and for that purpose, shall have the widest powers of investigating all documents and records of any party having a bearing on the dispute;

Interview and question under oath the parties or any of their representatives;

Decide the dispute according to what he considers just and equitable in the circumstances; and

Make such award, including an award for specific performance, damages or otherwise, as he in his discretion may deem fit and appropriate. The arbitration shall be held as quickly as possible after it is requested, with a view to it being completed within thirty (30) days after it has been so requested.

The arbitrator's decision and award shall be in writing with reasons and shall be final and binding upon the Parties.

The arbitrators award may, on application by either Party to a court of competent jurisdiction and after due notice is given to the other Party, be made an order of court.

Notwithstanding the provisions of clauses 27.1, 27.2, 27.3, 27.4, 27.5, 27.6 and 27.7 above, in the event of either Party having a claim against the other Party for a liquidated amount or an amount which arises from a liquid documents, or for an interdict or other urgent relief, then the other Party having such a claim shall be entitled to institute action therefore in a court of law rather than in terms of the above clauses, notwithstanding the fact that the other Party may dispute the claim.

The provisions of this clause 27 are severable from the rest of this Agreement and shall remain in effect even where this Agreement is terminated or cancelled for any reason.

## **LAWS AND JURISDICTION**

This Agreement shall be governed by and interpreted according to the Law of the Republic.

Each Party submits to the exclusive jurisdiction of the South African courts in respect of any matter arising from or in connection with this Agreement including its termination. Each Party further consents to the jurisdiction of the High Court of South Africa (North Gauteng High Court (Pretoria)).

## **NOTICES AND COMMUNICATIONS**

The Parties choose as their respective *domicilium citandi et executandi* (hereinafter referred to as the "*domicilium*") and for the delivery of any notices arising out of the Agreement or its termination or cancellation, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the address set out below:

### **THE CITY:**

Address:

Attention:  
Telephone:  
Fax:  
Email:

**THE SERVICE PROVIDER:**

Registration Number:  
Address:  
Attention:  
Telephone:  
Fax:  
Email:

Each Party shall be entitled from time to time, by written notice to the other Party, to vary its *domicilium* to any other address which is not a Post Office Box or a Poste Restante.

Any notice given and any payment made by any Party to another Party (hereinafter referred to as “the addressee”) which:

Is delivered by hand during normal business hours of the addressee at the addressee’s *domicilium*, shall be deemed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;

is posted by prepaid registered post to the addressee at the addressee’s *domicilium* shall be deemed, until the contrary is proved by the addressee, to have been received on the 7<sup>th</sup> (seventh) day after the date of posting.

Is sent by email or facsimile machine shall be deemed, until the contrary is proven by the addressee, to have been received within 1 (one)

hour of transmission where it is transmitted during business hours of the receiving instrument and at noon on the following business day (excluding Saturdays) where it is transmitted outside such business hours.

Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in Writing but it shall be competent to give notice by facsimile.

Notwithstanding anything to the contrary in this Agreement a notice or communication received by one Party shall be an adequate notice or communication notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi*.

## **GENERAL AND MISCELLANEOUS**

### **SOLE RECORD OF AGREEMENT**

This Agreement constitutes the sole record of the agreement between the parties with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

### **NO AMENDMENT EXCEPT IN WRITING**

No addition to, variation of, or agreed cancellation of, this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties. Any alleged waiver of this requirement must itself be reduced to writing and signed by the the relevant party to be of any effect.

### **WAIVERS**

No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of that party and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

## **SURVIVAL OF OBLIGATIONS**

Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect.

## **APPROVALS AND CONSENTS**

An approval or consent given by a party under this Agreement shall only be valid if in writing and shall not relieve the other party from responsibility for complying with the requirements of this Agreement nor shall it be construed as a waiver of any rights under this Lease Agreement except as and to the extent otherwise expressly provided in such approval or consent, or elsewhere in this Agreement. Any alleged waiver of the requirement that the approval or consent must be in writing must itself be reduced to writing and signed by the relevant party to be of any effect.

## **EXECUTION**

This Agreement may be executed in several counterparts, which shall each be deemed an original, but all of which shall constitute one and the same instrument. A facsimile shall constitute a valid counterpart for all purposes hereunder.

The signatories to this Agreement by their signature warrant their authority to enter into this Agreement and the capacity of their principal, if signing in a representative capacity, to enter into this Agreement.

Signed at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

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For and on behalf of **THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

**(Duly represented by .....)**

Signed at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

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For and on behalf of .....

**(Duly represented by .....)**

**ANNEXURE “A”**

**RESOLUTION OF THE BOARD**

Resolution by the Board of Members of .....made at a meeting held at \_\_\_\_\_ on \_\_\_\_\_ 20\_.

**NOTED: THAT** ..... intends to enter into an Agreement with the City of Tshwane Metropolitan Municipality in terms of which ..... shall provide services as per appointment letter (the “Agreement”) on the terms and subject to the conditions of the Agreement to which this resolution is attached as Annexure “A”.

**RESOLVED:**

..... approves and enters into the Agreement on the terms and subject to the conditions of the Agreement to which this resolution is attached.

**THAT** ..... in his capacity as a director of ..... , be and is hereby authorised to negotiate, settle and sign the Agreement attached hereto, and to sign all documentation and do all things necessary to give effect to the aforesaid resolutions on behalf of

\_\_\_\_\_

**Read and Confirmed**

**Chairman/Company Secretary**

**ANNEXURE “B”**

## APPOINTMENT LETTER

**ANNEXURE "C"**

**SCOPE OF WORK**