



**PANEL OF ARCHITECTS, CIVIL/STRUCTURAL AND ELECTRICAL ENGINEERING
CONSULTANTS FOR DESIGN AND IMPLEMENTATION OF CAPITAL PROJECTS WITHIN
RAY NKONYENI MUNICIPALITY FOR THE PERIOD OF 3 YEARS**

**NOTICE: 064 of 2022
BID NO: 8/2/RNM0361**

COMPANY NAME_____

CLOSING DATE: 28 September 2022

**ISSUED BY:
RAY NKONYENI MUNICIPALITY
DEPARTMENT OF TECHNICAL SERVICES
P.O. BOX 5
PORT SHEPSTONE
4240**

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RAY NKONYENI MUNICIPALITY

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PANEL OF ARCHITECTS, CIVIL/STRUCTURAL AND ELECTRICAL ENGINEERING CONSULTANTS FOR DESIGN AND IMPLEMENTATION OF CAPITAL PROJECTS WITHIN RAY NKONYENI MUNICIPALITY FOR THE PERIOD OF 3 YEARS

The Ray Nkonyeni Municipality hereby invites bids for Professional Service Providers to tender for the inclusion in the Panel of Architects, Civil/Structural and Electrical Engineering Consultants for design and implementation of capital projects within Ray Nkonyeni Municipality for the period of 3 years.

At least one of the Company Owners must be a Registered Professional with the Engineering Council of South Africa (ECSA) or South African Council of Architectural Professions (SACAP) to be eligible to submit tender and be considered for inclusion in the panel.

In case of Electrical Engineers, in addition to their professional registration, the registration in Eskom's database is a material requirement of their eligibility.

Professional Service Providers will be expected to act as project managers for the whole project lifecycle and will be required to source specialists' sub-consultants necessary for the successful execution of the project.

NOTE: All specialists' sub-consultants relating to Environmental scoping, Surveys, Geotechnical analysis etc. must be sourced locally to promote locally based professionals. It is important to emphasize that Professional Service Providers will have to submit all relevant documentation and experience of sub-consultants before they are appointed for specialist service.

Bid documents can be downloaded for free from the e-tenders portal <https://etenders.treasury.gov.za>, from the **26 August 2022** as well as our Municipal Website: www.rnm.gov.za

A COMPULSORY CLARIFICATION MEETING WILL BE HELD AT THE OFFICES OF THE DEPARTMENT OF TECHNICAL SERVICES AT NO: 1 PROTEA ROAD MARBURG ON THURSDAY 8th SEPTEMBER 2022 AT 10H00

Bidders to submit two (02) copies of the bid document together with the original bid document, bidders that fail to submit copies will be disqualified. Fully completed Bid documents must be submitted in a sealed envelope, clearly marked "**Panel of Architects, Civil/Structural and Electrical Engineering Consultants for design and implementation of capital projects within Ray Nkonyeni Municipality for the period of 3 years**" and must be deposited in the Bid box at the Municipal offices at 10 Connor Street, Port Shepstone, no later than 12:00 on **Wednesday, 28th September 2022** after which all Bids will be opened in public.

Successful bidder/s will be expected to sub-contract a portion of the works as required to local sub-contractor(s). The procedure for evaluation of responsive bidder/s will be a Method 4: Financial Offer, Preferences and Quality (Functionality). Evaluations of bids will be done in two stages. Firstly, eligibility and quality (Functionality) will be assessed: where after bidders who scored a minimum of 70% points or above, will be evaluated using the 80/20 Preference Point System for Financial Offer and Preference. The Preferential Procurement Policy Framework Act, 2000, (PPFA) (Act No.5 of 2000) applies to this bid.

Stage 1: Pre-qualifying criteria

At least one Company Owners must be a Registered Professional in good standing with the Engineering Council of South Africa (ECSA) or South African Council of Architectural Professions (SACAP)

Stage 2: Functionality

The Functionality will comprise of the following based on the criteria indicated in the respective tender returnable: Attach all supporting documentation mentioned in the table below:-

| Criterion | Points Allocated | Verification Method |
|--|------------------|--|
| Company owner(s) must be professionally registered* (Max 10 points) | | |
| Professional Engineer Professional Architect | 10 | Valid Certified ECSA/SACAP registration Certificate |
| Professional Engineering Technologist Professional Senior Architectural Technologist | 8 | Valid Certified ECSA/SACAP registration Certificate |
| Professional Engineering Technician Professional Architectural Technologist | 5 | Valid Certified ECSA/SACAP registration Certificate |
| Company owner(s) other statutory competencies (Max 8 points) | | |
| Professional Construction Project Manager (Pr. CPM)/ Manage Labour Intensive Construction Projects (NQF 7) / Green Building Council of South Africa Accredited Professional /Renewable Energy | 8 | Valid Certified SACPCMP Registration Certificate/ Valid Certified LIC Competency / Accreditation Green Building Certificate / Renewable Energy |
| Manage Labour Intensive Construction Projects (NQF 5)/ Green Building Design Course / Renewable Energy | 5 | Valid Certified LIC Competency / Relevant Green Building Design Certificate / Renewable Energy |
| Company Experience (Max 10 points) | | |
| 5 or more completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 10 | 5 or more appointment letters and verifiable reference letters confirming successful execution of the projects |
| 3 to 4 completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 8 | 3 to 4 appointment letters and verifiable reference letters confirming successful execution of the project |
| Less than 3 completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 5 | 2 or less appointment letters and verifiable reference letters confirming successful execution of the project |
| Total points = 28 (Bidders must achieve minimum 19.6 points (70%) to be evaluated further) | | |

Stage 3: Financial Offer and Preference

The evaluation will be 80/20 Preference Point System for a Financial Offer and Preference. The Preferential Procurement Policy Framework Act, 2000, (PPPFA) (Act No.5 of 2000) applies to this bid.

Technical enquiries are to be directed to Khulekani Msomi of Ray Nkonyeni Municipality by no later than three days before tender closure on **23rd September 2022** at 039-6882157 or email Khulekani.msomi@rnm.gov.za

Procurement enquiries may be addressed to Mr Bongani Mfenqa of Ray Nkonyeni Municipality on Tel.: (039) 312 8304 and email address: bongani.mfenqa@rnm.gov.za

NOTE TO BIDDERS ON CONDITIONS OF THE BID:

- The Supply Chain Management Policy of Ray Nkonyeni Municipality will apply. The Council reserves the right not to accept the lowest bid or any bid and reserves the right to accept the whole or part of the bid, or to reject all bids and cancel the notice to bid;
- Bids that are submitted late, incomplete, unsigned or by facsimile, electronically or not completed in black ink will be rejected and not accepted for further evaluation;
- NO late arrivals will be entertained at the tender clarification meeting, and will not be allowed to sign the attendance register;
- Council reserves the right to inspect the business premises to ensure that they meet with all relevant requirements of the company;
- Only service providers registered in the Central Supplier Database (CSD) will be considered, attach proof of registration failure to attach will result in your bid not evaluated further.
- Members or Directors of Companies or Service Providers who are state employees are not allowed to bid or quote;
- Unsuccessful bidders will be informed of the Bid outcome through the Municipal website, www.rnm.gov.za aggrieved unsuccessful bidders will be allowed to lodge, within fourteen (14) days of the decision or action, a written objection or complaint to the Office of the Municipal Manager through email, mm@rnm.gov.za or fax number 0865297195. Complaints or objections received after fourteen (14) days of the date of the notice **will not** be entertained; and
- Bids submitted are to be valid for a period of **120 days**;
- Bidder to submit two (2) copies of tender documents together with the original,
- Bidder to initial each page of the tender submission excluding attachments
- Your attention is specifically drawn to the provisions of regulation of the PPPFA Regulations of 2017 which Ray Nkonyeni Municipality will use as its remedy should the need arise.

NB: FAILURE TO SUBMIT TWO (2) COPIES WILL RESULT IN DISQUALIFICATION

S M Mbili
MUNICIPAL MANAGER

Ray Nkonyeni Municipality
10 Connor Street
P O Box 5
PORT SHEPSTONE

TERMS OF REFERENCE

1. INTRODUCTION

The Ray Nkonyeni Municipality hereby invite bids from Consulting Engineers to be appointed on a panel of professional service providers to provide Civil Engineering, Electrical Engineering and Architectural Services, for construction of capital projects and general maintenance on all council facilities and related services for a period of three (3) years. The works include but not limited to, define and develop designs, scope of works, specifications, bills of quantities, tender process and overall project and contract management. Ray Nkonyeni Municipality is responsible for more than 2000 kilometres of roads that needs to be upgraded and rehabilitated as per the approved Road Infrastructure Masterplan, there is also a need to provide access in a form of pedestrian and vehicular bridges, improvement of stormwater systems, provision of public facilities such as Community halls and sporting facilities that are situated within the 36 wards of the municipality.

Ray Nkonyeni is also responsible for the provision of electrification across all wards mainly rural wards and the supply and installation of street lighting.

Ray Nkonyeni Municipality is also to ensure that these assets and facilities are maintained either through planned or unplanned maintenance so that they provide continued service to the residents and communities being served.

2. LOCAL OFFICE

The Municipality reserves the right to inspect the offices of bidders. Offices should remain in operation for the duration of the contract period.

3. PROFESSIONAL INDEMNITY (PI) INSURANCE

The employer shall not award a contract to any Bidder that does not hold valid professional indemnity (PI) insurance providing a minimum cover of 5 million Rands. This will be valid in respect of every claim during the period of insurance. Proof of insurance must be submitted with the Tender. The municipality will not be held liable for any claims whatsoever, arising directly or indirectly due to errors made by the appointed Engineer/Architect in his overall design or Bill of Quantity or Specifications or site supervision and in any Legislative requirements/approvals not obtained or complied with.

4. CURRICULUM VITAE

Proof of employment history must be contained in the curriculum vitae (CV) and must include references and contact details. The CVs must be of a maximum two pages and containing only necessary and relevant information for the purpose of this panel.

5. PRICING INSTRUCTIONS

Guideline Scope Services and Tariff of Fees used for Registered Persons in Terms of the Engineering Profession Act, 2000, Clause 3.2, as published in Government Gazette shall be used as a basis for the Engineering fee calculations.

Guideline Professional Fees issued in terms of Section 34 of the Architectural Profession Act 2000 (Act 44 of 2000) shall be applicable in the calculation of fees for low to high complexity projects

6. EVALUATION OF TENDERS

Tender offers will be evaluated on compliance and functionality. The procedure for the evaluation of responsive tenders will be as detailed in the following paragraphs

Method 4 method of evaluation will be utilised. Only functionality/quality will be evaluated based upon the criteria indicated below. Only bidders who score the minimum of **70%** for functionality will be retained for further evaluation and considered for inclusion on the panel

| Criterion | Points Allocated | Verification Method |
|--|------------------|--|
| Company owner(s) must be professionally registered* (Max 10 points) | | |
| Professional Engineer Professional Architect | 10 | Valid Certified ECSA/SACAP registration Certificate |
| Professional Engineering Technologist Professional Senior Architectural Technologist | 8 | Valid Certified ECSA/SACAP registration Certificate |
| Professional Engineering Technician Professional Architectural Technologist | 5 | Valid Certified ECSA/SACAP registration Certificate |
| Company owner(s) other statutory competencies (Max 8 points) | | |
| Professional Construction Project Manager (Pr. CPM)/ Manage Labour Intensive Construction Projects (NQF 7) / Green Building Council of South Africa Accredited Professional /Renewable Energy | 8 | Valid Certified SACPCMP Registration Certificate/ Valid Certified LIC Competency / Accreditation Green Building Certificate / Renewable Energy |
| Manage Labour Intensive Construction Projects (NQF 5)/ Green Building Design Course / Renewable Energy | 5 | Valid Certified LIC Competency / Relevant Green Building Design Certificate / Renewable Energy |
| Company Experience (Max 10 points) | | |
| 5 or more completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 10 | 5 or more appointment letters and verifiable reference letters confirming successful execution of the projects |
| 3 to 4 completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 8 | 3 to 4 appointment letters and verifiable reference letters confirming successful execution of the project |
| Less than 3 completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 5 | 2 or less appointment letters and verifiable reference letters confirming successful execution of the project |
| Total points = 28 (Bidders must achieve minimum 19.6 points (70%) to be evaluated | | |

further)

*Only refers to company owners/directors/members. No documentation belonging to employees will be accepted for point's allocation

(4)(b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

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

4)(c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)

(4)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).

(4)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

STANDARD CONDITIONS OF TENDER

Preamble

Standard Conditions of tender are as published in Annexure F of the CIDB Standard for Uniformity for construction Procurement, Board Notice 136 Government Gazette No 38960 of 10 July 2015

The Standard Conditions of Tender makes several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of tender. Each item of data given below is cross referenced to the clause in the Standard Conditions of Tender to which it mainly applies.

F1 General

F.1.1 Actions

F.1.1.1 The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly, and transparently, comply with all legal obligations and not engage in anticompetitive practices.

F.1.1.2 The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

F.1.1.3 The employer shall not seek, and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

F.1.2 Tender Documents

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

F.1.3 Interpretation

F.1.3.1 The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

F.1.3.2 These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

F.1.3.3 For the purposes of these conditions of tender, the following definitions apply:

- a) **Conflict of interest** means any situation in which:
 - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially.
 - ii) an individual or organisation can exploit a professional or official capacity in some way for their personal or corporate benefit; or

- iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **Comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration.
- c) **Corrupt practice** means the offering, giving, receiving, or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process.
- d) **Fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;
- e) **Organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body;
- f) **Functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, considering quality, reliability, viability and durability of a service and technical capacity and ability of a tenderer.
- g) **PI insurance** means Professional indemnity insurance carried by professional service provider (PSP) with an amount R 5million as minimum which must remain valid for the contract duration or until the service provider is removed from the panel.
- h) **Tax PIN** means the tax pin as obtained from South African Revenue Service (SARS) which must be kept valid for the duration of the contract or until the service provider is removed from the panel.
- i) **Unregistered Person** means a person who is not professionally registered in terms of the Engineering Professions Act, such person must submit certified copies of academic qualifications and detailed CV to demonstrate relevant competencies
- j) **Professional Registration** means registration with the Engineering Council of South Africa (ECSA) within the relevant categories as Professional Engineer, Professional Engineering Technologist, Professional Engineering Technician or Registration with South African Council of Architectural Profession as Professional Architect, Professional Senior Architectural Technologist, Professional Architectural Technologist, and no other categories may be considered for the purposes of this tender
- k) **Company Registration** means a company registered in terms of Companies Act, a certificate of registration showing names of owners/directors/shareholders must be available
 - l) **Company profile** means a profile indicating business units, company organogram, company resources, project implemented etc.

F.1.5 **Cancellation and Re-Invitation of Tenders**

F1.5.1 An organ of state may, prior to the award of the tender, cancel a tender if-

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable tenders are received.

F.1.6 **Procurement Procedures**

F.1.6.1 **General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the

highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

F.1.6.2 Competitive negotiation procedure

Not Applicable

F.1.6.3 Proposal procedure using the two stage-system

Not Applicable

F.2 Tenderer's obligations

F.2.1 Eligibility

F.2.1.1 Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

F.2.1.2 Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

F.2.2 Cost of tendering

F.2.2.1 Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer comply with requirements.

F.2.2.2 The cost of the tender documents charged by the employer are as determined the Municipal Council from time to time.

F.2.3 Check documents

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

F.2.4 Confidentiality and copyright of documents

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

F.2.5 Reference documents

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

F.2.6 Acknowledge addenda

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary, apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

F.2.7 Clarification meeting

Attend clarification meeting if required at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

F.2.8 Seek clarification

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

F.2.9 Insurance

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

F.2.10 Pricing the tender offer

Check MBD 3.3 for Time based fees only

F.2.11 Alterations to documents

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

F.2.12 Alternative tender offers

Not Applicable

F.2.13 Submitting a tender offer

- F.2.13.1 Submit one tender offer only, as a single tendering entity for services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.
- F.2.13.2 Return all returnable documents to the employer after completing them in their entirety.
- F.2.13.3 Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English.
- F.2.13.4 Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer.
- F.2.13.5 Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- F.2.13.6 Two-envelope system Not Applicable
- F.2.13.7 Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.
- F.2.13.8 Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.
- F.2.13.9 Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

F.2.14 Information and data to be completed in all respects

Accept that tender offers, which do not provide all the data or information requested completely and, in the form, required, may be regarded by the employer as non-responsive.

F.2.15 Closing time

F.2.15.1 Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

F.2.15.2 Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

F.2.16 Tender offer validity

F.2.16.1 Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

F.2.16.2 If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

F.2.16.3 Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer a written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

F.2.16.4 Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

F.2.17 Clarification of tender offer after submission

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

F.2.18 Provide other material

Not applicable

F.2.19 Inspections, tests and analysis

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

F.2.20 Submit securities, bonds and policies

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

F.2.21 Check final draft

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

F.2.22 Return of other tender documents

Not Applicable

F.2.23 Certificates

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

F.3 The employer's undertakings

F.3.1 Respond to requests from the tenderer

F.3.1.1 Unless otherwise stated in the tender Data, respond to a request for clarification received up to five **(5)** working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

F.3.1.2 Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements.
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

F.3.2 Issue Addenda

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who drew documents.

F.3.3 Return late tender offers

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

F.3.4 Opening of tender submissions

F.3.4.1 Open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

F.3.4.2 Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, number of points claimed for its BBEE status level and time for completion for the main tender offer only.

F.3.4.3 Make available the record outlined in F.3.4.2 to all interested persons upon request.

F.3.5 Two-envelope system

Not Applicable

F.3.6 Non - disclosure

Not to disclose to tenderers, or any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

F.3.7 Grounds for rejection and disqualification

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

F.3.8 Test for responsiveness

F.3.8.1 Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

F.3.8.2 A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

F.3.9 Arithmetical errors, omissions and discrepancies

Not Applicable

F.3.10 Clarification of a tender offer

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

F.3.11 Evaluation of tender offers

F.3.11.1 General

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

F.3.11.2 Method 1: Price and Preference

Not Applicable

F.3.11.3 Method 4: Functionality, Price and Preference

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3) Tenders that have achieved the minimum of 70% qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 5 below.

The Evaluation Criteria for functionality is as below:-

| Criterion | Points Allocated | Verification Method |
|--|-------------------------|---|
| Company owner(s) must be professionally registered* (Max 10 points) | | |
| Professional Engineer Professional Architect | 10 | Valid Certified ECSA/SACAP registration Certificate |
| Professional Engineering Technologist Professional Senior Architectural Technologist | 8 | Valid Certified ECSA/SACAP registration Certificate |
| Professional Engineering Technician Professional Architectural Technologist | 5 | Valid Certified ECSA/SACAP registration Certificate |
| Company owner(s) other statutory competencies (Max 8 points) | | |

| | | |
|---|----|---|
| Professional Construction Project Manager (Pr. CPM)/ Manage Labour Intensive Construction Projects (NQF 7) / Green Building Council of South Africa Accredited Professional /Renewable Energy | 8 | Valid Certified SACPCMP Registration Certificate/ Valid Certified LIC Competency / Accreditation Green Building Certificate / Renewable Energy |
| Manage Labour Intensive Construction Projects (NQF 5)/ Green Building Design Course / Renewable Energy | 5 | Valid Certified LIC Competency / Relevant Green Building Design Certificate / Renewable Energy |
| Company Experience (Max 10 points) | | |
| 5 or more completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 10 | 5 or more appointment letters and verifiable reference letters confirming successful execution of the projects |
| 3 to 4 completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 8 | 3 to 4 appointment letters and verifiable reference letters confirming successful execution of the project |
| Less than 3 completed infrastructure projects such as buildings, roads and bridges, community halls, sports facilities, electrification, street lighting. (excluding Water and Wastewater Projects) | 5 | 2 or less appointment letters and verifiable reference letters confirming successful execution of the project |
| Total points = 28 (Bidders must achieve minimum 19.6 points (70%) to be evaluated further) | | |

*Only refers to company owners/directors/members. No documentation belonging to employees will be accepted for point's allocation

(4)(b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

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

| | |
|---------------------------|---|
| 7 | 4 |
| 8 | 2 |
| Non-compliant contributor | 0 |

4)(c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)

(4)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).

(4)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

F.3.11.6 Decimal places

Not Applicable

F.3.11.7 Scoring Price

Not Applicable

F.3.11.8 Scoring preferences

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences. Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

F.3.11.9 Scoring functionality

Score each of the criteria and sub-criteria for quality in accordance with the provisions of the Tender Data. Calculate the total number of tender evaluation points for quality

F.3.12 Insurance provided by the employer

Not Applicable

F.3.13 Acceptance of tender offer

Accept the tender offer, if in the opinion of the employer, it does not present any risk and only if the tenderer:

a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement in terms of Prevention and Combating Corrupt Activities Act of 2004

b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,

- c) has the legal capacity to enter into the contract,
- d) has a valid Tax Pin,
- e) has filled and signed compulsory questionnaire by the authorised representative
- f) has attached all required returnable documents in terms of the tender data
- h) has certified proof of professional indemnity insurance attached

F.3.14 Prepare contract documents

F.3.14.1 If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

F.3.14.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

F.3.15 Complete adjudicator's contract

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

F.3.16 Notice to unsuccessful tenderers

F.3.16.1 Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

F.3.16.2 After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

F.3.17 Provide copies of the contracts

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

F.3.18 Provide written reasons for actions taken

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

F3.19 Transparency in the procurement process

F3.19.1 The CIDB prescripts require that tenders must be advertised and be registered on the CIDB i-Tender system.

Part C1 Agreements and contract data

CONTRACT DATA

The Conditions of Contract are the *Standard Professional Services Contract* published by the Construction Industry Development Board.

Each item of data given below is cross-referenced to the clause in the Conditions of Contract to which it mainly applies.

Part 1: Data provided by the Employer

| Clause | Contract Specific Data Provided by the Employer |
|---------------|---|
| | The Employer is Ray Nkonyeni Municipality |
| 3.4 and 4.3.2 | The authorised and designated representative of the Employer is Ray Nkonyeni Municipality Name: Khulekani Basil Msomi The address for receipt of communications is: Telephone: 039-688 2157 Facsimile: 086 214 6328 E-mail: Khulekani.msomi@rnm.gov.za Address: No 1 Protea Road, Marburg |
| 1 | The Project is Panel of Architects, Civil/Structural and Electrical Engineering Consultants The Period of Performance is 3 Years The Start Date is 14 days after the acceptance of the appointment |
| 3.4.1 | Communications by e-mail / facsimile is permitted. |
| 3.5 | The location for the performance of the Project is 36 Wards of Ray Nkonyeni Municipality |

| | |
|-----------|---|
| 3.6 | The Service Provider may not release public or media statements or publish material related to the Services or Project under any circumstances. |
| 3.9.2 | The time-based fees used to determine changes to the Contract Price are as stated in the Pricing Data |
| 3.12 | The penalty for delays payable is R 1000 per day subject to a maximum amount of R 2800 |
| 3.15.1 | The programme shall be submitted within 14 Days of the acceptance of appointment |
| 3.15.2 | The Service Provider shall update the programme at intervals not exceeding 12 weeks. |
| 3.16 | The time-based fees shall not be adjusted for inflation. |
| 4.3.1 | The Employer shall co-operate with the Service Provider and shall not interfere with or obstruct the proper performance of the Services. |
| 5.4.1 | <p>The Service Provider is required to provide professional indemnity cover as set out in the Professional Indemnity Schedule.</p> <p>The Service Provider is required to provided the following insurances:</p> <p>1. Insurance against Perceived Exposures Cover is: Loss or damage to property that may give rise to a professional negligence Period of cover: 3 years</p> <p>2. Insurance against Personal Injury (Including Death) Cover is: Injury (or death) as a result of an actual or alleged breach of professional duty of care. Period of cover: 3 years</p> <p>3. Insurance against Financial Loss Cover is: Monetary loss suffered by a third party as a result of an actual or alleged breach of professional duty Period of cover: 3 years</p> |
| 5.5 | <p>The Service Provider is required to obtain the Employer's prior approval in writing before taking any of the following actions:</p> <p>1 Appointing Subcontractors for the performance of any part of the Services, 2 Appointing Key Persons not listed by name in the Contract Data</p> |
| 7.2 | The Service Provider is required to provide personnel in accordance with the provisions of clause 7.2 and to complete the Personnel Schedule. |
| 8.1 | The Service Provider is to commence the performance of the Services within 14 Days of date that the Contract becomes effective. |
| 8.2.1 | The Contract is concluded when Defects Liability lapses and close-out report submitted |
| 8.4.3 (c) | The period of suspension under clause 8.5 is not to exceed 12 months |
| 9.1 | Copyright of documents prepared for the Project shall be vested with the Employer |

| | |
|----------------|--|
| 12.1 | Interim settlement of disputes is to be by mediation /adjudication |
| 12.2 / 12.3 | Final settlement is by litigation / arbitration |
| 12.2.1 | In the event that the parties fail to agree on a mediator, the mediator is nominated by Employer |
| 12.3.3 | The adjudicator is the person appointed by Mduzi Qwabe Tel 039-688 2400 |
| 13.1.3 | All persons in a joint venture or consortium shall carry a minimum professional indemnity insurance of R 5 000 000 |

Part 2: Data provided by the Service Provider

| Clause | Contract Specific Data Provided by the Service Provider | | | | | | | | |
|--------------|--|------|-----------------|--|--|--|--|--|--|
| 1 | <p>The Service Provider is</p> <p>Address:</p> <p>Telephone:</p> <p>Facsimile:</p> | | | | | | | | |
| 5.3 | <p>The authorised and designated representative of the Service Provider is:</p> <p>Name:</p> <p>The address for receipt of communications is:</p> <p>Telephone:</p> <p>Facsimile:</p> <p>Address:</p> | | | | | | | | |
| 1 | <p>The Period of Performance is</p> | | | | | | | | |
| 5.5 7.1.2 | <p>The Key Persons and their jobs / functions in relation to the services are:</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;">Name</th> <th style="width: 50%;">Specific duties</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table> | Name | Specific duties | | | | | | |
| Name | Specific duties | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

General Conditions of Contract

1. DEFINITIONS

In the Contract, the following words and expressions shall have the meanings indicated, except where the context otherwise requires. Defined terms and words are signified in the text of the Contract by the use of capital initial letters.

Contract

The Contract signed by the Parties and of which these General Conditions of Contract form part.

Contract Data

Specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the Contract.

Contract Price

The price to be paid for the performance of the Services in accordance with the Pricing Data.

Day

A calendar day.

Defect

A part of the Services, as performed, which does not comply with the requirements of the Contract.

Deliverable

Any measurable, tangible, verifiable outcome, result or item that must be produced or completed;

Employer

The contracting party named in the Contract who employs the Service Provider.

Force Majeure

An event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

Key Persons

Persons who are named as such in the Contract Data who will be engaged in the performance of the Services.

Others

Persons or organisations who are not the Employer, the Service Provider or any employee, Subcontractor, or supplier of the Service Provider.

Parties

The Employer and the Service Provider.

Period of Performance

The period within which the Services are to be performed and completed, commencing from the Start Date.

Personnel

Persons hired by the Service Provider as employees and assigned to the performance of the Services or any part thereof.

Personnel Schedule

A schedule naming all Personnel and Key Persons.

Pricing Data

Data that establishes the criteria and assumptions that were taken into account when developing the Contract Price and the record of the components that make up the Contract Price.

Project

The project named in the Contract Data for which the Services are to be provided.

Scope of Work

The document which defines the Employer's objectives and requirements and specifies the Services which must, or may, be provided under the Contract.

Service Provider

The contracting party named in the Contract Data who is employed by the Employer to perform the Services described in the Contract, and legal successors to the Service Provider and legally permitted assignees.

Services

The work to be performed by the Service Provider pursuant to the Contract as described in the Scope of Work.

Start date

The date on which the Services are to commence, as stated in the Contract Data

Subcontractor

A person or body corporate who enters into a subcontract with the Service Provider to perform part of the Services.

2. INTERPRETATION

2.1 Unless inconsistent with the context, an expression which denotes:
a) any gender includes the other genders;
b) a natural person includes a juristic person and vice versa;
c) the singular includes the plural and vice versa.

2.2 If there is any conflict between the provisions of these General Conditions of Contract and the Contract Data, the provisions of the Contract Data shall prevail.

2.3 The clause headings shall not limit, alter or affect the meaning of the Contract.

3. GENERAL

3.1 Governing law

Law governing the Contract shall be the law of the Republic of South Africa.

3.2 Change in legislation

If after the commencement of the Contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract Price and time for completion shall be adjusted in order to reflect the impact of those changes provided that, within 14 Days of first having become aware of the change, the Service Provider furnished the Employer with detailed justification for the adjustment to the Contract Price or Period of Performance (or both).

3.3 Language

3.3.1 The language of the Contract and of all communications between the Parties shall be English.

3.3.2 All reports, recommendations

3.4 Notices

3.4.1 Any notice, request, consent, approvals or other communication made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract Data. Such communication shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or one week after having been sent by registered post, or unless otherwise indicated in the Contract Data, when sent by e-mail or facsimile to such Party

3.4.2 A Party may change its address for receipt of communications by giving the other Party 30 Days advance notice of such change.

3.5 Location

The Services shall be performed at such locations as are specified in the Contract Data, and where the location of a particular task is not so specified, at such locations as the Employer may approve.

3.6 Publicity and publication

Unless otherwise stated in the Contract Data, the Service Provider shall not release public or media statements or publish material related to the Services or Project within two (2) years of completion of the Services without the written approval of the Employer, which approval by the Employer shall not be unreasonably withheld.

3.7 Confidentiality

Both parties shall keep all sensitive information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other Party.

3.8 Variations

3.8.1 The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services in writing or may request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services.

3.8.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by the Employer, including any change in the Contract Price, shall be agreed between the Service Provider and the Employer.

3.8.3 Where a variation is necessitated by default or breach of Contract by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

3.9 Changes to the Contract Price or Period of Performance

3.9.1 The Service Provider is entitled to apply to the Employer for a change in Contract Price or the Period of Performance in the event that:

- a) a change in legislation takes place in accordance with the provisions of Clause 3.2;
- b) a variation to the Services is made in accordance with the provisions of Clause 3.8;
- c) the Employer or Others do not perform an action, provide access to people, places or things or perform work in accordance with the programme (see Clause 3.15);
- d) the contract is suspended in accordance with the provisions of Clause 8.5;
- e) the contract is restarted following a suspension; or
- f) an event occurs which neither Party could prevent and which prevents the Service Provider from completing the Services or a part thereof

3.9.2 The Service Provider shall submit proposals to change the Contract Price or the Period for Completion (or both) to the Employer within 6 weeks of becoming aware of an event described in 3.9.1 occurring, failing which, the Service Provider shall not be entitled to a change in the Contract Price or Period of Performance.

3.9.3 The Employer shall assess the changes to the Contract Price on the effect of the event on the Services based on time-based fees.

3.9.4 The Employer shall assess the changes to the Period of Performance on the basis of the time that planned completion as shown on the latest approved programme is delayed.

3.10 Sole agreement

The Contract constitutes the sole agreement between the Parties for the performance of the Services and any representation not contained therein shall not be of any force or effect. No amendments will be of any force or effect unless reduced to writing and signed by both Parties.

3.11 Indemnification

The Service Provider shall, at his own expense, indemnify, protect and defend the Employer, its agents and employees, from and against all actions, claims, losses and damage arising from any negligent act or omission by the Service Provider in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

3.12 Penalty

- 3.12.1 If due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract or in law, be entitled to levy a penalty for every Day or part thereof, which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.
- 3.12.2 If the Employer has become entitled to the maximum penalty amount referred to in 3.12.1, he may after giving notice to the Service Provider:
- a) terminate the Contract
 - b) complete the Services at the Service Provider's cost.

3.13 Equipment and materials furnished by the Employer

- 3.13.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.
- 3.13.2 The Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.13.1 for their full replacement value.

3.14 Illegal and impossible requirements

The Service Provider shall notify the Employer immediately, on becoming aware that the Contract requires him to undertake anything which is illegal or impossible.

3.15 Programme

- 3.15.1 The Service Provider shall, within the time period set out in the Contract Data and whenever a programme is amended or revised, submit for the Employer's approval a programme for the performance of the Services which shall, *inter alia*, include:
- a) the order and timing of operations by the Service Provider and any actions, access to people, places and things and work required of the Employer and Others;
 - b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them;
 - c) provisions for float;
 - d) the planned completion of the Services or part thereof in relation to a Period of Performance; and
 - e) other information as required in terms of the Scope of Work or Contract Data.
- 3.15.2 The Employer may, during the course of the Contract, request the Service Provider to amend the programme. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.
- 3.15.3 A programme shall be deemed to be approved if the Employer fails to approve such programme or give reasons for not approving a programme within three weeks of receipt of a request by the Service Provider to approve a programme.
- 3.15.3 The Service Provider shall update the programme:

- a) unless otherwise stated in the Contract Data, every three months to reflect actual progress to date;
- b) whenever a change in Period of Performance or Contract Price is applied for; and
- c) whenever a change in the Period of Performance is changed by the Employer and submit such revised programme to the Employer for approval.

3.16 Price adjustment to time-based fees for inflation

3.16.1 Time-based fees which are stated in the Pricing Data as a unique rate and are not calculated by multiplying the total annual cost of employment contained, shall unless otherwise stated in the Contract Data, be adjusted in terms of 3.16.2 on each anniversary of the Starting Date.

3.16.2 The adjustment to the time-based fees shall be equal to:

$$(CPI_n - CPI_s) / CPI_s$$

Where: CPI_s = the indices specified in the Contract Data during the month in which the start date falls

CPI_n = the latest indices specified in Contract Data during the month in which the anniversary of the Start Date falls

4. EMPLOYER'S OBLIGATIONS

4.1 Information

4.1.1 The Employer shall timeously provide to the Service Provider, free of cost, all available information and data in the Employer's possession which may be required for the performance of the Services.

4.1.2 The Employer shall provide the Service Provider with reasonable assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

4.2 Decisions

The Employer shall, within a reasonable time, give his decision on any matter properly referred to him in writing by the Service Provider so as not to delay the performance of Services.

4.3 Assistance

4.3.1 The Employer shall co-operate with the Service Provider and shall not interfere with or obstruct the proper performance of the Services. The Employer shall as soon as practicable:

- a) authorise the Service Provider to act as his agent insofar as may be necessary for the performance of the Services;
- b) provide all relevant data, information, reports, correspondence and the like, which become available;
- c) procure the Service Provider's ready access to premises, or sites, necessary for the performance of the Services;
- d) assist in the obtaining of all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data;

4.3.2 Unless otherwise communicated, the authorised and designated person named in the Contract Data has complete authority in giving instructions and receiving communications on the Employer's behalf and interpreting and defining the Employer's policies and requirements in regard to the Services.

4.4 Services of Others

The Employer shall, at his own cost, engage such Others as may be required for the execution of work not included in the Services, but which is necessary for the completion of the Project.

4.5 Notification of material change or defect

The Employer shall immediately advise the Service Provider on becoming aware of:

- a) any matter other than a change in legislation which will materially change, or has changed the Services; or
- b) a material defect or deficiency in the Services.

4.6 Issue of instructions

Where the Service Provider is required to administer the work or services of Others, or any contract or agreement, on behalf of the Employer, then the Employer shall issue instructions related to such work, services, contract or agreement only through the Service Provider.

4.7 Payment of Service Provider

The Employer shall pay the Service Provider the Contract Price in accordance with the provisions of the Contract.

5. SERVICE PROVIDER'S OBLIGATIONS

5.1 General

5.1.1 The Service Provider shall perform the Services in accordance with the Scope of Work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

5.1.2 If the Service Provider is a joint venture or consortium of two or more persons, the Service Provider shall designate one person to act as leader with authority to bind the joint venture or consortium. Neither the composition nor the constitution of the joint venture or consortium shall be altered without the prior consent in writing of the Employer, which shall not be unreasonably withheld.

5.2 Exercise of authority

The Service Provider shall have no authority to relieve Others appointed by the Employer to undertake work or services on the Project of any of their duties, obligations, or responsibilities under their respective agreements or contracts, unless expressly authorised by the Employer in response to an application by the Service Provider in writing to do so.

5.3 Designated representative

Unless otherwise communicated, the authorised and designated person named in the Contract Data has complete authority to receive instructions from and give information to the Employer on behalf of the Service Provider.

5.4 Insurances to be taken out by the Service Provider

5.4.1 The Service Provider shall as a minimum and at his own cost take out and maintain in force all such insurances as are stipulated in the Contract Data.

5.4.2 The Service Provider shall, at the Employer's request, provide evidence to the Employer showing that the insurance required in terms of Clause 5.4.1 has been taken out and maintained in force.

5.5 Service Provider's actions requiring Employer's prior approval

The Service Provider shall obtain the Employer's prior approval in writing before taking, inter alia, any of the following actions:

- a) appointing Subcontractors for the performance of any part of the Services,
- b) appointing Key Persons not listed by name in the Contract Data.
- c) any other action that may be specified in the Contract Data.

5.6 Co-operation with Others

If the Service Provider is required to perform the Services in co-operation with others he may make recommendations to the Employer in respect of the appointment of such Others. The Service provider shall, however, only be responsible for his own performance and the performance of Subcontractors unless otherwise provided for.

5.7 Notice of change by Service Provider

On becoming aware of any matter which will materially change or has changed the Services, the Service Provider shall within 14 Days thereof give notice to the Employer.

6. CONFLICTS OF INTEREST

6.1 Service Provider not to benefit from commissions, discounts, etc.

The remuneration of the Service Provider under the Contract shall constitute the Service Provider's sole remuneration in connection with the Contract, or the Services, and the Service Provider shall not accept for his own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the Contract, or in the discharge of his obligations under the Contract, and shall use his best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them shall, similarly, not receive any additional remuneration.

6.2 Royalties and the like

The Service Provider shall not have the benefit, whether directly or indirectly, of any royalty or of any gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the Contract, or Project, unless so agreed by the Employer in writing.

6.3 Independence

The Service Provider shall refrain from entering into any relationship which could be perceived as compromising his independence of judgement, or that of Subcontractors or Personnel.

7. SERVICE PROVIDER'S PERSONNEL

7.1 General

7.1.1 The Service Provider shall employ and provide all qualified and experienced Personnel required to perform the Services.

7.1.2 Where required in terms of the Contract, the Service Provider shall provide Key Persons as listed in the Contract Data to perform specific duties. If at any time, a particular Key Person cannot be made available, the Service Provider may engage a replacement who is equally or better qualified to perform the stated duty, subject to the Employer's approval, which approval shall not be unreasonably withheld.

7.1.3 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement to a named Key Person shall not exceed that which would have been payable to the person replaced.

7.1.4 The Service Provider shall bear all additional costs arising out of or incidental to replacement of Personnel, except where such replacement is otherwise provided for in the Contract.

7.1.5 The Service Provider shall take all measures necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

7.2 Provision of Personnel in terms of a Personnel Schedule

- 7.2.1 The Service Provider shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.
- 7.2.2 Where the Service Provider proposes to utilise a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval. Should the Employer not object in writing within 10 Days of receipt of such notification, the replacement shall be deemed to have been approved by the Employer.
- 7.2.3 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.2.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.
- 7.2.4 The Service Provider shall, if required in terms of Clause 7.2.1:
- a) forward to the Employer for approval, within 15 Days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
 - b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
 - c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION

8.1 Commencement of Services

The Service Provider shall commence the performance of the Services within the period stated in the Contract Data.

8.2 Completion

8.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when the Service Provider has completed all Deliverables in accordance with the Scope of Work.

8.2.2 The Service Provider may request an extension to the Period of Performance if he is or will be delayed in completing the Contract by any of the following causes:

- a) additional Services ordered by the Employer;
- b) failure of the Employer to fulfil his obligations under the Contract;
- c) any delay in the performance of the Services which is not due to the Service Provider's default;
- d) *Force Majeure*; or
- e) suspension.

8.2.3 The Service Provider shall within 14 Days of becoming aware that a delay may occur or has occurred, notify the Employer of his intention to make a request for the extension of the Period of Performance to which he considers himself entitled and shall within 30 days after the delay ceases deliver to the Employer full and detailed particulars of the request.

8.2.4 The Employer shall, within 30 Days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision

of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the Services and the matter shall be dealt with as a dispute in terms of Clause 12.

8.3 Force Majeure

- 8.3.1 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of *Force Majeure*, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Contract, and has informed the other Party as soon as possible about the occurrence of such an event.
- 8.3.2 In the event that the performance of the Services has to be suspended on the grounds of *Force Majeure*, the Period of Performance shall be extended by the extent of the delay plus a reasonable period for the resumption of work.
- 8.3.3 During the period of his inability to perform the Services as a result of an event of *Force Majeure*, the Service Provider shall be entitled to any payment due in terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by him in suspending, delaying and re-activating the performance of the Services.

8.4 Termination

- 8.4.1 The Employer may terminate the Contract:
- (a) where the Services are no longer required;
 - (b) where the funding for the Services is no longer available;
 - (c) if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) Days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;
 - (d) if the Service Provider becomes insolvent or liquidated; or
 - (e) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days;
 - (f) if the Service Provider fails to pay his sub-consultants/contractors appointed on behalf of the employer under this contract
- 8.4.2 The Employer shall give the Service Provider not less than thirty (30) Days written notice of any termination made in terms of 8.4.1 (a) or (b).
- 8.4.3 The Service Provider may terminate the Contract, by giving not less than thirty (30) Days written notice to the Employer after the occurrence of any of the following events:
- (a) if the Employer fails to pay any monies due to the Service Provider in terms of the Contract and not subject to dispute pursuant to Clause 12 within forty-five (45) Days after receiving written notice from the Service Provider that such payment is overdue; or
 - (b) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days; or
 - (c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds the period stated in the Contract Data, or it is clear to the Service Provider that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded the period stated in the Contract Data; or
 - (d) if the Employer is in material breach of a term of the Contract and fails to rectify such breach within 30 Days of the receipt of written notice requiring him to do so.
- 8.4.4 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.
- 8.4.5 Should the Service Provider, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond his control from

performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights of either Party against the other.

8.5 Suspension

- 8.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the performance of the Services and minimise further expenditure.
- 8.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties

Completion, suspension or termination of the Contract shall not prejudice or affect the accrued rights or liabilities of the Parties.

9. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

- 9.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.
- 9.2 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.
- 9.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

10. SUCCESSION AND ASSIGNMENT

- 10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.
- 10.2 An assignment shall be valid only if it is a written agreement by which the Service Provider transfers his rights and obligations under the Contract, or part thereof, to others.
- 10.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract or any part thereof, or any benefit or interest thereunder, except in the following cases:
- (a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or
 - (b) by assignment to the Service Provider's insurers of the Service Provider's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider's loss or liability.
- 10.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned. 10.5 If the Service Provider has assigned his Contract or part thereof without authorization, the Employer may forthwith

terminate the Contract and the third party will have no claim against the Employer resulting from such termination.

11. SUBCONTRACTING

- 11.1 A Service Provider may not subcontract any work which he has the skill and competency to perform, unless otherwise permitted in the Contract Data.
- 11.2 A subcontract, where permitted in terms of the Contract Data, shall be valid only if it is a written agreement by which the Service Provider entrusts performance of a part of the Services to Others.
- 11.3 The Service Provider shall not subcontract to nor engage a Subcontractor to perform any part of the Services without the prior written authorization of the Employer. The services to be sub-contracted and the identity of the Subcontractor shall be notified to the Employer. The Employer shall, within 14 Days of receipt of the notification and a full motivation why such services are to be subcontracted, notify the Service Provider of his decision, stating reasons, should he withhold such authorization. If the Service Provider enters into a subcontract with a Subcontractor without prior approval, the Employer may forthwith terminate the Contract.
- 11.4 The Employer shall have no contractual relationships with Subcontractors. However, if a Subcontractor is found by the Employer to be incompetent, the Employer may request the Service Provider either to provide a Subcontractor with qualifications and experience acceptable to the Employer as a replacement, or to resume the performance of the relevant part of the Services himself.
- 11.5 The Service Provider shall advise the Employer without delay of the variation or termination of any subcontract for performance of all or part of the Services.
- 11.6 The Service Provider shall be responsible for the acts, defaults and negligence of Subcontractors and their agents or employees in the performance of the Services, as if they were the acts, defaults or negligence of the Service Provider, his agents or employees. Approval by the Employer of the subcontracting of any part of the Contract or of the engagement by the Service Provider of Subcontractors to perform any part of the Services shall not relieve the Service Provider of any of his obligations under the Contract.

12. RESOLUTION OF DISPUTES

12.1 Settlement

- 12.1.1 The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed.
- 12.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be settled between the Parties shall in the first instance be referred by the Parties to either mediation or adjudication as provided for in the Contract Data.

12.2 Mediation

- 12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than 14 Days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.
- 12.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.

12.2.3 The mediator is authorised to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Parties.

12.2.4 If either Party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such Party may require that the dispute be referred to arbitration or litigation in a competent civil court, as provided for in the Contract Data.

12.3 Adjudication

12.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.

12.3.2 The adjudicator shall be appointed in terms of the Adjudicator's Agreement bound in the Construction Industry Development Board's Adjudication Procedure.

12.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data. The Adjudicator shall be appointed in accordance with the Adjudicator's Agreement contained in the CIDB Adjudication Procedure.

12.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party notice of dissatisfaction within 28 Days of the receipt of that decision and refer the dispute to arbitration or litigation in a competent civil court as provided for in the Contract Data. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding on the Parties.

12.4 Arbitration

12.4.1 Arbitration, where provided for in the Contract Data, shall be by a single arbitrator in accordance with the provisions of the Arbitration Act of 1965 as amended and shall be conducted in accordance with such procedure as may be agreed between the Parties or, failing such agreement, in accordance with the Rules for the Conduct of Arbitrations published by the Association or Arbitrators current at the date the arbitrator is appointed.

12.4.2 The arbitrator shall be mutually agreed upon or, failing agreement, to be nominated by the person named in the Contract Data.

13. LIABILITY

13.1 Liability of the Service Provider

13.1.1 The Service Provider shall be liable to the Employer arising out of or in connection with the Contract if a breach of Clause 5.1 is established against him.

13.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time stated in a notification and the Defect arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.

13.1.3 All persons in a joint venture or consortium shall be jointly and severally liable to the Employer in terms of this Contract and shall carry individually the minimum levels of insurance stated in the Contract Data, if any.

13.2 Liability of the Employer

The Employer shall be liable to the Service Provider arising out of or in connection with the Contract if a breach of an obligation of his in terms of the Contract is established. The Service Provider shall have no separate right of action against the Employer.

13.3 Compensation

If it is established that either Party is liable to the other, compensation shall be payable only on the following terms:

- (a) Compensation shall be limited to the amount of reasonably foreseeable loss and damage suffered as a result of the breach.
- (b) In any event, the amount of compensation will be limited to the amount specified in Clause 13.5.

13.4 Duration of Liability

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within the period stated in the Contract Data or, where no such period is stated, within a period of three years from the date of termination or completion of the Contract.

13.5 Limit of Compensation

13.5.1 Unless otherwise indicated in the Contract Data, the maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to:

- a) the sum insured in terms of 5.4 in respect of insurable events; and
- b) the sum stated in the Contract Data or, where no such amount is stated, to an amount equal to twice the amount of fees payable to the Service Provider under the Contract, excluding reimbursement and expenses for items other than salaries of Personnel, in respect of non-insurable events.

13.5.2 Each Party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

13.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for his reasonable costs incurred as a result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.

13.6 Indemnity by the Employer

Unless otherwise indicated in the Contract Data, the Employer shall indemnify the Service Provider against all claims by third parties which arise out of or in connection with the performance of the Services save to the extent that such claims do not in the aggregate exceed the limit of compensation in Clause 13.5, if applicable, or are covered by the insurances arranged under the terms of Clause 5.4.

13.7 Exceptions

13.7.1 Clauses 13.5 and 13.6 shall not apply to claims arising from deliberate misconduct.

13.7.2 The Service Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

- a) the Employer omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Service Provider, or requiring the Service Provider to implement a decision or recommendation with which the Service Provider disagrees or on which he expresses a serious reservation; or
- b) the improper execution of the Service Provider's instructions by agents, employees or independent contractors of the Employer.

14. REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

The Employer shall remunerate and reimburse the Service Provider for the performance of the Services as set out in the Pricing Data. If not otherwise stated in the Pricing Data, the following shall apply:

- 14.1 The Service Provider shall be entitled to render interim monthly accounts for fees and reimbursements throughout the duration of the Contract. Interim amounts of lump sum fees due shall be based on progress.
- 14.2 Amounts due to the Service Provider shall be paid by the Employer within thirty (30) Days of receipt by him of the relevant invoices. If the Service Provider does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Employer, at the prime interest rate charged by his bank and certified by such bank, plus 2% per annum, and calculated from the due date of payment.
- 14.3 If any item or part of an item in an invoice submitted by the Service Provider is disputed by the Employer, the latter shall, before the due date of payment, give notice thereof with reasons to the Service Provider, but shall not delay payment of the balance of the invoice. Clause 14.2 shall apply to disputed amounts which are finally determined to be payable to the Service Provider.
- 14.4 In respect of Services charged for on a time-basis and all other reimbursable expenses the Service Provider shall maintain records in support of such charges and expenses for a period of twenty four months after the completion or termination of the Contract. Within this period the Employer may, on not less than 14 Days' notice, require that a reputable and independent firm of accountants, nominated by him at his expense, audit any claims made by the Service Provider for time charges and expenses by attending during normal working hours at the office where the records are maintained.

15 AMOUNTS DUE TO THE EMPLOYER

Amounts due to the Employer shall be paid by the Service Provider within thirty (30) Days of receipt by him of the relevant invoices. If the Employer does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Service Provider, at the rate stated in the Contract Data, calculated from the due date for payment.

FORM OF OFFER AND ACCEPTANCE

OFFER

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

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

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

The offered total of the Prices inclusive of Value Added Tax is

_____ Rand (in words); R_____ (in figures)
(For time based fees only)

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

Signature(s) : _____ : _____

Name(s) : _____ : _____

Capacity for the tenderer : _____ : _____

: _____
(Name and address of organization)

Name and signature of witness : _____

Date : _____

ACCEPTANCE

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

The terms of the contract, are contained in: Standard Professional Services Contract

Part C1 Agreements and contract data,

Part C2 Pricing data

Part C3 Scope of work

and drawings and documents or parts thereof, which may be incorporated by reference into Parts C1 to C3 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement.

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

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer (now Service Provider) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

Signature(s) : _____ : _____

Name(s) : _____ : _____

Capacity for the Employer : _____ : _____

: _____
(Name and address of organization)

Name and signature of witness : _____

Date : _____

Schedule of Deviations

Notes:

1. The extent of deviations from the tender documents issued by the employer before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

a) Subject _____

Details _____

b) Subject _____

Details _____

c) Subject _____

Details _____

d) Subject _____

Details _____

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

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

SCHEDULE OF PERSONNEL

| NAME | TITLE | JOB TITLE | QUALIFICATIONS | LEVEL OF INVOLVEMENT ON THE PROJECT |
|-------------|--------------|------------------|-----------------------|--|
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Part C2: Pricing Data (Time Based)

Refer to MBD 3.3

Part C3: Scope of Works

C3.1 Scope of works will be implemented in terms of Guideline Scope of Services and Tariffs of fees for persons registered in terms of Engineering Professions Act (Act 46 of 2000). This includes the compliance with infrastructure grant conditions as per Division of Revenue Act for all Integrated National Energy Programme (INEP), Municipal Infrastructure Grant (MIG), Integrated Urban Development Grant (IUDG), Neighbourhood Development Partnership Grant (NDPG) funded projects including all other infrastructure funds as appropriated for infrastructure delivery by Ray Nkonyeni Municipality

C3.2 The Scope of works involves carrying out investigations and preliminary studies, design development, administering tendering process as well as preparation and submission of reports as required by various institutions and funders. These can be outlined as follows:-

1. Consultation with the client or client's authorised representative.
2. Inspection of the project site.
3. Developing and defining the scope of work where required.
4. Preliminary investigation, route location, planning and a level of design appropriate to allow decisions on feasibility.
5. Assessment of existing infrastructural elements with the view of informing the project on options of how to integrate existing works with proposed new works.
6. Consultation with authorities having rights or powers of sanction as well as consultation with the public and stakeholder groups.
7. Advice to the client as to regulatory and statutory requirements, including environmental management and the need for surveys, analysis, tests and site or other investigations, as well as approvals, where such are required for the completion of the report, and arranging for these to be carried out at the client's expense.

8. Searching for, obtaining, investigating and collating available data, drawings and plans relating to the works.
9. Investigating financial and economic implications relating to the proposals or feasibility studies.
10. Clause (9) does not normally apply to civil and structural services or on building projects, where these services are provided by a quantity surveyor, except as far as the interpretation of cost figures concerning the engineer's scope of works.
11. Assist the client to develop timeframes for next stages of the project where required. Deliverables will typically include:
 - a) collation of information
 - b) reports on technical and financial feasibility and related implications
 - c) list of consents and approval
 - d) schedule of required surveys, tests, analyses, site and other investigations
 - d) time frames for upcoming deliverables.

C3.3 Normal Services

The fee structure for all works will be based on maximum of **15%** of the project value for Engineering projects and a maximum of **16.8%** for Architectural Projects depending on the level of complexity as depicted in **Tables 1, 2 and 3** below. Complexity of each project shall be in accordance with SACAP Complexity Ratings. Payments for pre-award stages will be based on the estimated cost of the project, which shall be accordingly adjusted upon the project award stage. The fee breakdown for normal services shall be broken down based on Engineering Council of South Africa and South African Council of Architectural Professions guideline for works as broken down below: -

- Stage 1 – Inception 5%
- Stage 2 – Concept and viability 20%
- Stage 3 - Design development 30%
- Stage 4 – Documentation and Procurement 15%
- Stage 5 – Contract Administration/Construction 25%
- Stage 6 – Close Out 5%

Table 1: Civil and Structural Engineering Services pertaining to Engineering Projects

| Cost of the Works | | Nominal Fee | |
|-------------------|---------------------|-------------|-----------------|
| Exceeds | But does not exceed | Primary Fee | Secondary Fee % |
| R850 000 | R1 899 000 | R106 300 | 15.0% |
| R1 899 000 | R9 347 000 | R237 400 | 12.0% |
| R9 347 000 | R19 066 000 | R982 400 | 10.5% |
| R19 066 000 | R47 372 000 | R1 857 000 | 9.5% |
| R47 372 000 | R94 960 000 | R4 121 400 | 7.0% |

| | | | |
|--------------|--------------|-------------|------|
| R94 960 000 | R572 000 000 | R7 065 000 | 6.5% |
| R572 000 000 | | R33 233 200 | 6.0% |

Table 2: Electrical Engineering Services pertaining to Engineering Projects

| Cost of the Works | | Nominal Fee | |
|-------------------|---------------------|-------------|-----------------|
| Exceeds | But does not exceed | Primary Fee | Secondary Fee % |
| R850 000 | R1 899 000 | R106 300 | 15.0% |
| R1 899 000 | R9 347 000 | R237 400 | 12.0% |
| R9 347 000 | R19 066 000 | R982 400 | 9.5% |
| R19 066 000 | R47 372 000 | R1 759 800 | 8.5% |
| R47 372 000 | R94 960 000 | R3 742 400 | 7.0% |
| R94 960 000 | R572 000 000 | R6 590 200 | 6.5% |
| R572 000 000 | | R32 832 800 | 6.5% |

Table 3A: Projects pertaining to Architectural Services – Low Complexity

| Low Complexity Projects | | | | |
|-------------------------|------------------|------------------|---------------|-----------------|
| Cost Bracket | Value of Works | | Primary Fee | Secondary Fee % |
| | From | To | | |
| 1 | 1,00 | 200 000,00 | 14 400,00 | 11,20% |
| 2 | 200 001,00 | 650 000,00 | 36 799,89 | 10,80% |
| 3 | 650 001,00 | 2 000 000,00 | 85 399,78 | 9,60% |
| 4 | 2 000 001,00 | 4 000 000,00 | 214 999,68 | 8,40% |
| 5 | 4 000 001,00 | 6 500 000,00 | 382 999,60 | 8,00% |
| 6 | 6 500 001,00 | 13 000 000,00 | 582 999,52 | 7,60% |
| 7 | 13 000 001,00 | 40 000 000,00 | 1 076 999,44 | 7,20% |
| 8 | 40 000 001,00 | 130 000 000,00 | 3 020 999,37 | 6,80% |
| 9 | 130 000 001,00 | 260 000 000,00 | 9 140 999,30 | 6,60% |
| 10 | 260 000 001,00 | 520 000 000,00 | 17 720 999,24 | 6,40% |
| 11 | 520 000 001,00 | 1 040 000 000,00 | 34 360 999,17 | 6,20% |
| 12 | 1 040 000 001,00 | | 66 600 999,11 | 6,00% |

Table 3B: Projects pertaining to Architectural Services – Medium Complexity

| Medium Complexity Projects | | | | |
|----------------------------|----------------|------------|-------------|-----------------|
| Cost Bracket | Value of Works | | Primary Fee | Secondary Fee % |
| | From | To | | |
| 1 | 1,00 | 200 000,00 | 18 173,66 | 14,14% |

| | | | | |
|----|------------------|------------------|---------------|--------|
| 2 | 200 001,00 | 650 000,00 | 46 443,65 | 13,63% |
| 3 | 650 001,00 | 2 000 000,00 | 107 779,60 | 12,12% |
| 4 | 2 000 001,00 | 4 000 000,00 | 271 342,39 | 10,60% |
| 5 | 4 000 001,00 | 6 500 000,00 | 483 368,27 | 10,10% |
| 6 | 6 500 001,00 | 13 000 000,00 | 735 780,06 | 9,59% |
| 7 | 13 000 001,00 | 40 000 000,00 | 1 359 237,34 | 9,09% |
| 8 | 40 000 001,00 | 130 000 000,00 | 3 812 680,86 | 8,58% |
| 9 | 130 000 001,00 | 260 000 000,00 | 11 536 484,71 | 8,33% |
| 10 | 260 000 001,00 | 520 000 000,00 | 22 364 954,85 | 8,08% |
| 11 | 520 000 001,00 | 1 040 000 000,00 | 43 365 624,30 | 7,82% |
| 12 | 1 040 000 001,00 | | 84 054 421,44 | 7,57% |

Table 3C: Projects pertaining to Architectural Services – High Complexity

| High Complexity Projects | | | | |
|---------------------------------|------------------|------------------|---------------|---------------|
| Cost Bracket | Value of Works | | Primary Fee | Secondary Fee |
| | From | To | | |
| 1 | 1,00 | 200 000,00 | 21 600,00 | 16,80% |
| 2 | 200 001,00 | 650 000,00 | 55 199,83 | 16,20% |
| 3 | 650 001,00 | 2 000 000,00 | 128 099,67 | 14,40% |
| 4 | 2 000 001,00 | 4 000 000,00 | 322 499,53 | 12,60% |
| 5 | 4 000 001,00 | 6 500 000,00 | 574 499,40 | 12,00% |
| 6 | 6 500 001,00 | 13 000 000,00 | 874 499,28 | 11,40% |
| 7 | 13 000 001,00 | 40 000 000,00 | 1 615 499,17 | 10,80% |
| 8 | 40 000 001,00 | 130 000 000,00 | 4 531 499,06 | 10,20% |
| 9 | 130 000 001,00 | 260 000 000,00 | 13 711 498,96 | 9,90% |
| 10 | 260 000 001,00 | 520 000 000,00 | 26 581 498,86 | 9,60% |
| 11 | 520 000 001,00 | 1 040 000 000,00 | 51 541 498,76 | 9,30% |
| 12 | 1 040 000 001,00 | | 99 901 498,67 | 9,00% |

C3.4 Additional Services

The remuneration for additional services shall be approved on individual project basis depending on the primary fee for each project. It is important to emphasize that Professional Service Providers will have to submit all relevant documentation and experience of sub-consultants before they are appointed for specialist service. Additional Services shall relate to:

- (a) Site traffic surveys
- (b) Geotechnical investigations

- (c) Sampling and Laboratory testing
- (d) Topographical and land surveys
- (e) Supply of specific equipment
- (f) Specialist sub-consultants
- (g) Environmental investigations and studies, and management plans
- (h) Institutional service delivery and social consultants
- (i) Land acquisitions, expropriation, way leaves and servitudes.

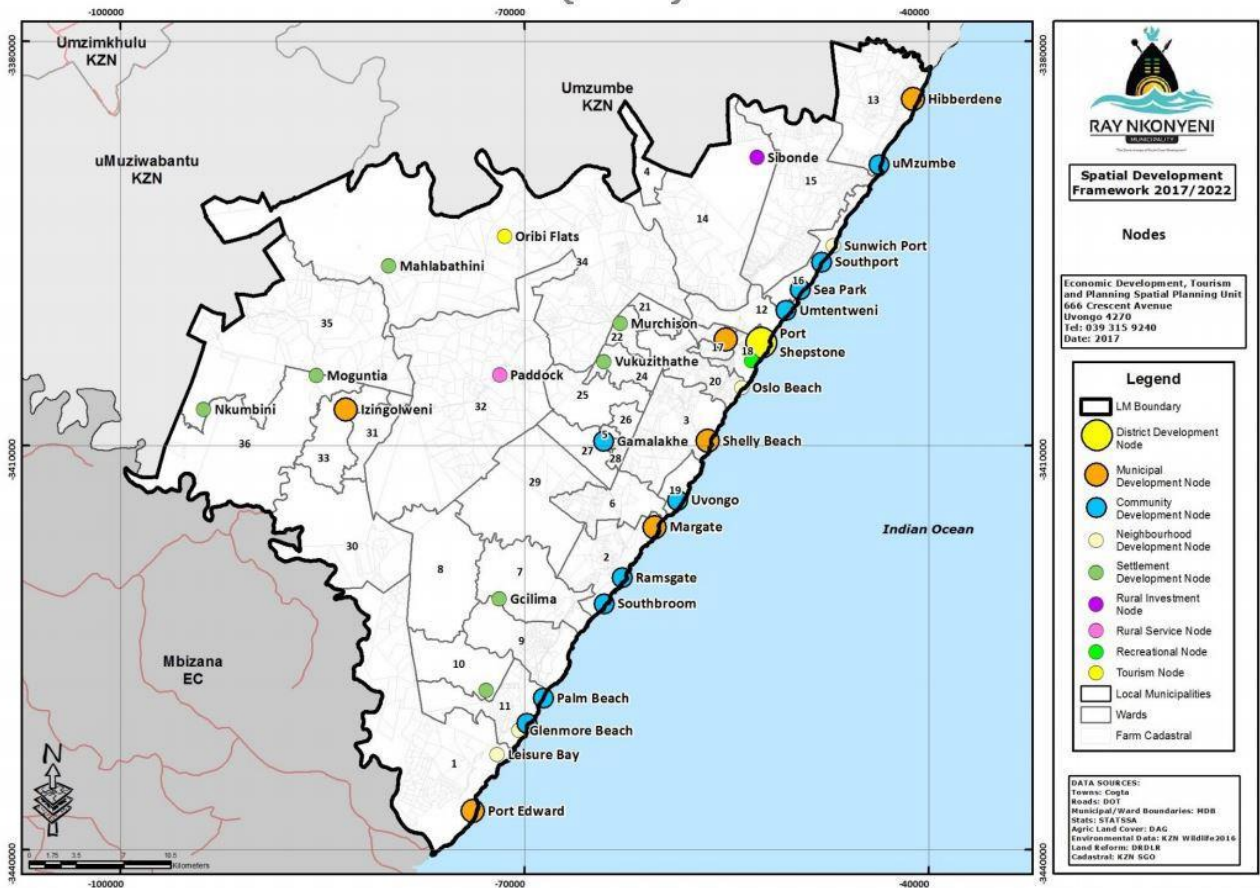
C3.5 Time Based Services

Consulting engineers/Architects will be requested to submit a quotation indicating rate per hour and level of personnel required for any time - based work. Work will only be approved upon the acceptance and approval of the quotation. Time based fees shall be in accordance with ECSA/SACAP guidelines and will be applicable only for **time-based** appointments as per RNM/MBD 3.3

Part C4: Site information

Ray Nkonyeni Municipality is a category B municipality and falls within Ugu District (DC21) found on the southern part of KwaZulu-Natal (KZN). Its administrative seat is in Port Shepstone. The municipality borders the Indian Ocean on its eastern part while the far southern part of the municipality runs from Umtamvuna River which is the boundary between Kwa-Zulu Natal (KZN) and the Eastern Cape. The north-western part is bordered by Umuziwabantu Municipality while Umzumbe municipality borders the northern part and Umdoni Municipality is on its north-eastern boundary. Its boundary extends further to the hinterland which is basically rural and is administered under traditional authority. The coastal belt stretches from Hibberdene to Port Edward and covers approximately 72 km.

The Municipality is divided into 7 Clusters and further sub-divided into 36 Wards. The implementation of Capital Projects is distributed amongst the 36 wards. Many projects will be ward based while a small portion will be Municipal wide. Location of wards is as indicated on the layout below:-



RNM CERTIFICATE OF ATTENDANCE AT CLARIFICATION MEETING

This is to certify that (*Tenderer*)

of (*address*).....

..... was represented by the person(s) named below at the compulsory clarification meeting held for all tenderers at the offices of Department of Technical Services, No1 Protea Road Marburg, on **THURSDAY 8th SEPTEMBER 2022 AT 10H00**

I / We acknowledge that the purpose of the meeting was to acquaint myself / ourselves with the site of the works and / or matters incidental to doing the work specified in the tender documents in order for me / us to take account of everything necessary when compiling our rates and prices included in the tender.

Particulars of person attending the meeting:

Name: Signature:

Capacity:

Attendance of the above person at the meeting is confirmed by the Employer’s representative or Employer's agent, namely:

Name: Signature:

Capacity: Date and Time:

| |
|------------------------|
| Municipal Stamp |
|------------------------|

**ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS
(NOT TO BE RE-TYPED)**

NB!!!! Please attach copies of the following documents.

- **Company registration documents.**
- **Certified copy of ID documents of directors/owners/members/ Shareholders.**
- **Valid TAX Compliance Certificate Or Tax Compliance Status PIN Sheet.**
- **Certified copy of BBEE Certificate / SWORN AFFIDAVIT**
- **Declarations (MBD 1, 2, 3.3, 4, 5.1, 5.2, 6.1, 7.2, 8 and 9).**
- **Joint Venture agreements (where applicable)**
- **Valid Professional Indemnity Insurance**
- **Company Profile**
- **Certified Proof of professional registration**

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- Appointment letters for previous projects and references
- SACPCMP Registration Certificate
- LIC NQF level 7 Competency Certificate
- Rates Clearance Certificate

STANDARD FORMS

THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. THIS BID WILL BE EVALUATED AND ADJUDICATED ACCORDING TO THE FOLLOWING CRITERIA:

1. Relevant specifications
2. Value for money
3. Capability to execute the contract
4. PPPFA & associated regulations

NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE

RAY NKONYENI MUNICIPALITY STANDARD FORM FOR BIDS

| | | | | | |
|---|---|---------------|--|--|-------|
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY) | | | | | |
| BID NUMBER: | 8/2/RNM0361 | CLOSING DATE: | 21 September 2022 | CLOSING TIME: | 12h00 |
| DESCRIPTION | Panel of Architects, Civil/Structural and Electrical Engineering Consultants for design and implementation of capital projects within Ray Nkonyeni Municipality for the period of 3 years | | | | |
| 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) | | | | | |
| 10 Connor Street | | | | | |
| P O Box 5 | | | | | |
| PORT SHEPSTONE | | | | | |
| 4240 | | | | | |
| 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 <input type="checkbox"/> No | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT | <input type="checkbox"/> Yes <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 [IF YES ENCLOSE PROOF] | | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3] | |
| TOTAL NUMBER OF ITEMS OFFERED | | | TOTAL BID PRICE | R | |
| SIGNATURE OF BIDDER | | | DATE | | |
| CAPACITY UNDER WHICH THIS BID IS SIGNED | | | | | |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO: | | | TECHNICAL INFORMATION MAY BE DIRECTED TO: | | |
| DEPARTMENT | Treasury | | CONTACT PERSON | Khulekani Msomi | |
| CONTACT PERSON | Bongani Mfenqa | | TELEPHONE NUMBER | 039 688 2157 | |
| TELEPHONE NUMBER | 039 312 8304 | | FACSIMILE NUMBER | 086 2146328 | |
| FACSIMILE NUMBER | 086 480 5885 | | E-MAIL ADDRESS | Khulekani.msomi@mmm.gov.za | |
| E-MAIL ADDRESS | Bongani.mfenqa@rnm.gov.za | | | | |

PART B TERMS AND CONDITIONS FOR BIDDING

| |
|--|
| 1. BID SUBMISSION: |
| <p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.4. THE BID OFFER MUST BE SIGNED BY A PERSON AUTHORIZED TO SIGN ON BEHALF OF THE BIDDER;</p> <p>1.5. A BIDDER WHO SUBMITTED A BID AS A JOINT VENTURE HAS INCLUDED AN ACCEPTABLE JOINT VENTURE AGREEMENT WITH HIS/HER BID;</p> <p>1.6. ONLY A CONSOLIDATED B-BBEE CERTIFICATE, ISSUED BY A SANAS APPROVED VERIFICATION AGENCY, WILL BE ACCEPTABLE FOR THE CLAIMING OF PREFERENCE POINTS WHERE BIDDERS SUBMITTED THEIR BID AS A JOINT VENTURE / CONSORTIUM;</p> <p>1.7. A BIDDER WHO IS A JOINT VENTURE HAS INCLUDED MBD 4, 8 & 9 FOR EACH ENTITY IN THE JOINT VENTURE / CONSORTIUM WITH HIS/HER BID</p> <p>1.8. THE BIDDER OR A COMPETENT AUTHORISED REPRESENTATIVE OF THE CONTRACTOR WHO SUBMITTED THE BID HAS ATTENDED THE COMPULSORY CLARIFICATION MEETING OR SITE INSPECTION;</p> |
| 2. TAX COMPLIANCE REQUIREMENTS |
| <p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>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.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p> |
| 3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS |
| <p>3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>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.</p> |

**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:

No contract will be awarded to a person who has failed to submit a copy of Tax Compliance Certificate with a PIN from the South African Revenue Service (“SARS”) certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.

I certify that I have the appropriate authority to furnish the above-mentioned information and that the above information is correct at the time of completion.

| | |
|--------------|------------|
| Name: | Signature: |
| Designation: | Date: |

Has a Copy of a Tax Clearance Certificate Been Submitted with a **PIN** YES/NO

Has A Certified copy B-BBEE Status Level Verification Certificate Been, or a **SWORN AFFIDAVIT** been submitted YES/NO

IF YES who was it certified by?

An Accounting Officer As Contemplated In the Close Corporation Act (CCA)

A Verification Agency Accredited by the South African Accreditation system (SANAS)

OR

A Registered Auditor

South African Police Services

PLEASE TICK APPLICABLE BOX

Signature of Bidder : _____

(Of person authorised to sign the bid)

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE OR A SWORN AFFIDAVIT MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

TAX CLEARANCE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South Africa Revenue Services (SARS) to meet the bidder's tax obligation.

- 1 In order to meet the requirements bidders are required to complete in full the attached TCC1 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax clearance Certificate that will be valid for a period of 1 (one) year from date of approval / issue.
- 3 A copy of Tax clearance Certificate with a PIN must be submitted together with the bid. Failure to submit the copy with a tax pin and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance certificate will not be acceptable.
- 4 In the bids where consortia / joint ventures / sub contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC "Application for a "Tax Clearance Certificate" forms are available from any SARS branch office nationally or on the website www.sars.gov/za
- 6 Applications for the Tax Clearance Certificate may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

PRICING SCHEDULE
(Professional Services)

| | |
|----------------------|--------------------|
| Name of Bidder:..... | Bid Number: |
| Closing Time: | Closing Date |

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.

| ITEM NO | DESCRIPTION | BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED) |
|---------|-------------|--|
|---------|-------------|--|

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.
3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE FOR TIME BASED FEES (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)
4. PERSON AND POSITION HOURLY RATE

| | |
|-------|--------|
| | R..... |
| | R..... |
| | R..... |
| | R..... |
| | R..... |
- 5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

| DESCRIPTION OF EXPENSE TO BE INCURRED | UNIT | RATE |
|---------------------------------------|-------|--------|
| | | R..... |
| | | R..... |
| | | R..... |

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

- 5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

| DESCRIPTION OF EXPENSE TO BE INCURRED | UNIT | RATE |
|---------------------------------------|-------|---------|
| | | .R..... |
| | | .R..... |
| | | .R..... |

(Sum of Rates) TOTAL: R.....

- 6. Period required for commencement with project after acceptance of bid
N/A.....
- 7. Estimated man-days for completion of project
N/A.....
- 8. Are the rates quoted firm for the full period of contract? *YES/ NO.
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for,
 for example consumer price index/gazetted rates

***Delete if not applicable**

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
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, shareholder²):.....

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.

.....

¹MSCM 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.

² 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 |
|-----------|-----------------|-----------------------|
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CERTIFICATION

I, _____ THE UNDERSIGNED CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

ACCEPT THAT THE COUNCIL MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

CONTRACT FORM – PAST EXPERIENCE

Bidders must furnish hereunder details of similar works / service, which they have satisfactorily completed in the past. The information shall include a description of the works, the contract value and the name of the employer.

| EMPLOYER | NATURE OF WORK | VALUE OF WORK | DURATION AND COMPLETION DATE | EMPLOYER CONTACT NO |
|-----------------|-----------------------|----------------------|-------------------------------------|----------------------------|
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DATE

SIGNATURE OF BIDDER

CONTRACT FORM – PAST EXPERIENCE WITH RAY NKONYENI MUNICIPALITY

Bidders must furnish hereunder details of similar works / service, which they have satisfactorily completed in the past. The information shall include a description of the works, the contract value and the name of the employer.

| EMPLOYER | NATURE OF WORK | VALUE OF WORK | DURATION AND COMPLETION DATE | EMPLOYER CONTACT NO |
|----------|----------------|---------------|------------------------------|---------------------|
| | | | | |
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DATE _____

SIGNATURE OF BIDDER _____

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

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

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

1. GENERAL CONDITIONS

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

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

1.2

- a) The value of this bid is estimated to exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the **...80/20.....** preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

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

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

| | POINTS |
|--|---------------|
| PRICE | 80 |
| B-BBEE STATUS LEVEL OF CONTRIBUTOR | 20 |
| Total points for Price and B-BBEE must not exceed | 100 |

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) “**B-BBEE status level of contributor**” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) “**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) “**EME**” means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) “**functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) “**prices**” includes all applicable taxes less all unconditional discounts;
- (h) “**proof of B-BBEE status level of contributor**” means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \end{array}$$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{min} = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

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

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

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

| | |
|-----|----|
| YES | NO |
|-----|----|

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....N/A.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

| | |
|-----|----|
| YES | NO |
|-----|----|

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;

- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

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..... 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 Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2017;
 - 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 fulfilment 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 | |
| | . |

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

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

| <i>DESCRIPTION OF SERVICE</i> | PRICE (ALL APPLICABLE TAXES INCLUDED) | COMPLETION DATE | B-BBEE STATUS LEVEL OF CONTRIBUTION | MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable) |
|-------------------------------|---------------------------------------|-----------------|-------------------------------------|--|
| | | | | |

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 Bid 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 | <p>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?</p> <p>(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).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury’s website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p> | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.1.1 | If so, furnish particulars: | | |
| 4.2 | <p>Is the bidder or any of its directors listed on the Register for Bid Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Bid Defaulters can be accessed on the National Treasury’s website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p> | Yes <input type="checkbox"/> | No <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 <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.3.1 | If so, furnish particulars: | | |
| Item | Question | Yes | No |
| 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 <input type="checkbox"/> | No <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 <input type="checkbox"/> | No <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

.....

Position

.....

Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

1. This Municipal Bidding Document (MBD) must form part of all bids¹ 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).² 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:

¹Includes price quotations, advertised competitive bids, limited bids and proposals.

² 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:

_____ (Bid Number and Description)

in response to the invitation for the bid made by:

_____ (Name of Municipality / Municipal Entity)

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 consortium³ will not be construed as collusive bidding.
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

³ 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.