



**MHLATHUZE WATER**

**TENDER DOCUMENT**  
**CONTRACT No: MW/43/2/2022/2023**  
**CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT**  
**ELEPHANT PARK AND BULK GRAVITY AND RETICULATION**  
**PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA**  
**MUNICIPALITY**

**CIDB CONTRACTOR GRADING**

**7CE**

**TENDER DOCUMENT**  
**FEBRUARY 2023**

NAME OF TENDERER	
ADDRESS OF TENDERER	
TELEPHONE	
FAX	
TENDER SUM	

**ISSUED BY:**

**MHLATHUZE WATER**

Cnr South Central Arterial & Battery  
Bank  
Richards Bay  
3900

Tel :  
Fax :



**PREPARED BY:**

**ZIYANDA Consulting**

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HILTON  
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**CLOSING DATE: 24 FEBRUARY 2023; 09h00 a.m**



**MHLATHUZE WATER**

**CONTRACT NO: MW/43/2/2022/2023**

**CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY**

**Pre-qualification criteria set by Mhlathuze Water, have been met**

- **CIDB 7 CE OR HIGHER**

**TENDER SUBMITTED BY:**

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Contact No. \_\_\_\_\_

Email: \_\_\_\_\_

**CLOSING DATE: 24/02/2023 at 09h00 a.m**

**Enquiries:** For technical enquiries contact Mr. S. Mndaweni on Tel: 035 902 1037  
[simndaweni@mhlathuze.co.za](mailto:simndaweni@mhlathuze.co.za) or [tenders@mhlathuze.co.za](mailto:tenders@mhlathuze.co.za)

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## **PART 1**

### **BIDDING PROCEDURES**

#### **T1.1 Bid Notice and Invitation to Bid**

## PART A INVITATION TO BID

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE MHLATHUZE WATER**

BID NUMBER:	CONTRACT NO: MW43/2/2022/2023	CLOSING: 24 February 2023	CLOSING TIME:	09:00 a.m
DESCRIPTION	CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY			
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT				

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

<b>MHLATHUZE WATER</b>				
<b>SECOND SECURITY GATE (TENDER BOX)</b>				
<b>CRN BATTERY BANK AND SOUTH CENTRAL ARTERIAL</b>				
<b>ALTON, RICHARDS BAY, 3900</b>				
<b>SUPPLIER INFORMATION</b>				
<b>NAME OF BIDDER</b>				
<b>POSTAL ADDRESS</b>				
<b>STREET ADDRESS</b>				
<b>TELEPHONE NUMBER</b>	<b>CODE</b>		<b>NUMBER</b>	
<b>CELLPHONE NUMBER</b>				
<b>FACSIMILE NUMBER</b>	<b>CODE</b>		<b>NUMBER</b>	
<b>E-MAIL ADDRESS</b>				
<b>VAT REGISTRATION NUMBER</b>				
		<b>TCS PIN:</b>		<b>OR CSD No:</b>
<b>B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE</b>		<input type="checkbox"/> Yes		<b>B-BBEE STATUS LEVEL SWORN AFFIDAVIT</b>
[TICK APPLICABLE BOX]		<input type="checkbox"/> No		<input type="checkbox"/> Yes
				<input type="checkbox"/> No
<b>IF YES, WHO WAS THE CERTIFICATE ISSUED BY?</b>				
		<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)	

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)	
	<input type="checkbox"/>	A REGISTERED AUDITOR	
		NAME:	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ANSWER PART B:3 BELOW ]
SIGNATURE OF BIDDER	.....	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	

## PART B

### TERMS AND CONDITIONS FOR BIDDING

#### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—(NOT TO BE RE-TYPED) OR ONLINE
- 1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
- 1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.

#### 2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

#### 3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?  
☐ YES ☐ NO
- 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?  
☐ YES ☐ NO
- 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  
☐ YES ☐ NO
- 3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?  
☐ YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID**



## **BID NOTICE AND INVITATION TO TENDER**

Mhlathuze Water (MW) is a water board, established in terms of the Water Services Act, 1997 (Act No. 108 of 1997). Its core operations concern the supply of bulk water and the disposal of bulk wastewater. It is a State-Owned Entity listed in Schedule 3B of the Public Finance Management Act, 1999 (PFMA) (Act No. 1 of 1999).

### **CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY**

#### **Evaluation method:**

**Pre-qualification criteria set by Mhlathuze Water, have been met**

- **CIDB 7 CE OR HIGHER**
- **Technical Evaluation**

#### **80/20 Preference Point Scoring System in terms of PPPFA 2017.**

Submissions must be placed in the Mhlathuze Water tender box situated at the Second Security Gate before **09h00 a.m, on 24/02/2023**. Submission must be in sealed envelopes clearly marked – **CONTRACT No: MW/43/2/2022/2023**

**Project Description: construction of 1 000kl prefabricated reservoir at elephant park and bulk gravity and reticulation pipelines in Mtikini subward at UMHLABUYALINGANA MUNICIPALITY** and addressed to Mhlathuze Water–Supply Chain Management.

**BIDDERS ARE ENCOURAGED TO REGISTER ON NATIONAL TREASURY CENTRAL SUPPLIER DATABASE.**

***Mhlathuze Water is not bound to accept the lowest bid or furnish any reason for the acceptance or part rejection of any bid and reserves the right to accept any bid or part thereof. Mhlathuze Water reserves the right to award in full or partly award this bid.***

## **PART T1**

### **TENDERING PROCEDURES**

#### **T1.2 Tender Data**

## TENDER DATA

The conditions of tender are the Standard Conditions of Tender as contained in of Board Notice 136 of 2015 in Government Gazette No 38960 of 10 July 2015, Construction Industry Development Board (CIDB) Standard for Uniformity in Construction Procurement (see [www.cidb.org.za](http://www.cidb.org.za)).

The Standard Conditions of Tender makes several references to the Tender Data for details that apply specifically to this bid. The Bid 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.

Clause Number	Addition or Variations Standard Conditions of Tender
F.1.1	The Employer is <b>Mhlathuze Water</b>
F.1.2	The bid documents issued by the Employer are detailed on the contents page of this bid document.
	<b>Contract Period: 6 months</b>
F.1.4	<p>The Employer's Representative's details are as follows:</p> <p><b>Name : Sihle Mndaweni</b></p> <p><b>Address :</b> Cnr Battery Bank and South Central Arterial Alton Richards Bay 3900</p> <p style="padding-left: 150px;">P.O. Box 1264 Richards Bay 3900</p> <p><b>Tel. No. :</b> +27 (0) 35 902 1037  <b>Fax No. :</b> +27 (0) 35 902 1111  <b>E-Mail :</b> <a href="mailto:tenders@mhlathuze.co.za">tenders@mhlathuze.co.za</a></p>
F.2.1	<p><b>Eligibility</b></p> <p>a) <b>CIDB 7 CE OR HIGHER</b></p> <p><b>Tax Compliance:</b>  <b>No bid may be awarded to any person whose tax matters have not been declared by the South African Revenue Services (SARS) to be in order. Mhlathuze Water will verify with SARS whether the tax affairs of bidders are in order before making an award.</b></p>
F.2.4	All work produced, including records, documents pertaining to this bid shall remain the property of Mhlathuze Water and no part thereof may be copied, reproduced in any manner without the written consent of Mhlathuze Water.

F.2.8	Accept that <b>failure to request clarification</b> on bid documents, in at least 5 working days prior to the closing time stated in the bid data, it shall be deemed that all matters in the bid documents are clearly understood. Accept that the Employer shall not be obligated to respond to any requests for clarification of bid documents submitted in less than 5 working days prior to the closing date.
F.2.9	The Employer does not provide insurance. The Contractor is responsible for providing full insurance cover for the contract.
F.2.12	<b>Criteria for alternative bid offers</b> No alternative bid offers will be accepted.
F.2.13.3	<b>Two copies</b> of bid offers are required.
F.2.13.5	The <b>Employer's address</b> for delivery of bid offers and identification details to be shown on each bid offer package are as follows:  <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <b>Location of Tender Box</b>   <b>Physical Address</b> </div> <div style="width: 60%;"> : Mhlathuze Second Security Gate Entrance   : Mhlathuze Water  Corner of South Central Arterial &amp; Battery Bank  Alton  RICHARDS BAY   3900 </div> </div>
F.2.13.6	A two-envelope procedure will <b>NOT</b> be followed.  <b>Evaluation Process</b>  <ul style="list-style-type: none"> <li>• <b>CIDB 7 CE OR HIGHER</b></li> </ul> <b>1. Technical Evaluation</b>  All bidders that would have qualified in the three stage of evaluation will be further evaluated for Price and Historically disadvantaged individuals and according to the type of company/business, for this project 80/20 will be applicable.  <i><b>Mhlathuze Water reserves the right to conduct due diligence on bidder(s) before the award.</b></i>
F.2.15.1	The closing time for submission of bid offers is <b>@ 09h00 a.m ,24/02/2023</b>  Telephonic, telegraphic, telex, or facsimile or e-mailed and late bid offers will not be accepted.
F.2.16.1	The bid offer validity period is 90 (ninety) days from the bid closing date.
F.2.16.1	If the bid validity expires on a weekend or public holiday, the bid validity period shall remain open until the closure of business on the next working day.
F.2.23	<b>Joint ventures</b> are eligible to submit tenders provided that:  <ol style="list-style-type: none"> <li>1. A joint venture agreement, signed by both partners in a joint venture is in place.</li> <li>2. Roles, responsibilities and percentage split of joint venture partners must be clearly defined.</li> <li>3. 50% or above of member firms must be a Professional Firm above EME or QSE</li> </ol>

F.3.3	Bids will be opened in public.																				
F.3.4	<p>Submissions must be placed in the Mhlathuze Water tender box situated at the Second Security Gate Entrance before <b>09h00 a.m, 24/02/2023</b></p> <p>Submission must be in an envelope that is clearly marked – <b>CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY</b> , and addressed to Mhlathuze Water–Supply Chain Management.</p>																				
F.3.5	A two-envelope procedure will not be followed.																				
F.3.7	<p><i>Add the following to the end of <b>Clause F.3.7</b>:</i></p> <p>Accept that failure to submit certificates stated in the Bid Data and failure to complete <b>in full the bid document shall result in bid being regarded as non-responsive.</b></p>																				
F.3.11	The responsibility rests with the prospective bidders to provide all the information required by Mhlathuze Water to claim preferential points. Failure to submit the information shall result in preferential points not being awarded.																				
F.3.11.3	Method 2: Financial offer and Preference (Financial offer will be a default 30% discount on Tariff)																				
F.3.11.7	Formula 2 option 2 to calculate the value of A. $W_1 = 80$																				
F.3.11.8	<p>B-BBEE points will be allocated as Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations, 2017. (<i>choose 80/20</i>)</p> <p><b>80/20</b> preference point system for acquisition of goods or services with a Rand value of up to <b>R50 million</b>, inclusive of all applicable taxes:</p> <table border="1"> <thead> <tr> <th>B-BBEE Status Level of Contributor</th><th>Number of Points</th></tr> </thead> <tbody> <tr><td>1</td><td>20</td></tr> <tr><td>2</td><td>18</td></tr> <tr><td>3</td><td>14</td></tr> <tr><td>4</td><td>12</td></tr> <tr><td>5</td><td>8</td></tr> <tr><td>6</td><td>6</td></tr> <tr><td>7</td><td>4</td></tr> <tr><td>8</td><td>2</td></tr> <tr><td>Non-compliant contributor</td><td>0</td></tr> </tbody> </table> <p>Allocation of B-BBEE points for trusts, consortium or joint ventures and sub- contracting refer to Preferential Procurement Regulation, 2017, Conditions section 11 (6) to (13).</p>	B-BBEE Status Level of Contributor	Number of Points	1	20	2	18	3	14	4	12	5	8	6	6	7	4	8	2	Non-compliant contributor	0
B-BBEE Status Level of Contributor	Number of Points																				
1	20																				
2	18																				
3	14																				
4	12																				
5	8																				
6	6																				
7	4																				
8	2																				
Non-compliant contributor	0																				

.3.17	<p>Add the following to the clause:</p> <p>Accept that bid offers will only be accepted if:</p> <ul style="list-style-type: none"><li>(a) the tenderer has submitted an original valid Tax Clearance Certificate issued by the South African Revenue Services.</li><li>(b) the tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;</li><li>(c) the tenderer has not:<ul style="list-style-type: none"><li>(i) abused the Employer's Supply Chain Management System; or</li><li>(ii) failed to perform on any previous contract with the Employer and has been given a written notice to this effect.</li></ul></li></ul> <p>The successful tenderer shall receive <b>one</b> copy of the signed contract.</p>
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## **PART T1**

### **TENDERING PROCEDURES**

#### **T1.4 Standard Conditions of Tender**

## STANDARD CONDITIONS OF TENDER

### F.1 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.

Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result. 2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**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 fulfill his or her duties impartially;
  - (ii) an individual or organization is in a position to 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 tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis.
- (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; and CIDB Standard Conditions of Tender 30 January 2009.



- (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) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs.

#### **F.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

#### **F.1.5 The employer's right to accept or reject any tender offer**

- F.1.5.1** The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection but will give written reasons for such action upon written request to do so.
- F.1.5.2** The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

#### **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**

- F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.
- F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.
- F.1.6.2.3** At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

- F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.
- F.1.6.3 Proposal procedure using the two stage-system**
- F.1.6.3.1 Option 1**
- Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of CIDB evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.
- F.1.6.3.2 Option 2**
- F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.
- F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data and award the contract in terms of these conditions of tender.
- 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 the 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**
- 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.2.3 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, where required, a clarification meeting 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 seven 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**

**F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

**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. Erasures and the use of masking fluid are prohibited.

**F.2.12 Alternative tender offers**

**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

**F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

**F.2.13 Submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, 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, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

- 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, and the parts communicated electronically in the same format as they were issued by the employer.
- 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. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.
- 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** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope 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.2.13.7** 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's agent 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.

**Note:** Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.

**F.2.18 Provide other material**

**F.2.18.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the employer, where required.

**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, policies, etc.**

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**

If so, instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

**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 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 as a whole, 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** Unless the two-envelope system is to be followed, 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, preferences claimed 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**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate the quality of the technical proposals offered by tenderers, then advice tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.

**F.3.6 Non-disclosure**

Not disclose to tenderers, or to 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 Arithmetic errors, omissions and discrepancies**

**F.3.9.1** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- (a) the gross misplacement of the decimal point in any unit rate;
- (b) omissions made in completing the pricing schedule or bills of quantities; or
- (c) arithmetic errors in:
  - (i) line item totals resulting from the product of a unit rate and quantity in bills of quantities or schedules of prices;
  - (ii) the summation of the prices.

**F.3.9.2** The employer must correct the arithmetical errors in the following manner:

- (a) where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
- (b) if bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- (c) where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

### **F.3.10 Clarification of a tender offer**

Obtain clarification from a tender 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: Financial offer**

In the case of a financial offer:

- (a) Rank tender offers from the most favorable to the least favorable comparative offer.
- (b) Recommend the highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.

- (c) Re-rank all tenderers should there be compelling and justifiable reasons not to recommend the highest ranked tenderer and recommend the highest ranked tenderer, unless there are compelling and justifiable reasons not to do so and the process set out in this sub clause is repeated.

#### **F.3.11.3 Methods 2: Financial offer and preference**

In the case of a financial offer and preferences:

- (a) Score each tender in respect of the financial offer made and preferences claimed, if any, in accordance with the provisions of F.3.11.7 and F.3.11.8.
- (b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula:

$$TEV = NFO + NP$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

*NP* is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.

- (c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- (d) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- (e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points, and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub clause is repeated.

#### **F.3.11.4 Method 3: Financial offer and quality**

In the case of a financial offer and quality:

- (a) Score each tender in respect of the financial offer made and the quality offered in accordance with the provisions of F.3.11.7 and F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.
- (b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula:

$$TEV = NFO + NQ$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

*NQ* is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

- (c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- (d) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- (e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub clause is repeated.



#### F.3.11.6 Decimal places

Score financial offers, preferences and quality, as relevant, to two decimal places.

#### F.3.11.7 Scoring Financial Offers

Score the financial offers of remaining responsive tender offers using the following formula:

$$NFO = W1 \times A$$

where: NFO is the number of tender evaluation points awarded for the financial offer.  
W1 is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the Tender Data.

A is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1 <sup>3</sup>	Option 2 <sup>3</sup>
1	Highest price or discount	$A = \left( 1 + \frac{(P \cdot Pm)}{Pm} \right)$	$A = P \div Pm$
2	Lowest price or percentage commission/fee	$A = \left( 1 \cdot \frac{(P \cdot Pm)}{Pm} \right)$	$A = Pm \div P$
3	<p><math>Pm</math> is the comparative offer of the most favourable comparative offer.</p> <p><math>P</math> is the comparative offer of the tender offer under consideration.</p>		

#### 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 quality

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 using the following formula:

$$NQ = W2 \times SO / MS$$

where: SO is the score for quality allocated to the submission under consideration;

MS is the maximum possible score for quality in respect of a submission; and

W2 is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

### **F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

### **F.3.13 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any unacceptable commercial 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,
- (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) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- (e) complies with the legal requirements, if any, stated in the tender data, and
- (f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

### **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.

- **END OF SECTION**

## **PART T2**

### **RETURNABLE DOCUMENTS**

#### **List of Returnable Documents**

**T2.1.1: PROOF OF COMPANY REGISTRATION**

[Insert here]

### **T2.1.3: A CERTIFIED COPY OF PARTNERSHIP AGREEMENT (IF THE BID IS A PARTNERSHIP OR JV)**

[Insert here]

**T2.1.4: PROOF OF REGISTRATION WITH NATIONAL TREASURY  
CENTRAL SUPPLIER DATABASE (CSD)**

[Insert here]

## **T2.1.5: PROOF OF REGISTRATION WITH SARS, (VALID PIN FROM SARS CONFIRMING COMPLIANCE STATUS)**

[Insert here]



## **T2.1.6: PROOF CERTIFIED AND VALID COPY OF BBBEE CERTIFICATE OR A SWORN AFFIDAVIT**

[Attach here]

## **T2.1.7: CERTIFIED COPIES OF IDENTITY DOCUMENTS OF SHAREHOLDERS / MEMBERS / DIRECTORS OF THE BUSINESS**

[Attach here]

## T2.1 LIST OF RETURNABLE DOCUMENTS

Bidders are required to submit the following with their bids:

### **STAGE ONE: TEST FOR ADMINISTRATIVE RESPONSIVENESS**

The test for administrative responsiveness will include the following:

STAGE ONE: Test for Administrative Responsiveness	RFP Reference
<ul style="list-style-type: none"> <li>Whether the Bid has been lodged on time</li> </ul>	
<ul style="list-style-type: none"> <li>Whether all Returnable Documents and/or schedules (where applicable) were completed and returned by the closing date and time</li> </ul>	
<ul style="list-style-type: none"> <li>Verify the validity of all returnable documents</li> </ul>	

In addition, the tender documents require, the following documentation:

No.	Description	Submitted YES / NO
T2.1.1	Proof of Company Registration	
T2.1.3	In the case of a Joint Venture/Consortium submitting a tender, submit a JV agreement as well as a resolution of the Joint Venture together with a resolution by its member authorizing a member of the Joint Venture to sign the documents on behalf of the Joint Venture.	
T2.1.4	Proof of Registration with National Treasury Central Supplier Database (CSD)	
T2.1.5	Proof of Registration with SARS (Valid PIN from SARS confirming compliance status) / Tax Clearance Certificate	
T2.1.6	Certified and valid copy of BBBEE Certificate or a Sworn affidavit.	

*The test for administrative responsiveness [Stage One] must be passed for a Respondent's Proposal to progress to Stage Two for further pre-qualification*

### **STAGE TWO: TEST FOR SUBSTANTIVE RESPONSIVENESS TO RFP**

The test for substantive responsiveness to this RFP will include the following:

Pre-Qualification Criteria	RFP Reference
<ul style="list-style-type: none"> <li>Whether any pre-qualification criteria set by Mhlathuze Water, have been met</li> <li><b>CIDB 6 CE OR HIGHER</b></li> <li><b>30 % Subcontracting</b> to EME's and QSE's within uMkhanyakude District Municipality</li> </ul>	
<ul style="list-style-type: none"> <li>Whether the Bid materially complies with the scope and/or specification given</li> </ul>	

*The test for administrative responsiveness [Stage Two] must be passed for a Respondent's Proposal to progress to Stage Three for further pre-qualification*

Functionality Criteria	SUB CRITERIA	Max No. of points
Experience in the industry (based on schedule of work experience)	<b>Tenderer's experience in similar projects in last 10 years.</b> <ul style="list-style-type: none"> <li>i. One (1) project completed (7)</li> <li>ii. Two (2) projects completed (10)</li> <li>iii. Three (3) projects completed (12)</li> <li>iv. Four (4) projects completed (16)</li> <li>v. Five (5) projects and above (20)</li> </ul> <b>Signed completion certificates or a positive written reference from the client for every project or full completed</b>	20
Qualifications and Key Personnel	<b>Site Agent/Contracts Manager</b> with Engineering/Project Management/ or General Building/ Construction degree or Diploma with relevant experience in Project Management <ul style="list-style-type: none"> <li>i. 1 – 2 years relevant experience (3)</li> <li>ii. Greater than 2 up to 5 years (7)</li> <li>iii. Greater than 5 Years relevant experience (10)</li> </ul> <b>CV or Organogram with certified copies of qualifications must be submitted for points to be awarded</b>	10
Locality	<b>1. Geographic location of tenderer</b> Location of Business (Please provide proof of physical address) <ul style="list-style-type: none"> <li>▪ UMkhanyakude District Municipality 30</li> <li>▪ King Cetshwayo and Zululand District Municipality 15</li> <li>▪ Within KwaZulu-Natal. 5</li> </ul> <b>(Utility bill, lease agreement, letter from a councillor or traditional authority IN THE NAME OF THE BUSINESS/ COMPANY)</b>	30
	<b>Total Points</b>	60
F.3.17	The successful tenderer shall receive <b>one</b> copy of the signed contract	

The Tenderer needs to score a minimum of 70% to be considered responsive

## T2.2-1: Authority to submit a Tender

### Essential Returnable

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

A – COMPANY	B – PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR

### A. Certificate for Company

I, \_\_\_\_\_ chairperson of the board of directors of \_\_\_\_\_ hereby confirm that by resolution of the board taken on \_\_\_\_\_ (date), Mr/Ms \_\_\_\_\_, acting in the capacity of \_\_\_\_\_, was authorised to sign all documents in connection with this tender offer and any contract resulting from it on behalf of the company.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_ Chairman of the Board of Directors

### B. Certificate for Partnership

We, the undersigned, being the **key partners** in the business trading as \_\_\_\_\_ hereby authorise Mr/Ms, \_\_\_\_\_ acting in the capacity of \_\_\_\_\_, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

Name	Address	Signature	Date

NOTE: This certificate is to be completed and signed by the full number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

## C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms \_\_\_\_\_, an authorised signatory of the company \_\_\_\_\_ acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract: \_\_\_\_\_ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

Name of firm	Address	Authorising signature, name (in caps) and capacity

## D. Certificate for Sole Proprietor

I, \_\_\_\_\_ hereby confirm that I am the sole owner of the business trading as \_\_\_\_\_

Signed	_____	Date	_____
Name	_____	Position	Sole Proprietor

## T2.2-2: Certificate of Attendance at Tender Clarification Meeting

**Compulsory Returnable**

This is to certify that

(Tenderer)

of

(address)

was represented by the person(s) named below at the **compulsory** tender clarification meeting

Held at:	uMhlabuyalingana Local Municipality Offices: R22, Main Road, Manguzi 3973	
On (date)	<b>17 February 2023</b>	Starting time: <b>11h00</b>

As the tenderer we undertake that by said persons attending the clarification meeting we have made it our business to familiarise ourselves with all aspects of the works / service / supply specified in the tender documents in order for us to take account of everything necessary to provide a responsive tender offer and to compile our rates and prices included in the tender offer.

We further understand that in addition to any queries raised on behalf of us at the meeting we may still approach the *Employer / Purchaser's* Representative to request clarification of the tender documents until no later than five working days before the tender closing time stated in the Tender Data.

### Particulars of person(s) attending the meeting: Mhlathuze Water Representative

Name

Signature

Capacity

Name

Signature

Capacity

## T2.2-3: B-BBEE Preference Points Claim Form

Essential Returnable

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

Points for this bid shall be awarded for:

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

1.2 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

1.3 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.

1.4 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:

**80/20**

**or**

**90/10**

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

Where

$P_s$  = Points scored for 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.....%
- 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		
<b>OR</b>		
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

forward the matter for criminal prosecution

WITNESSES

1. ....

2. ....

.....

SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

.....

**T2.2-3: Certificate of Acquaintance with  
Tender Documents**

**Essential Returnable**

NAME OF ENTITY:

---

1. I/we

---

do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising this Tender and all conditions contained therein, as laid down by Mhlathuze Water for the carrying out of the proposed supply/service/works for which I/we submitted my/our Proposal.

2. I/we furthermore agree that Mhlathuze Water shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any RFP/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Bid will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Bid, I/we understand that the word "competitor" shall include any individual or organisation, 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 Services as the Bidder and/or is in the same line of business as the Bidder
5. The Bidder has arrived at the accompanying Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.
6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where Services 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 RFP; or
  - f) bidding with the intention of not winning the Bid.
7. 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 Services to which this RFP relates.

8. 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.
9. I/We am/are 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 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

T2.2-4: Record of Addenda to Tender Documents

Essential Returnable

We confirm that the following communications received from the *Employer* before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1		
2		
3		
4		
5		
6		
7		

Attach additional pages if more space is required.

Signed

Date

Name

Position

Tenderer

**Essential Returnable**

**T2.2-5: Mutual Non-Disclosure Agreement**

**Note to tenderers: This Non-Disclosure Agreement is to be completed and signed by an authorised signatory:**

**THIS AGREEMENT** is made effective as of \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between:

**Mhlathuze Water** a company incorporated and existing under the laws of South Africa, having its principal place of business at Cnr South Central Arterial & Battery Bank, Alton Richards Bay 3900

and \_\_\_\_\_

(Registration No. \_\_\_\_\_), a private company incorporated and existing under the laws of South Africa having its principal place of business at \_\_\_\_\_

**1. Purpose**

The parties to this Agreement have a business relationship under which each party may disclose its Confidential Information to the other for the purpose of planning, developing and/or constructing services associated with appointment for:

**APPOINTMENT FOR CONSTRUCTION OF 1000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY**

("the Purpose"). Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the Infrastructure legislation , whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

**2. Definition**

**"Confidential Information"** means any information, technical data, or know-how, including, but not limited to that which relates to research, product plans, products, services, customers, markets, software, developments, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or finances.

**3. Exclusions**

Confidential Information does not include information, technical data or know-how which:

- a. is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure;
- b. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving party;
- c. is developed by the receiving party through its independent resources without reference to the disclosing party's Confidential Information;
- d. is disclosed to the receiving party by a third party without restriction and, to the knowledge of the receiving party, without violation of any obligation of confidentiality; or
- e. is approved for release by the disclosing party in writing.



#### **4. Non-Disclosure of Confidential Information**

- a. The parties to this Agreement agree not to use the Confidential Information disclosed to it by the other party for its own use or for any purpose except to carry out the Purpose as contained in this Agreement. Neither party will disclose any Confidential Information of the other party to third parties except those directors, officers, employees, consultants and agents who are required to have the information in order to carry out the discussions of the contemplated Purpose. Each party will notify those directors, officers, employees, consultants and agents to whom Confidential Information of the other party is disclosed or who have access to Confidential Information of the other party that they are bound by the obligations of this Non-Disclosure Agreement.
- b. Each party agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorised hereunder to have any such information, which measures shall include the highest degree of care that either party utilises to protect its own Confidential Information of a similar nature. Each party agrees to notify the other party in writing of any misuse or misappropriation of such Confidential Information of the other party which may come to its attention.

#### **5. Promotion of Access to Information Act, No.2 of 2000**

- a. All information relating to the disclosing party and which the disclosing party has indicated to the receiving party in writing to be confidential information, shall be deemed to be confidential information.
- b. No provision of this Agreement shall be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the confidential information in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of the provisions of the Promotion of Access to Information Act, No.2 of 2000, as may be amended from time to time ("the Act").
- c. Subject to the provisions below, the disclosure of confidential information by the receiving party otherwise than in accordance with the provisions of this Agreement will entitle the disclosing party to institute action for breach of confidence against the receiving party, as envisaged by Section 65 of Act No.2 of 2000.
- d. The receiving party acknowledges that the above provisions shall not be construed in such a manner as to exclude the applicability of any other grounds of refusal contained in Act No.2 of 2000 which may be applicable in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000.

#### **6. Non-Solicitation**

During the two-year period following the execution of this Agreement, neither party will solicit for employment, on its own behalf or that of any other person, any officer, director or employee of the other party at the level of director, vice-president or higher with whom the soliciting party became acquainted during the course of the discussions contemplated by this Agreement; provided, that the foregoing shall not be deemed to prohibit either party or a subsidiary of such party from making a general, public solicitation of employment in the ordinary course of such party or subsidiary's business, provided that such solicitation is not directed specifically to employees of the other party.

#### **7. Mandatory Disclosure**

In the event that either party or their respective directors, officers, employees, consultants or agents are requested or required by legal process to disclose any of the Confidential Information of the other party, the party required to make such disclosure shall give prompt notice so that the other party may seek a protective order or other appropriate relief. In the event that such protective order is not obtained, the party required to make such disclosure shall disclose only that portion of the Confidential Information, which its counsel advises that it is legally required to disclose.

#### **8. Variation, Addition or Cancellation**

No variation of, addition to, cancellation or novation of this Agreement in its entirety or of any term or condition thereof shall be of any force or effect unless such amendment or cancellation is reduced to writing and signed by both parties.

#### **9. No License Granted**

Nothing in this Agreement is intended to grant any rights to either party under any patent, copyright, trade secret or other intellectual property right nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of the contemplated business relationship between the parties.

#### **10. No Representations**

No party makes any representation or warranty as to the accurateness or completeness of any Confidential Information provided hereunder. Neither party shall have any liability to the other arising from, or related to, the other party's use of Confidential Information provided hereunder.

#### **11. Term**

The foregoing commitments of either party in this Agreement shall survive any termination of the business relationship under the contemplated Purpose between the parties, and shall continue relative to any Confidential Information disclosed hereunder for a period of 10 (ten) years following the disclosure of such Confidential Information.

#### **12. Miscellaneous**

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of either party may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.

#### **13. Governing Law and Jurisdiction**

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Republic of South Africa, and shall be binding upon the parties hereto in South Africa and worldwide.

#### **14. Disputes**

Any dispute or difference arising out of or relating to this Non-disclosure Agreement shall be referred to arbitration and settled by arbitration according to the rules then in effect of the Arbitration Foundation of Southern Africa. Such arbitration shall be held in Johannesburg, and conducted in the English language before 1 (one) arbitrator appointed in accordance with the said rules. The arbitrator shall apply the law chosen by the parties elsewhere in this Agreement to the merits of the dispute. This Agreement to arbitrate shall be enforceable in, and judgment upon any award may be entered in any court of any country having appropriate jurisdiction.

#### **15. Remedies**

Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages may be

inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein.

Accordingly, each party agrees and acknowledges that any such violation or threatened violation may cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

T2.2-4: Tender Clarification Request Form

Essential Returnable

Tender No: MW/43/2/2022/2023

RFP deadline for questions / RFP Clarifications: 12h00 on Monday, 20 February 2023

TO: Mhlathuze Water  
ATTENTION: Administrator  
EMAIL [tenders@mhlathuze.co.za](mailto:tenders@mhlathuze.co.za)

DATE: \_\_\_\_\_  
  
FROM: \_\_\_\_\_  
  
\_\_\_\_\_

REQUEST FOR RFP CLARIFICATION

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

T2.2-5: Credit Check

Essential Returnable

I consent to you making enquiries about my credit record with credit reference agencies when assessing this tender or quotation or updating my information in future.

Yes		No	
-----	--	----	--

Mhlathuze Water shall ensure that all necessary precautions are taken to ensure that all Information received or collected is:

- i. Properly and accurately recorded, maintained, collated, synthesised and/or processed;
- ii. Protected against loss;
- iii. Protected against unauthorised access, use, modification or disclosure;

Signed		Date	
Name		Position	
Tenderer			

**TENDERER to complete A, B & E before sending to referee:**

F : Ratings on aspects below on the performance of the tenderer (A above) on the contract / project (E above)	UNACCEPT- ABLE	ACCEPTABLE
Tenderer completed the work successfully and timeously		

DATE : \_\_\_\_\_

## **Section – Generic Scope of Works**

### **1. BACKGROUND**

Mhlathuze Water is a Water Board established under Chapter 6 of the Water Service Act and classified as a Schedule B3 Government Business Enterprise in terms of the Public Finance Management Act.

On 3 February 2022, the Minister of Water and Sanitation issued a Section 41 directive (of the Water Services Act) to Mhlathuze Water to initiate programmes to support of Umkhanyakude District in executing their water services authority function.

Mhlathuze Water invites bidders to submit bids for the **CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY**

### **2. OBJECTIVE**

The objective is to appoint as suitable experienced company for the implementation or construction of **CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY** within the Umkhanyakude District Municipality. The tender will comprise of CIDB registered companies operating within the district or within the Province of KwaZulu-Natal.

### **3. CONTRACT DURATION**

The contract is for the period of 6 months subject to a performance agreement to be entered into between the service provider and the employer.

The Panel shall be reviewed on an annual basis to allow for new entrance and changes to CIDB.

### **4. EXTENT OF THE WORKS**

The bidder must demonstrate practical knowledge and experience of Water Infrastructure Construction Works in line with the key areas as defined below:

#### **4.1 CIVIL ENGINEERING WORKS**

Particularly related to the construction, upgrades and additions of the following types of works but not limited to below list:

#### **CONSTRUCTION OF 1000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY**

- Construction of 1 000kl prefabricated tank (SBS or equivalent) at Elephant Park i
- Construction of bulk gravity and reticulation pipelines in Mtikini SubWard;
- Supply and erection of fencing;
- ancillaries

#### **4.2 ELECTRICAL ENGINEERING WORKS (EP/EB)**

Particularly related to the construction, upgrades and additions of the works mentioned above under sections 4.1 which is applicable to the **electrical engineering works**

The scope of work entails the following, including but not limited to:

- Equipping of the boreholes with pumps, panels, electrical cables and fittings, including connection to Eskom power supply

## **5. LOCATION OF THE WORKS**

The project site is situated within the uMkhanyakude District Municipality, KZN and located within Ward 3 of uMhlabuyalingana Local Municipality.

The areas covered are Part of Mtikini existing water schemes.

- THE END -



## T2.2 RETURNABLE SCHEDULES (TOGETHER WITH LIST OF RETURNABLE DOCUMENTS)

No.	Description	Page No.
T2.2.1	Compulsory Enterprise Questionnaire	
T2.2.2	Authority of Signatory	
T2.2.3	Compulsory clarification/site briefing certificate	
T2.2.4	Schedule of Work Experience	
T2.2.5	Tenderer Bank Details	
T2.2.6	Addenda/Notice(s) issued to Tenderers (IF ANY)	
T2.2.7	Alterations/Amendments by Tenderer (IF ANY)	
T2.2.8	Declaration with regards to Sub-consulting	
T2.2.9	Bidder's Disclosure	
T2.2.10	Preferential Points Claim Form	
T2.2.11	Certificate of Independent Bid Determination	
T2.2.12	Schedule of Tenderer's Reference Checks	

## T2.2.1: COMPULSORY ENTERPRISE QUESTIONNAIRE

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of Enterprise**

**Section 2: VAT registration number, if any**

**Section 3: CIDB registration number, if any**

**Section 4: CSD number**

**Section 5: Particulars of sole proprietors and partners in a partnership**

Name	Identity Number	Personal Income Tax Number*

\* Complete only if sole proprietor or partnership and attached separate page if more than 3 partners

**Section 6: Particulars of companies and close corporations**

Company registration number: \_\_\_\_\_

Close corporation number: \_\_\_\_\_

Tax reference number: \_\_\_\_\_

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the employer to verify the tenderers tax clearance status from the South African Revenue Services that it is in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

**Signed on behalf of Bidder:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_ **Position:** \_\_\_\_\_

**Enterprise Name:** \_\_\_\_\_

## T2.2.2: AUTHORITY OF SIGNATORY

Tenderers shall submit with their tenders the following information:

- 1 The full First Names and Surnames of their partners and/or directors:

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

- 2 The names and addresses of the local agents, firms, or representatives who are involved in any manner whatsoever in the Tender

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

- 3 In the case of a tender being submitted on behalf of a Company, Close Corporation or Partnership; assurance shall be given at the time of submission of the tender that the tender has been signed by someone properly authorised thereto by resolution of the Directors, Members or Partners. Signatories for companies shall confirm their authority by attaching to this form a copy of the relevant resolution of the board of directors, duly signed and dated.

By resolution of the board of directors taken on (*Date*) .....

Mr/Ms (*Print Name*) .....

has been duly authorized to sign all documents in connection with this tender / contract on

behalf of : .....

(*Print Company Name*) .....

.....  
.....

Signed on behalf of Company: .....

In his/her capacity as: .....

Date: .....

**SIGNED ON BEHALF OF BIDDER:** .....

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

## T2.2.4: SCHEDULE OF WORK EXPERIENCE

Company (Client) Name and Contact Details	Experience of the Company in the ( <i>specify the experience</i> ) in the past 10 years.	Contract Value	Contract Duration Start and End Dates

## **T2.2.4a: SCHEDULE OF KEY PERSONNEL**

**The Tenderer is to provide details of his Key Personnel:**

Role	Name	Qualifications & Experience
Contracts Manager		
Site Agent		
Civils Foreman		

## **T2 2.4b CONTRACTS MANAGER**

*Tenderer to attach CV and certified copies of Contracts Manager. Failure to supply details may prejudice score for functionality.*



## **T2.2 4c PROPOSED PROGRAMME OF WORKS**

***Tenderer is to attach a programme of works indicating how the work will be completed within the tendered time (6 months proposed by the Employer). The programme must be in the form of a Gantt Chart, preferably from MS Project and should have sufficient activities to indicate that the tenderer appreciates the level of work involved.***

## T2.2 4d SCHEDULE OF PLANT AND EQUIPMENT

The following are lists of major Construction Plant and Equipment that I / We presently own or Lease and will have available for this contract if my / our tender is accepted.

(a) **Details of major equipment that is owned by me / us and immediately available for this contract.**

DESCRIPTION ( <i>type, size, capacity etc</i> )	QUANTITY	YEAR OF MANUFACTURE

***Attach additional pages if more space is required***

(b) **Details of major Plant & Equipment that will be hired, or acquired for this contract if my / our tender is accepted**

DESCRIPTION ( <i>type, size, capacity etc</i> )	QUANTITY	HOW ACQUIRED	
		HIRE/ BUY	SOURCE

***Attach additional pages if more space is required***

The Tenderer undertakes to bring onto site without additional cost to the Employer any additional plant not listed but which may be necessary to complete the contract within the specified contract period.

*Failure to complete this form properly and correctly, will lead to the conclusion that the tenderer does not have the necessary plant and equipment resources at his disposal, which may prejudice his tender.*

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....



SIGNATURE: .....  
*(of person authorised to sign on behalf of the Tenderer)*

DATE: .....

### **T2.2.5: TENDERER'S BANK DETAILS**

The Bidder shall append hereto his/her banking details accompanied by a BANK CANCELLED CHEQUE or a SIGNED LETTER FROM THE BANK ON THE BANK'S LETTERHEAD.

The letter should also reflect bank rating.

## **T2.2.6: ADDENDA / NOTICE(S) ISSUED TO TENDERERS**

I/We confirm that the following communication / Information / Notice(s), issued to Bidders, was received from the Employer before the submission of this bid offer and has been taken into consideration in this bid:

(NB: Addendum/Addenda shall only be made available to Bidders who attended the Site Clarification Meeting.)

<b>Addendum / Notice Reference Number</b>	<b>Date of Issue</b>	<b>Subject Matter of Addendum / Notice</b>

**NB:** Evidence of such addenda must be attached to this Schedule.

Specify number of sheets appended to this schedule \_\_\_\_\_ (if none, enter NONE)

**SIGNATURE:** \_\_\_\_\_  
(On behalf of the Bidder)

**DATE:** \_\_\_\_\_

## **T2.2.7: ALTERATIONS / AMENDMENTS BY TENDERER**

The Bidder shall record and attach to this page any deviation or alteration he/she may wish to make to the bid document. The Bidder shall pay attention to Clause F.3.8 of the CIDB Standard Conditions of Tender with regards to how the deviations shall be dealt with by the Employer.

<b>Page No.</b>	<b>Clause</b>	<b>Description of Alteration/Amendment</b>

Specify the number of sheets appended to this schedule \_\_\_\_\_ (if none, enter NONE)

**SIGNATURE:** \_\_\_\_\_  
(On behalf of the Bidder)

**DATE:** \_\_\_\_\_

## **T2.2.8: DECLARATION WITH REGARDS TO SUBCONTRACTING**



## **T2.2.9: BIDDER'S DISCLOSURE**

### **1. PURPOSE OF THE FORM**

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

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

### **2. BIDDER'S DECLARATION**

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise,

employed by the state?

**YES/NO**

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

<b>Full Name</b>	<b>Identity Number</b>	<b>Name of State institution</b>

---

<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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

2.2.1 If so, furnish particulars:

.....  
.....

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

2.3.1 If so, furnish particulars:

.....  
.....

### 3. DECLARATION

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

3.1 I have read and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;

3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.

3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

---

<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
**SIGNATURE**

.....  
**DATE**

.....  
**POSITION**

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

## **PART C1**

### **AGREEMENTS AND CONTRACT DATA**

#### **C1.1 Form of Offer and Acceptance**

## **T2.2.13: DECLARATION OF PAYMENT OF MUNICIPAL SERVICES**

### **DECLARATION TO CERTIFY THAT:**

**THE TENDERER HAS NO UNDISPUTED COMMITMENTS FOR MUNICIPAL SERVICES TOWARDS A MUNICIPALITY OF WHICH PAYMENT IS OVERDUE FOR MORE THAN 30 DAYS** *[Proof of Payment to be attached to this page]*

### **DECLARATION**

The undersigned, who warrants that he/she is duly authorized to do so on behalf of the firm, confirms that there are no undisputed commitments for municipal services towards a municipality of which payment is overdue for more than 30 days to my personal knowledge, and save where stated otherwise to the best of my belief both true and correct.

Signature: .....

Duly authorized to sign on behalf of : .....

Address: .....

.....

.....

Telephone: .....Date:

.....

#### **T2.2.14: CONTRACTOR'S UNDERTAKING REGARDING HEALTH AND SAFETY**

In terms of Section 16.1 of the Occupational Health and Safety Act No 85 of 1993 as amended in Construction Regulations Gazette No 37305 of 7 February 2014, the Tenderer is required to appoint competent site staff for the duration of the project. This includes the Occupational Health & Safety Officer. For tender purposes, Tenderers are requested to declare their intention to provide an accredited OHS Officer for the duration of the contract.

#### **TENDERER'S UNDERTAKING**

The Tenderer therefore hereby makes the following undertaking:

I ..... (*full name & surname*) representing  
..... (*name of TENDERER*) in my capacity  
as ..... hereby undertake to appoint  
..... (*full name & surname*) and ID No.  
..... as the Occupational Health and Safety Officer upon  
award of this contract. Proof of their qualification, ID document and registration with the South  
African Council for the Project and Construction Management Profession (SACPCMP) is attached  
hereto.

SIGNATURE .....

(*On behalf of TENDERER- CEO or Similar*)

DATE .....

#### **SIGNATURE OF PERSON AUTHORISED TO SIGN TENDER:-**

SIGNATURE .....

(*On behalf of TENDERER*)

***I/we understand that failure to comply with this requirement will render our/my tender non response.***

### **T2.2.15 OCCUPATIONAL HEALTH & SAFETY OFFICER UNDERTAKING**

I ..... (full name & surname) and ID No..... in my capacity as an accredited Occupational Health and Safety Officer hereby undertake to perform the duties required of me in terms of the Occupational Health and Safety Act No 85 of 1993 on behalf of .....(name of TENDERER) should they be awarded this contract. **Proof of my qualification, ID document and registration with the South African Council for the Project and Construction Management Profession (SACPCMP) are attached hereto.**

I further confirm the following:

1. I have familiarised myself with the OHS specification included as part of Part C3: Scope of Works of the tender document and in particular with reference to Annexures F, G and H.
2. The pricing for the OHS aspects in the total amount of R.....(excluding VAT) as per Sub Section A1 (page PD5) of the schedule of quantities is adequate for the successful compliance with OHS requirements for the detailed scope of works.

SIGNATURE .....  
(OHS Officer)

DATE .....

## **T2.2.16: AFFIDAVIT OF GOOD STANDING THAT WILL BE INCORPORATED INTO THE CONTRACT**

The Tenderer hereby certifies that neither it or any of the principals of the enterprise is listed on the register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector. The Tenderer further certifies that none of its principals have ever been convicted of fraud.

### **DECLARATION** *(to be signed in the presence of a Commissioner of Oaths)*

The undersigned, who warrants that he / she is duly authorized to do so on behalf of the firm, confirms that the contents of this Affidavit are within my personal knowledge, and save where stated otherwise to the best of my belief both true and correct.

Signature: .....

Duly authorized to sign on behalf: .....

Address: .....

.....

.....

Telephone:.....

Signed and sworn to before me at.....

this the .....day of ..... 2023



by the Deponent, who has acknowledged that he/she knows and understands the contents of this Affidavit, that its true and correct to the best of his/her knowledge and that he/she has no objection to taking the prescribed oath, and that the prescribed oath will be binding on his/her conscience.

Commissioner of oaths

.....

***NOTE : This affidavit comprises one (1) page all of which must be initialed by both the Deponent and the Commissioner of Oaths***

## T2.2.17: CONTRACTOR'S HEALTH AND SAFETY DECLARATION

In terms of the Occupational Health and Safety Act No 85 of 1993 a Contractor may only be appointed to perform key services if the *Purchaser* is satisfied that the Contractor has the necessary competencies and resources to carry out the work safely in accordance with the provisions of the Act.

To that effect a person duly authorised by the tenderer must complete and sign the declaration hereafter in detail.

### Declaration by Tenderer

1. I the undersigned hereby declare and confirm that I am fully conversant with the Occupational Health and Safety Act No 85 of 1993 (as amended by the Occupational Health and Safety Amendment Act No 181 of 1993) herein after referred to as the "Act"
2. I hereby declare that my company has the competence and the necessary resources to safely carry out the services specified under this contract in compliance with the Employer's Health and Safety Specifications.
3. I propose to achieve compliance with the Regulations by one of the following:

(a)	From my own competent resources	<b>*Yes / No</b>
(b)	From my own resources still to be appointed or trained until competency is achieved	<b>*Yes / No</b>
(c)	From outside sources by appointment of competent specialist subcontractors	<b>*Yes / No</b>

**(\* = delete whatever is not applicable)**

4. I confirm that copies of my company's approved Health and Safety Plan, will at all times be available for inspection by the *Purchaser's* personnel, UKDM officials and inspectors of the Department of Labour.
5. I hereby confirm that adequate provision has been made in my tendered rates and prices in the schedule of quantities to cover the cost of all resources, actions, training and all health and safety measures envisaged in the Act and that I will be liable for any penalties that may be applied for failure to comply with the provisions of the Act.
6. I agree that my failure to complete and execute this declaration to the satisfaction of the *Purchaser* will mean that I am unable to comply with the requirements of the Act and accept that my tender will be prejudiced and may as a result be rejected at the discretion of the *Purchaser*.

SIGNATURE: .....

DATE: .....

(of person authorised to sign on behalf of the Tenderer)

## **PROFORMA FORMS TO BE COMPLETED BY SUCCESSFUL TENDERER**

- 1) PERFORMANCE GUARANTEE
- 2) DISCLOSURE STATEMENT
- 3) ADJUDICATION BOARD MEMBER AGREEMENT
- 4) PRO FORMA NOTIFICATION FORM IN TERMS OF OHSA 1993  
CONSTRUCTION REGULATIONS 2003

## **PRO FORMA PERFORMANCE GUARANTEE**

For use with the General Conditions of Contract for Construction Works, Third Edition, 2015.

### **GUARANTOR DETAILS AND DEFINITIONS**

“Guarantor” means: .....

Physical address .....

“Employer” means: .....

“Contractor” means: .....

“Engineer” means: .....

“Works” means: .....

“Site” means: .....

“Contract” means: The Agreement made in terms of the Form of Offer and Acceptance and such amendments or additions to the Contracts as may be agreed in writing between the parties.

“Contract Sum” means: The accepted amount inclusive of tax of R .....

Amount in words: .....

“Guaranteed Sum” means: The maximum aggregate of R .....

Amount in words: .....

“Expiry Date” means: the date of issue of the Certificate of Completion of the Works by the Engineer.

## **CONTRACT DETAILS**

Engineer issues: Interim Payment Certificates, Final Payment Certificate and the Certificate Completion of the Works as defined in the Contract.

## **PERFORMANCE GUARANTEE**

1. The Guarantor’s liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor’s period of liability shall be from and including the date of issue of this Performance Guarantee and up to and including the Expiry Date or the date of issue by the Engineer of the Certificate of Completion of the Works or the date of payment in full of the Guaranteed Sum, whichever occurs first. The Engineer and/or the Employer shall advise the Guarantor in writing of the date on which the Certificate of Completion of the Works has been issued.
3. The Guarantor hereby acknowledges that:
  - 3.1 any reference in this Performance Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
  - 3.2 its obligation under this Performance Guarantee is restricted to the payment of money.
4. Subject to the Guarantor’s maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3:

- 4.1 A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Engineer in an Interim or Final Payment Certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;
- 4.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;
- 4.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:
  - 5.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 5; or
  - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 5; and
  - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
7. Where the Guarantor has made payment in terms of 5, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Employer until the date of refund.
8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
9. Payment by the Guarantor in terms of 5 will only be made against the return of the original Performance Guarantee by the Employer.
10. The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his release from this Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.

11. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
12. This Performance Guarantee is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.
13. This Performance Guarantee, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.
14. Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at .....

Date .....

Guarantor's signatory (1) .....

Capacity .....

Guarantor's signatory (2) .....

Capacity .....

Witness signatory (1) .....

Witness signatory (2) .....



## **PRO FORMA ADJUDICATION BOARD MEMBER AGREEMENT**

*(Please note that words in italics within brackets are items which should be stated)*

This Agreement is entered into between:

Adjudication Board Member: *(Name, physical address, postal address, email address, fax number, telephone number and mobile number)*.

Contractor: *(Name, physical address, postal address, email address, fax number, telephone number and mobile number)*.

Employer: *(Name, physical address, postal address, email address, fax number, telephone number and mobile number)*.

The Contractor and the Employer will hereinafter be collectively referred to as the Parties.

The Parties entered into a Contract for *(name of project)* which provides that a dispute under or in connection with the General Conditions of Contract for Construction Works, Second Edition, 2010, must be referred to *(ad-hoc adjudication/standing adjudication)*.

The undersigned natural person has been appointed to serve as Adjudication Board Member and together with the undersigned Parties agree as follows:

1. The Adjudication Board Member accepts to perform his duties in accordance with the terms of the Contract, the General Conditions of Contract for Construction Works Adjudication Board Rules and this Agreement.
2. The Adjudicator undertakes to remain independent and impartial of the Contractor, Employer and Engineer for the duration of the Adjudication Board proceedings.
3. The Adjudication Board Member agrees to serve for the duration of the Adjudication Board proceedings.

4. The Parties may at any time, without cause and with immediate effect, jointly terminate this Agreement.
5. Unless the Parties agree, the Adjudication Board Member shall not act as arbitrator or representative of either Party in any subsequent proceedings between the Parties under the Contract. No Party may call the Adjudication Board Members as a witness in any such subsequent proceedings.
6. The standing Adjudication Board's duties shall end upon the Adjudication Board Member(s) receiving notice from the Parties of their joint decision to disband the Adjudication Board.
7. The Adjudication Board Member shall be paid in respect of time spent upon or in connection with the adjudication including time spent travelling:
  - a. A monthly retainer of *(amount)* for *(number)* of months, and /or
  - b. A daily fee of *(amount)* based on a *(number)* hour day, and/or
  - c. A hourly fee of *(amount)*, and/or
  - d. A non-recurrent appointment fee of *(amount)* which shall be accounted for in the final sums payable.
8. The Adjudication Board Member's expenses incurred in adjudication work shall be reimbursed at cost.

Upon submission of an invoice for fees and expenses to the Parties, the *(Contractor/Employer\*)* shall pay the full amount within 28 days of receipt of the invoice and he shall be reimbursed by the other party by half the amounts so that the fees and expenses are borne equally by the Parties. Late payment of such invoice shall attract interest at prime plus 3% points compounded monthly at the prime rate charged by the Adjudication Board Member's bank.

This Agreement is entered into by:

Contractor's signature: .....

Contractor's name: .....

Place: .....

Date: .....

Employer's signature: .....

Employer's name: .....

Place: .....

Date: .....

Adjudication Board Member's signature: .....

Adjudication Board Member's name: .....

Place: .....

Date: .....

*\*Delete the inapplicable party*

**PRO FORMA NOTIFICATION FORM IN TERMS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT 1993, CONSTRUCTION REGULATIONS 2003**

***[This form must be completed and forwarded, prior to commencement of work on site, by all Contractors that qualify in terms of Regulation 3 of the Construction Regulations 2003, to the office of the Department of Labour]***

1. (a) Name and postal address of Contractor:.....  
.....  
(b) Name of Contractor's contact person: .....  
Telephone number: .....  
.....
2. Contractor's workman's compensation registration number: .....
3. (a) Name and postal address of client: .....  
.....  
.....  
(b) Name of client's contact person or agent:.....  
Telephone number .....  
.....
4. (a) Name and postal address of designer(s) for the project: .....  
.....  
(b) Name of designer's contact person: .....  
Telephone number .....  
.....
5. Name of Contractor's construction supervisor on site appointed in terms of Regulation 6(1): ..... Telephone number: .....  
.....
6. Name/s of Contractor's sub-ordinate supervisors on site appointed in terms of regulation 6(2).  
.....  
.....
7. Exact physical address of the construction site or site office: .....

- .....
8. Nature of the construction work: .....
- .....
9. Expected commencement date: .....
10. Expected completion date: .....
11. Estimated maximum number of persons on the construction site: .....
12. Planned number of subcontractors on the construction site accountable to Contractor: .
13. Name(s) of subcontractors already chosen: .....
- .....
- .....
- .....
- .....
- .....
- .....

SIGNED BY:

CONTRACTOR: .....  
.....

DATE:

CLIENT: .....

## VOLUME 2: CONTRACT

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## **C1        AGREEMENTS AND CONTRACT DATA**

## C1.1 FORM OF OFFER AND ACCEPTANCE

### A: OFFER

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

#### CONTRACT MW/YYY)

#### CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY

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 authorised, signing this part of this form of offer and acceptance, the Tenderer offers to perform all of the obligations and liabilities of the Contractor 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)

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 Contractor in the conditions of contract identified in the contract data.

**Signature:** (of person authorized to sign the tender): .....

**Name:** (of signatory in capitals): .....

**Capacity:** (of Signatory): .....



**Name of Tenderer:** (*organisation*): .....

**Address:** .....

.....

**Telephone number:** ..... **Fax number:** .....

**Witness:**

**Signature:** ..... **Name:** ..

**Date:** .....

## **B: 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 Contractor 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:

Part C1 Agreements and contract data, (which include this agreement)

Part C2 Pricing data

Part C3 Scope of work

Part C4 Site information

and drawings and documents or parts thereof, which may be incorporated by reference into the above listed parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable 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 form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

The Tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the Employer's agent (whose details are given in the contract data) to arrange the delivery of any securities, 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 fulfill 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 Contractor) 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.

**For the Employer:**

**Signature:** .....

**Name:** (*in capitals*).....

**Capacity:**.....

**Name of Employer :** MHLATHUZE WATER

**Address:** Cnr South Central Arterial & Battery Bank, Richards Bay 3900

**Witness:**

Signature: ..... Name: .....

**Date:** .....

## C: 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 becomes 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.

### 1. Subject:

.....

### Details:

.....

.....

.....

### 2. Subject:

.....

### Details:

.....

.....

.....

**3. Details:**

.....

**Details:**

.....

.....

.....

**4. 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 returnable 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.

**For the Tenderer:**

**For the Employer:**

\_\_\_\_\_

**Signature**

\_\_\_\_\_

\_\_\_\_\_

**Name**

\_\_\_\_\_

\_\_\_\_\_

**Capacity**

\_\_\_\_\_

**Name and address of organisation:**

**Name and address of organisation:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Witness Signature**

\_\_\_\_\_

\_\_\_\_\_

**Witness Name**

\_\_\_\_\_

\_\_\_\_\_

**Date**

\_\_\_\_\_

#### **D: CONFIRMATION OF RECEIPT**

The Tenderer, (now Contractor), identified in the Offer part of this Agreement hereby confirms receipt from the Employer, identified in the Acceptance part of this Agreement, of one fully completed original copy of this Agreement, including the Schedule of Deviations (if any) today:

the \_\_\_\_\_ (day)

of \_\_\_\_\_ (month)

20 \_\_\_\_\_ (year)

at \_\_\_\_\_ (place)

**For the Contractor:**

.....

**Signature**

.....

**Name**

.....

**Capacity**

**Signature and Name**

**of Witness:**

.....

**Signature**

.....

**Name**



## **C1.2 CONTRACT DATA**

### **C1.2.1 CONDITIONS OF CONTRACT**

#### **GENERAL CONDITIONS OF CONTRACT**

The General Conditions of Contract for Construction Works Third Edition 2015 published by the South African Institution of Civil Engineering are applicable to this contract. Copies of these conditions of contract may be obtained from the South African Institution of Civil Engineering (Tel: 011-805 5947, Fax: 011-805 5971 and [www.saice.org.za](http://www.saice.org.za)).

The General Conditions of Contract for Construction Works make several references to the Contract Data for specific data, which together with these conditions collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the general conditions of contract.

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

## VARIATIONS TO THE GENERAL CONDITIONS OF CONTRACT

### PART 1 : DATA TO BE PROVIDED BY THE EMPLOYER

REF. CLAUSE NO.	DATA BY EMPLOYER
1.1.13	<b>The Defects Liability Period is:</b> 12 months
1.1.1.15	<b>The name of the Employer is:</b> Mhlathuze Water
1.1.1.26	<b>The Pricing Strategy is:</b> Re-measurement
1.2.1.2	<b>The address of Employer:</b>  <div> <u>Physical:</u>  Cnr South Central Arterial &amp; Battery Bank,  Richards Bay 3900  Telephone No.: 035 902 1000 </div> <div> <u>Postal:</u> </div>
1.1.1.16	<b>Name of Engineer</b> ZIYANDA Consulting cc, represented by Stanley Mgutshini PrEng or Gasa Mlambo PrEng
1.2.1.2	<b>Address of Engineer:</b>
	<div> <u>Physical:</u>  35 Ridge Road  Scottsville  PIETERMARITZBURG, 3201  Telephone No : (033) 346 0673  Fax No: (033) 346 0692  E-mail: ziyanda@ziyandaconsulting.co.za </div> <div> <u>Postal:</u>  P O Box 809  HILTON  3245 </div>

REF. CLAUSE NO.	DATA BY EMPLOYER
5.3.1	<b>The documentation required before commencement with Works execution are:</b>
	<ul style="list-style-type: none"> <li>• Health and Safety File (Refer to Clause 4.3)</li> <li>• Initial programme (Refer to Clause 5.6)</li> <li>• Performance guarantee (Refer to Clause 6.2)</li> <li>• Insurance (Refer to Clause 8.6)</li> </ul>
5.3.2	<b>The time to submit the documentation required before commencement with Works execution is: 14 Days</b>
5.8.1	<b>Non-working days are: Sundays</b>
	<b>The special non-working days are:</b> <ol style="list-style-type: none"> <li>1) Public holidays</li> <li>2) The year-end break which commences on the first working day after 15 December and ends on the first Tuesday after 5 January of the next year.</li> </ol>
5.13.1	<b>The penalty for failing to complete the Works is: R3 000.00 excluding VAT per calendar day.</b>
5.16.3	<b>The latent defect period is: 10 years</b>
6.2.1	<p><b>Security:</b></p> <p>The security to be provided by the Contractor shall be a Performance Guarantee of 10% of the contract sum (delivered within the time stated in 5.3.2 above) plus a retention of 5% of the value of the works</p> <p>The liability of the Performance Guarantee is provided by the Contractor shall be up to the issue of the Certificate of Completion, when the Guarantee shall be returned to the Contractor.</p> <p>Where a Performance Guarantee is provided by the Contractor, Retention monies shall be deducted at 10% per payment claim, to a maximum of 5% of the value of the works.</p>

<b>6.2.3</b>	<b>Performance Guarantee:</b> "Expiry date means date of issue of certificate of completion of the project.
<b>6.5.1.2.3</b>	<p><b>Daywork:</b></p> <p>The percentage allowances to cover overhead charges:</p> <ul style="list-style-type: none"> <li>• 10% of the gross remuneration of workmen and foremen actually engaged in the daywork; and</li> <li>• 10% on the net cost of materials actually used</li> </ul>
<b>6.8.2</b>	<p><b>Price Adjustment will be applicable 12 Months after the tender closing date.</b></p> <p>The value of the certificates issued shall be adjusted in accordance with the Contract Price Adjustment Schedule with the following values: The value of "x" is 0.1 The values of the coefficients are: A = 0.40 B = 0.10 C = 0.45 D = 0.05</p> <p>Base Month = Month before closing of tenders</p>
<b>6.10.1.5</b>	<b>The percentage advance on materials not yet built into the Permanent Works is:</b> 80% provided indemnity in favour of the Employer is provided from both the supplier and the Contractor.
<b>6.10.3</b>	<b>The limit of retention money is:</b> The percentage retention on the amounts due to the Contract is 10% of the contract value.
<b>8.6.1</b>	<p><b>INSURANCE EFFECTED BY THE EMPLOYER</b></p> <p>The Employer will insure all projects under a value of R650 000 (including VAT but excluding contingencies). All projects with a value in excess of R650 000 shall be insured by the Contractor.</p>

	<p><b>INSURANCE EFFECTED BY THE CONTRACTOR</b></p> <p>a) The Contractor and Sub-contractor shall where applicable provide as a minimum the following:</p> <p><b>CONTRACT WORKS AND SASRIA SPECIAL RISKS INSURANCE</b> – which will provide cover against accidental physical loss or damage to the Works, Temporary Works and materials intended for incorporation in the Works.</p> <p><b>PUBLIC LIABILITY INSURANCE</b> – which will provide indemnity against legal liability in the event of accidental death of or injury to third persons and/or loss of or damage to third party property arising directly from the execution of the contract and occurring during the period of insurance with a limit of indemnity of R 10 000 000.00 in respect of all claims arising from any one occurrence or series of occurrences consequent on or attributable to one source or original cause.</p> <p><b>OTHER INSURANCE:</b></p> <p>Other insurances that should be provided by the Contractor to limit his risk exposure, but which are not mandatory include the following:</p> <ul style="list-style-type: none"> <li>i) Insurance of Construction Plant and Equipment (including tools offices and other temporary structures and contents) and other things (except those intended for incorporation into the Works) brought onto the site for a sum sufficient to provide for their replacement;</li> <li>ii) Insurance in terms of the provisions of the Compensation for Occupational Injuries and Diseases Act (COID) Act No 130 of 1993;</li> <li>iii) Employers Common Law Liability Insurance with a limit of indemnity of not less than R 1 000 000.00;</li> <li>iv) Motor Vehicle Liability Insurance comprising (as a minimum) “balance of Third Party” Risks including Passenger Liability indemnity of not less than R 1 000 000.00 (one million Rand) ; and</li> <li>v) .Where the Contract involves manufacturing and/or fabrication of the Works or parts thereof at premises other than at the Contract Site the Contractor shall satisfy the</li> </ul>
--	---

	<p>Employer that all materials and equipment for incorporation in the Works are adequately insured during manufacture and/or fabrication. In the event of the Employer having an insurable interest in such Works during manufacture or fabrication then such interest shall be noted by the endorsement to the relevant Policies of Insurance.</p> <p>b) In the event of any occurrence which is likely to or could give rise to a claim under insurances arranged by the Employer the Contractor shall:-</p> <p>(i) in addition to any statutory requirement or other requirements contained in the Contract immediately notify the Employer's Insurance Brokers or the Insurers by telephone, telefax giving the circumstances nature and an estimate of the loss or damage or liability;</p> <p>(ii) complete a claims advice form available from the insurance brokers to whom the form must be returned without delay; and</p> <p>(iii) Negotiate the settlement of claims with the Insurers through the Employer's insurance brokers and shall when required to do so obtain the Employer's approval of such settlement.</p> <p>c) Where insurance is arranged by the Employer:</p> <p>(i) The Employer and Insurers shall have the right to make all and any queries on the site of the Works or elsewhere as to the cause and the results of any such occurrence and the Contractor shall co-operate in the carrying out of such enquiries;</p> <p>(ii) The Contractor will be liable for the amount of the Deductible (First Amount Payable) in respect of any claim made by or against the Contractor or Sub-contractors under the insurance effected by the Employer.</p>
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	<p>The Deductible (First Amount Payable) for which the Contractors are responsible and which are applicable in respect of each and every occurrence or series of occurrences attributable to one source or original cause giving rise to loss or damage or liability indemnifiable are as follows: -</p> <ol style="list-style-type: none"> <li>1) Under the Contract Works Insurance shall be:- <ol style="list-style-type: none"> <li>i) Custody and Control R 50 000.00</li> <li>ii) Any other Cause R 25 000.00</li> </ol> </li> <li>2) Under the Public Liability Insurances in respect of loss of or damage to property shall be:- <ol style="list-style-type: none"> <li>i) Underground Services R 10 000.00</li> <li>ii) Any Other Cause R 5 000.00</li> </ol> </li> <li>3) Under any other insurance shall be as specified in such insurance policy.</li> <li>(iii) Any amount which becomes payable to the Contractor or any of his Sub-contractors as a result of a claim under the Contract Works Insurance shall if required by the Employer be paid net of the Deductible to the Employer who shall pay the Contractor from the proceeds of such payment upon rectification repair or reinstatement of the loss or damage but this provision shall not in any way affect the Contractor's obligations and liabilities or responsibilities in terms of the Contract.</li> </ol>
<b>8.6.1.1.3</b>	<b>Amount to cover professional fees for repairing damage and loss:</b> 14% of required amount
<b>10.5.1</b>	<b>Dispute resolution:</b> Standing Adjudication Board
<b>10.5.3</b>	<b>The number of Adjudication Board Members to be appointed is:</b> One
<b>10.7.1</b>	<b>Dispute Determination:</b> Arbitration

C.110

	<b>ADDITIONAL CLAUSES</b>
<b>1.1.1.5</b>	<p><b>Commencement Date:</b></p> <p>“commencement Date” means a date determined by the Employer and communicated to the Contractor at the “Site Hand Over Meeting” which meeting is to take place within 14 days from the date that the Agreement made in terms of the Form of Offer and Acceptance comes into effect and such Commencement Date is to be within 14 days from the date of the Site Handover Meeting.</p> <p>“Site Hand Over Meeting” means the meeting arranged by the Engineer to communicate the commencement date to the Contractor, to instruct Contractor to Commence execution of the works on the commencement date as per Clause 5.3.1, to provide the Contractor with the necessary details and documentation to execute the works and for the Employer to give the Contractor right of access to the Site, as per Clause 5.4.1.</p>
<b>4.4.2</b>	<p><b>Subcontracting</b></p> <p>The contractor will be required to subcontract up to a maximum of 30% of the work to local subcontractors. The work to be subcontracted will be agreed with the Employer</p>

SIGNATURE: .....  
*(of person authorised to sign on behalf of the Tenderer)*

DATE: .....



**PART 2 : DATA TO BE PROVIDED BY CONTRACTOR**

REF. CLAUSE No	DATA BY CONTRACTOR
1.1.1.9	Name of Contractor:
1.2.1.2	Address of Contractor:
	Physical: ..... Postal: .....
	.....
	.....
	E-mail: ..... Telephone No: ..... Fax No: .....
1.1.1.14	Time for achieving Practical Completion of the whole of the Works is: ..... (weeks)

	Tenderer to insert time																
<b>6.2.1</b>	<p><b>The security to be provided by the Contractor shall be one of the following:</b></p> <p><i>VAT is to be excluded from the Contract Sum/ value of Works for calculating the percentages</i></p> <table border="1"> <thead> <tr> <th>Type of Security</th><th>Contractor's choice <i>Indicate "Yes" or No"</i></th></tr> </thead> <tbody> <tr> <td><i>Is Value Added Tax included in the Contract Sum and value of Works for calculating percentages?</i></td><td></td></tr> <tr> <td>Cash deposit of .....% of the Contract Sum</td><td></td></tr> <tr> <td>Performance Guarantee of .....% of the Contract Sum</td><td></td></tr> <tr> <td>Retention of .....% of the value of Works</td><td></td></tr> <tr> <td>Cash Deposit of .....% of the Contract Sum plus Retention of .....% of the value of Works</td><td></td></tr> <tr> <td>Performance Guarantee of .....% of the Contract Sum plus Retention of .....% of the value of Works</td><td></td></tr> <tr> <td></td><td></td></tr> </tbody> </table>	Type of Security	Contractor's choice <i>Indicate "Yes" or No"</i>	<i>Is Value Added Tax included in the Contract Sum and value of Works for calculating percentages?</i>		Cash deposit of .....% of the Contract Sum		Performance Guarantee of .....% of the Contract Sum		Retention of .....% of the value of Works		Cash Deposit of .....% of the Contract Sum plus Retention of .....% of the value of Works		Performance Guarantee of .....% of the Contract Sum plus Retention of .....% of the value of Works			
Type of Security	Contractor's choice <i>Indicate "Yes" or No"</i>																
<i>Is Value Added Tax included in the Contract Sum and value of Works for calculating percentages?</i>																	
Cash deposit of .....% of the Contract Sum																	
Performance Guarantee of .....% of the Contract Sum																	
Retention of .....% of the value of Works																	
Cash Deposit of .....% of the Contract Sum plus Retention of .....% of the value of Works																	
Performance Guarantee of .....% of the Contract Sum plus Retention of .....% of the value of Works																	
<b>6.8.3</b>	<p>Price variation for special materials:</p> <p>.....( <i>Indicate "Yes" or No"</i>)</p>																

	Type of Special Material	Unit	Rate
<b>6.8.2</b>	Rate of price for base month of:  .....		

SIGNATURE: .....  
(of person authorised to sign on behalf of the Tenderer)

DATE: .....

**C1.2.2 AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT No 85 OF 1993**

THIS AGREEMENT is made between

.....

(hereinafter called the Employer) of the one part, herein represented by: .....

.....

In his capacity as: .....

AND:

.....

(hereinafter called the Contractor) of the other part, herein represented by: .....

.....

in his capacity as: .....

duly authorized to sign on behalf of the Contractor.

**WHEREAS** the Contractor is the Mandatory of the Employer in consequence of an agreement between the Contractor and the Employer in respect of

**CONTRACT No. MW/43/2/2022/2023: CONSTRUCTION OF 1 000KL PREFABRICATED RESERVOIR AT ELEPHANT PARK AND BULK GRAVITY AND RETICULATION PIPELINES IN MTIKINI SUBWARD IN UMHLABUYALINGANA MUNICIPALITY**

for the construction, completion and maintenance of the works;

AND WHEREAS the Employer and the Contractor have agreed to enter into an agreement in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act No 85 of 1993, as amended by OHSA Amendment Act No 181/1993 (hereinafter referred to as the Act);

**NOW THEREFORE** the parties agree as follows:

1. The Contractor undertakes to acquaint the appropriate officials and employees of the Contractor with all relevant provisions of the Act and the regulations promulgated in terms thereof.

2. The Contractor undertakes to fully comply with all relevant duties, obligations and prohibitions imposed in terms of the Act and Regulations: Provided that should the Employer have prescribed certain arrangements and procedures that same shall be observed and adhered to by the Contractor, his officials and employees. The Contractor shall bear the onus of acquainting himself/herself/itself with such arrangements and procedures.
3. The Contractor hereby accepts sole liability for such due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures, if any, imposed by the Act and Regulations, and the Contractor expressly absolves the Employer and the Employer's Consulting Engineers from being obliged to comply with any of the aforesaid duties, obligations, prohibitions, arrangements and procedures in respect of the work included in the contract.
4. The Contractor agrees that any duly authorized officials of the Employer shall be entitled, although not obliged, to take such steps as may be necessary to ensure that the Contractor has complied with his undertakings as more fully set out in paragraphs 1 and 2 above, which steps may include, but shall not be limited to, the right to inspect any appropriate site or premises occupied by the Contractor, or to take such steps it may deem necessary to remedy the default of the Contractor at the cost of the Contractor.
5. The Contractor shall be obliged to report forthwith to the Employer any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the Act and Regulations, pursuant to work performed in terms of this agreement, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge.

Thus signed at ..... for and on behalf of the  
**CONTRACTOR**

on this the ..... day of ..... 20.....

SIGNATURE:

.....

NAME AND SURNAME:

.....

CAPACITY:

.....

WITNESSES: 1. ....

2. ....

Thus signed at ..... for and on behalf of the **EMPLOYER**  
on this

the ..... day of ..... 20.....

SIGNATURE:

.....

NAME AND SURNAME:

.....

CAPACITY:

.....

WITNESSES: 1. ....

2. ....

## **2 PRICING DATA**

### **C2.1 PRICING INSTRUCTIONS**

#### **1. GENERAL**

The Bill of Quantities forms part of the Contract Documents and must be read and priced in conjunction with all the other documents comprising the Contract Documents, which include the Conditions of Tender, Conditions of Contract, the Specifications (including the Project Specification) and the Drawings.

#### **2. DESCRIPTION OF ITEMS IN THE SCHEDULE**

The Bill of Quantities has been drawn up generally in accordance with Civil Engineering Quantities 1990 issued by the SA Institution of Civil Engineers.

The short descriptions of the items in the Bill of Quantities are for identification purposes only and the measurement and payment clause of the Standardized Specifications and the Particular Specifications, read together with the relevant clauses of the Project Specification and directives on the drawings, set out what ancillary or associated work and activities are included in the rates for the operations specified.

#### **3. QUANTITIES REFLECTED IN THE SCHEDULE**

The quantities given in the Bill of Quantities are estimates only, and subject to re-measuring during the execution of the work. The Contractor shall obtain the Engineer's detailed instructions for all work before ordering any materials or executing work or making arrangements for it.

The Works as finally completed in accordance with the Contract shall be measured and paid for as specified in the Bill of Quantities and in accordance with the General and Special Conditions of Contract, the Specifications and Project Specifications and the Drawings. Unless otherwise stated, items are measured net in accordance with the Drawings, and no allowance has been made for waste.



The validity of the contract will in no way be affected by differences between the quantities in the Bill of Quantities and the quantities finally certified for payment.

#### **4. PROVISIONAL SUMS**

Where Provisional sums or Prime Cost sums are provided for items in the Bill of Quantities, payment for the work done under such items will be made in accordance with Clause 6.6 of the General Conditions of Contract 2010. The Employer reserves the right, during the execution of the works, to adjust the stated amounts upwards or downwards according to the work actually done under the item, or the item may be omitted altogether, without affecting the validity of the Contract.

The Tenderer shall not under any circumstances whatsoever delete or amend any of the sums inserted in the "Amount" column of the Bill of Quantities and in the Summary of the Bill of Quantities unless ordered or authorized in writing by the Employer before closure of tenders. Any unauthorized changes made by the Tenderer to provisional items in the schedule, or to the provisional percentages and sums in the Summary of the Bill of Quantities, will be treated as arithmetical errors.

#### **5. PRICING OF THE BILL OF QUANTITIES**

The prices and rates to be inserted by the Tenderer in the Bill of Quantities shall be the full inclusive prices to be paid by the Employer for the work described under the several items, and shall include full compensation for all costs and expenses that may be required in and for the completion and maintenance during the defects liability period of all the work described and as shown on the drawings as well as all overheads, profits, incidentals and the cost of all general risks, liabilities and obligations set forth or implied in the documents on which the Tender is based.

Each item shall be priced and extended to the "Total" column by the Tenderer, with the exception of the items for which only rates are required, or items which already have Prime Cost or Provisional Sums affixed thereto. If the Contractor omits to price any items in the Bill of Quantities, then these items will be considered to have a nil rate or price.

All items for which terminology such as "inclusive" or "not applicable" have been added by the Tenderer will be regarded as having a nil rate which shall be valid irrespective of any change in quantities during the execution of the Contract.

The Tenderer shall fill in rates for all items where the words "rate only" appears in the "Total" column. "Rate Only" items have been included where:

- (a) an alternative item or material is contemplated;
- (b) variations of specified components in the make-up of a pay item may be expected; and
- (c) no work under the item is foreseen at tender stage but the possibility that such work may be required is not excluded.

For "Rate Only" items no quantities are given in the "Quantity" column but the quoted rate shall apply in the event of work under this item being required. The Tenderer shall however note that in terms of the Tender Data the Tenderer may be asked to reconsider any such rates which the Employer may regard as unbalanced.

All rates and amounts quoted in the Bill of Quantities shall be in Rands and cents and shall include all levies and taxes (other than VAT). VAT will be added in the summary of the Bill of Quantities.

## **6. CORRECTION OF ENTRIES**

Incorrect entries shall not be erased or obliterated with correction fluid but must be crossed out neatly. The correct figures must be entered above or adjacent to the deleted entry, and the alteration must be initialed by the Tenderer.

## **7. ARITHMETICAL ERRORS**

Arithmetical errors found in the Bill of Quantities as a result of faulty multiplication of addition, will be corrected by the Engineer at the tender evaluation stage, in accordance with the procedure set out in the Tender Data.

## **8. MONTHLY PAYMENTS**

Unless otherwise specified in the Specifications and Project Specifications, progress payments in Interim Certificates, referred to in Clause 6.10 of the General Conditions of Contract 2010, in respect of "sum" items in the Bill of Quantities shall be by means of interim progress installments assessed by the Engineer and based on the measure in which the work actually carried out relates to the extent of the work to be done by the Contractor.

## 9. UNITS OF MEASUREMENT

For the purposes of this Bill of Quantities, the following words shall have the meanings hereby assigned to them:

Unit : The unit of measurement for each item of work as defined in the Standardized, Project or Particular Specifications

Quantity : The number of units of work for each item

Rate : The payment per unit of work at which the Tenderer tenders to do the work

Amount : The quantity of an item multiplied by the tendered rate of the (same) item

Sum : An amount tendered for an item, the extent of which is described in the Bill of Quantities, the Specifications or elsewhere, but of which the quantity of work is not measured in units

The units of measurement described in the Bill of Quantities are metric units for which the standard international abbreviations are used. Non-standard abbreviations which may appear in the Bill of Quantities are as follows:

No.	=	number	PC sum	=	Prime cost sum
%	=	percent	Prov sum	=	Provisional sum

## 10. PRODUCT NAMES OR SIMILAR APPROVED

Wherever reference has been made to product names, it also includes all similar UKDM approved product names. Should alternative products be included, all relevant information to be supplied for approval by the UKDM.

## 11. LABOUR INTENSIVE ITEMS

Those parts of the works to be constructed using labour-intensive methods **have been marked in the schedule of quantities with the letters LI in a separate column** filled in against every item so designated. The works, or parts of the works so designated are to be constructed using labour-intensive methods only. The use of plant to provide such works, other than plant specifically provided for in the scope of work, is a variation to the contract. The items marked with the letters LI are not necessarily an exhaustive list of all the activities which must be done by hand, and this clause does not over-ride any of the requirements in the generic labour intensive specification in the Scope of Works.

Where minimum labour intensity is specified by the design the contractor is expected to use his/her initiative to identify additional activities that can be done labour intensively in order to comply with the set minimum labour intensity target.

Payment for items which are designated to be constructed labour-intensively (either in this schedule or in the Scope of Works) will not be made unless they are constructed using labour-intensive methods. Any unauthorised use of plant to carry out work which was to be done labour-intensively will not be condoned and any works so constructed will not be certified for payment.

## C2.2 BILL OF QUANTITIES

### SUMMARY OF BILL OF QUANTITIES

SECTION	DESCRIPTION	AMOUNT (R)
A	PRELIMINARY AND GENERA;	
B	EARTHWORKS	
C	CONCRETE WORKS	
D	PIPEWORK AND SUNDRIES	
E	SUNDRIES	
H	DAYWORKS	
	<b>SUBTOTAL (1)</b>	
	15% ALLOWANCE FOR CONTINGENCIES AND ESCALATION	
	<b>SUBTOTAL (2)</b>	
	ADD 15% VAT	
	<b>GRAND TOTAL CARRIED FORWARD TO FORM OF OFFER</b>	

SIGNED ON BEHALF OF TENDERER: .....

*(by person authorised to sign on behalf of the Tenderer)*