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Department:
Sport, Arts and Culture
REPUBLIC OF SOUTH AFRICA



**MANDELA BAY
THEATRE COMPLEX**

AN AGENCY OF THE DEPARTMENT OF
SPORT, ARTS AND CULTURE

Construction Procurement Documents

For use with:

JBCC Principal Building Agreement; Edition 6.2, May 2018

Compiled in accordance with CIDB Standard for Uniformity in Construction Procurement (August 2019)

REF NO. MBTC10/2023:

RENOVATIONS AND MAINTENANCE OF THE MANDELA BAY THEATRE COMPLEX

VOLUME 1 OF 3: TENDERING PROCEDURES

ISSUED BY:	PREPARED BY:
Mandela Bay Theatre Complex Cnr John Kani Road & Winston Ntshona Street Central Gqeberha 6001 Contact: MBTC Supply Management Unit E-mail: suppliers@mandelabaytheatre.co.za	BTKM Quantity Surveyors EC (Pty) Ltd 84 Cape Road Mill Park Port Elizabeth/Gqeberha 6001 Contact Person: Name: Mr C Scott Tel.: 041 – 373 9127 E-mail: clements@btkm.co.za
It is estimated that tenderers should have a CIDB contractor grading designation of 5GB or higher for this tender	

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- C4: Site Information

MANDELA BAY THEATRE COMPLEX

REF NO. MBTC10/2023:

RENOVATIONS AND MAINTENANCE OF THE MANDELA BAY THEATRE COMPLEX

T1.1 Tender Notice and Invitation to Tender

The **Mandela Bay Theatre Complex** invites tenders for: THE RENOVATIONS AND MAINTENANCE OF THE MANDELA BAY THEATRE COMPLEX.

It is estimated that tenderers should have a CIDB contractor grading designation of **5GB** or higher.

Preferences are offered to tenderers in terms of the Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations, 2022. The **80/20** Preference Point System will apply to this tender.

Tender documents will be available on National Treasury's tender portal (<http://www.etenders.gov.za>) from 10 November 2023.

Queries relating to the issue of these documents may be addressed to MBTC Supply Management Unit or email to suppliers@mandelabaytheatre.co.za

A compulsory clarification meeting with representatives of the Employer will take place at **Mandela Bay Theatre Complex (PE Opera House), Cnr John Kani Road & Winston Ntshona Street, Central, Gqeberha, on 17 November 2023** starting at **11h00**.

Bid documents are to be submitted in the tender box at Cnr John Kani Road & Winston Ntshona Street, Central, Gqeberha, 6000 which is available 24/7. The closing time for receipt of tenders is **11h00** on Tuesday, **12 December 2023**.

Telegraphic, telephonic, telex, facsimile, postal and late tenders will not be accepted.

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

T1.2 Tender Data

The conditions of tender are the Standard Conditions of Tender as contained in Annex C of the CIDB Standard for Uniformity in Construction Procurement, August 2019 (see www.cidb.org.za).

The Standard Conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the standard conditions of tender.

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

Clause number	Tender Data
C.1.1	<p>The employer is: Mandela Bay Theatre Complex</p>
C.1.2	<p>The tender documents issued by the employer comprise:</p> <p>VOLUME 1: TENDERING PROCEDURES:</p> <p>T1.1 Tender Notice and Invitation to Tender T1.2 Tender Data CIDB Standard Conditions of Tender (August 2019 edition)</p> <p>VOLUME 2: RETURNABLE DOCUMENTS:</p> <p>T2.1 List of Returnable Documents T2.2 Returnable Schedules C1.1 Form of Offer and Acceptance C1.2(2) Contract Data (Part D: Tenderer's Selection) C1.4 Letter of Intent to Provide Construction Guarantee (Pro-Forma attached) C2.3 Final Summary of Bills of Quantities</p> <p>VOLUME 3: THE CONTRACT:</p> <p>Part C1: Agreement and Contract Data: C1.2(1) Contract Data (Parts A, B & C: Project and Contract Information and Tender Closing)</p> <p>Part C2: Pricing Data: C2.1 Pricing Assumptions C2.2 Provisional Bills of Quantities</p> <p>Part C3: Scope of Work: C3.1: Scope of Work C3.2: Annexures C3.2 (1) Standard Forms for Contract Administration (ii) Contractor's Progress Report for Site Meetings</p> <p>C3.2 (2) Project Drawings</p> <p>Part C4: Site Information: C4: Site Information</p>
C.1.4	<p>The employer's agent is:</p> <p>Name: The Matrix Architects Address: Office 01, Bloomingdales Lifestyle Centre, 145 Main Road, Walmer, Gqeberha, 6065 Tel No: (041) 582 1073 E-mail: albrecht@thematrixcc.co.za</p>

C.2.1	<p>Only those tenderers who satisfy the following Eligibility/Minimum Criteria are eligible to submit tenders:</p> <p>CIDB registration: Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations, for a 5GB class of construction work, are eligible to have their tenders evaluated.</p> <p>Joint ventures are eligible to submit tenders provided that:</p> <ol style="list-style-type: none"> 1. every member of the joint venture is registered with the CIDB; 2. the lead partner has a contractor grading designation in the 5GB class of construction work; and 3. the combined contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a contractor grading designation determined in accordance with the sum tendered for a 5GB class of construction work, or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations. <p>In the case of a joint venture between 2 or more firms, the tenderer shall attach a copy of the joint venture agreement signed by the parties.</p> <p>Experience: Tenderers or their subcontractor shall be an experienced specialist roofing contractor and must be an approved roofing installer/contractor of the manufacturer of the roof covering to be used on this project. Proof of approval by the manufacturer, as well as a list of similar roofing projects completed during the last five (5) years, are to be submitted with the tender.</p>
C.2.6	<p>Acknowledge addenda The tenderer must confirm receipt of all addenda and communications received from the Employer or the Employer's agents by recording the date and title/details on the Record of Addenda to Tender Documents included in the Returnable Schedules, as confirmation that these addenda and communications have been taken into account in the tender offer.</p>
C.2.7	<p>The arrangements for a compulsory clarification meeting are: Location: Mandela Bay Theatre Complex (PE Opera House), Cnr John Kani Road & Winston Ntshona Street, Central, Gqeberha, 6000 Date: 17 November 2023 Starting time: 11h00</p>
C.2.11	<p>All documents must be completed and signed in black permanent ink. Correctional fluid shall not be used in the document.</p>
C.2.12	<p>Alternative tender offers: No alternative tender offers will be considered</p>
C.2.13.3	<p>Submitting a tender offer: The tenderer shall submit the documentation contained and specified in Volume 2: Returnable Documents as an original, plus 1 copy. The Tenderer is required to submit the original tender document and one copy. Mark the original as "ORIGINAL" and the copy as "COPY" and seal in a package. The 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.</p>
C.2.13.5 C2.15.1	<p>The employer's address for delivery of tender offers and identification details to be shown on each tender offer package are: Location of tender box:</p>

	<p>Mandela Bay Theatre Complex (PE Opera House), Cnr John Kani & Winston Ntshona Street, Central, Gqeberha</p> <p>Identification details: REF NO. MBTC10/2023 AT MANDELA BAY THEATRE COMPLEX</p>
	<p>Two-envelope system: A two-envelope system does not apply to this tender.</p>
C.2.13.9 C.2.15	<p>Telegraphic, telephonic, telex, facsimile, postal, emailed, electronic copy and late tenders will not be accepted.</p>
C.2.15	<p>The closing time for submission of tender offers is: 11h00 on Tuesday, 12 December 2023.</p>
C.2.16	<p>Tender offer validity: The tender offer validity period is 90 days</p>
C.2.19	<p>Access shall be provided for the following inspections, tests and analysis: The Employer reserves the right to request access to the Tenderer's premises during working hours for inspection of equipment, plant and machinery listed in the Returnable Documents.</p>
C.2.20	<p>Submit securities, bonds, policies, etc. Before the formation of a contract the Tenderer shall submit the required security where security as a construction guarantee has been selected in the Contract Data, within 21 calendar days of acceptance of the tender.</p>
C.2.23	<p>The tenderer is required to submit the following certificates with his tender:</p> <ul style="list-style-type: none"> Documentation which records the Tenderer's name, CIDB grading and CRS No. for verification by the MBTC. Where a tenderer satisfies CIDB contractor grading designation requirements through joint venture formation, such tenderers must submit the above documentation in respect of each partner. A valid Tax Clearance Certificate issued by the South African Revenue Services. In the case of a Joint Venture an original valid Tax Clearance Certificate issued by the South African Revenue Services must be submitted for the JV. An original and valid B-BBEE status level verification certificate, or a certified copy thereof or a sworn affidavit (construction charter) substantiating their B-BBEE rating. In the case of a Joint Venture an original and valid consolidated B-BBEE status level verification certificate or sworn affidavit in the name of the Joint Venture, or a certified copy thereof, substantiating their B-BBEE rating, must be submitted for the JV. Tenderers must be in good standing with the payment of municipal rates and taxes or municipal service charges. Tenderers must submit an original valid Municipal Billing Clearance Certificate as proof that payment of their municipal rates and taxes.
C.3.4	<p>Tenders will be opened immediately after the closing time for tenders at: Mandela Bay Theatre Complex, Cnr John Kani Road & Winston Ntshona Street, Central, Gqeberha, 6000 12 December 2023 at 11h00.</p>

C.3.7	<p>Grounds for rejection and disqualification:</p> <p>Add the following:</p> <p>In accordance with Mandela Bay Theatre Complex Supply Chain Management Policy:</p> <ul style="list-style-type: none"> • Prohibition on awards to persons whose tax matters are not in order: No award above R15,000 may be made to a person whose tax matters have not been declared by the South African Revenue Service to be in order. In order to give effect to the above the tenderer must submit a SARS Tax Clearance Certificate as per clause C.2.23. • Prohibition on awards to persons in the service of the state: No award may be made to a person who is (a) in the service of the state, (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state, or (c) who is an advisor or consultant contracted with the Mandela Bay Theatre Complex. In order to give effect to the above the tenderer must fully complete the Compulsory Enterprise Questionnaire in Volume 2: Returnable Documents. • Awards to close family members of persons in the service of the state: The Mandela Bay Theatre Complex's Accounting Officer is required to ensure that notes to the annual financial statements disclose particulars of any award of more than R2,000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months. In order to give effect to the above the tenderer must fully complete the Compulsory Enterprise Questionnaire in Volume 2: Returnable Documents.
C.3.11.3	<p>The procedure for the evaluation of responsive tenders is Method 2: Price and Preference.</p>

C.3.11.7	<p>The procedure for the evaluation of responsive tenders is as follows:</p> <p>The 80/20 preference point system for acquisition of goods or services with Rand value to or below R50m including VAT:</p> <table border="1" data-bbox="389 332 1389 1057"> <tr> <td data-bbox="389 332 452 455">A</td><td data-bbox="452 332 1294 455">The following formula shall be used to calculate the points for price:</td><td data-bbox="1294 332 1389 455">Maximum No of Points</td></tr> <tr> <td data-bbox="389 455 452 736"></td><td data-bbox="452 455 1294 736">The calculation shall be based on the following formula: $Ps = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$ Where: Ps = Points scored for price of tender under consideration; Pt = Price of tender under consideration; and Pmin = Price of lowest acceptable tender.</td><td data-bbox="1294 455 1389 736">80</td></tr> <tr> <td data-bbox="389 736 452 1057">B</td><td data-bbox="452 736 1294 1057"> <table border="1" data-bbox="452 736 1294 1057"> <thead> <tr> <th data-bbox="452 736 1294 792">Points to be awarded for specific goals:</th><th data-bbox="1294 736 1389 792">No of Points</th></tr> </thead> <tbody> <tr> <td data-bbox="452 792 1294 826">Level 1</td><td data-bbox="1294 792 1389 826">20</td></tr> <tr> <td data-bbox="452 826 1294 860">Level 2</td><td data-bbox="1294 826 1389 860">18</td></tr> <tr> <td data-bbox="452 860 1294 893">Level 3</td><td data-bbox="1294 860 1389 893">14</td></tr> <tr> <td data-bbox="452 893 1294 927">Level 4</td><td data-bbox="1294 893 1389 927">12</td></tr> <tr> <td data-bbox="452 927 1294 961">Level 5</td><td data-bbox="1294 927 1389 961">8</td></tr> <tr> <td data-bbox="452 961 1294 994">Level 6</td><td data-bbox="1294 961 1389 994">6</td></tr> <tr> <td data-bbox="452 994 1294 1028">Level 7</td><td data-bbox="1294 994 1389 1028">4</td></tr> <tr> <td data-bbox="452 1028 1294 1057">Level 8</td><td data-bbox="1294 1028 1389 1057">2</td></tr> <tr> <td data-bbox="452 1057 1294 1073">Non-compliant contributor</td><td data-bbox="1294 1057 1389 1073">0</td></tr> </tbody> </table> </td><td data-bbox="1294 736 1389 1057"></td></tr> </table> <p>A maximum of 20 points may be allocated in respect of a tenderer's points claimed for specific goals.</p> <p>The points scored by the tenderer in respect specific goals will be added to the points scored for price as calculated in accordance with the formula above.</p>	A	The following formula shall be used to calculate the points for price:	Maximum No of Points		The calculation shall be based on the following formula: $Ps = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$ Where: Ps = Points scored for price of tender under consideration; 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The tenderer is registered with the Construction Industry Development Board in an appropriate contractor grading designation; The tenderer is registered on the National Treasury Central Supplier Database (CSD) The tenderer or any of its directors/shareholders 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; The tenderer has not: <ul style="list-style-type: none"> abused the Employer's Supply Chain Management System; or failed to perform on any previous contract and has been given a written notice to this effect; The tenderer has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process. The Form of Offer and Acceptance is correctly completed and signed.
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	<ul style="list-style-type: none"> i) The tenderer submits an acceptable letter of intent from an approved insurer undertaking to provide the construction guarantee to the format included in the Returnable Documents, where surety as a construction guarantee has been selected in the Contract Data. j) The tenderer complies with the experience requirements as per clause C.2.1
C.3.17	The number of paper copies of the signed contract to be provided by the employer is 1 (one) .
C.3.18	The lowest or any offer will not necessarily be accepted by the employer – nor need reasons be given for such a decision.
C.4	<p>The additional conditions of tender are:</p> <ul style="list-style-type: none"> a) The Employer reserves the right to contact references and make enquiries to determine the tenderer's competence, reliability, experience, reputation and capability to perform the contract. b) Amendments to the JBCC Principal Building Agreement are listed under item B15.0 of C1.2: Contract Data. These amendments will be incorporated into the agreement between the employer and the contractor. c) This tender is subject to all conditions and requirements of the current MBTC Supply Chain Management Policy d) Only a tenderer who has completed and submitted all required tender documentation shall be considered. e) No late bids will be accepted. f) MBTC reserves the right to award or withdraw the bid. g) The tenderer is to submit the original plus one (1) copy of Volume 2: Returnable Documents as a complete tender offer. Failure to do so may result in the disqualification of the tender (see clause C2.13.3 of the Tender Data). h) Within 21 calendar days of acceptance of the tender, and before the formation of a contract, the tenderer will be required to submit the following which will be incorporated into the contract: <ul style="list-style-type: none"> a. Programme of Works – a diagrammatic representation of the planned execution of units of work or events of the works indicating the dates for commencement and completion thereof b. Estimated Monthly Cash-flow based on the Programme of Works and indicating the estimated value of work to be completed every month, excluding any contingencies and Contract price Adjustment where applicable.
C.4.1	<p>Miscellaneous Special Conditions of Contract</p> <p>A bid specification must, <i>inter alia</i>, include the following conditions as Special Conditions of Contract:</p> <ol style="list-style-type: none"> 1. General <ol style="list-style-type: none"> (a) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered; (b) When <i>comparative prices</i> must be calculated, any discounts which have been offered unconditionally will be taken into account; (c) A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a tenderer in respect of an accepted tender is effected; (d) Points scored will be rounded off to the nearest 2 decimal places. (e) In the event that two or more tenders score equal total points, the

	<p>successful <i>tender</i> will be the one scoring the highest number of preference points for specific goals</p> <p>(f) When <i>functionality</i> is part of the evaluation process and two or more tenders have scored equal points including equal preference points for <i>specific goals</i>, the successful <i>tender</i> will be the one scoring the highest score for <i>functionality</i>.</p> <p>(g) If two or more <i>tenders</i> score equal total points in all respects; the award must be decided by the drawing of lots.</p>
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CIDB Standard Conditions of Tender (August 2019 Edition)

As contained in Annex C of the CIDB Standard for Uniformity in Construction Procurement, Construction Industry Development Board (CIDB) Standard for Uniformity in Construction Procurement, August 2019

C.1 General

C.1.1 Actions

C.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 C.2 and C.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

C.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.

C.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.

C.1.2 Tender Documents

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

C.1.3 Interpretation

C.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.

C.1.3.2 These conditions of tender, the tender data and tender schedules which are required for tender evaluation purposes, shall form part of any contract arising from the invitation to tender.

C.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 tenderer 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 tenderer who employs that employee.

b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;

- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;

C.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.

C.1.5 Cancellation and Re-Invitation of Tenders

- C.1.5.1 An employer may, prior to the award of the tender, cancel a tender if-
- a) due to changed circumstances, there is no longer a need for the engineering and construction works specified in the invitation;
 - b) funds are no longer available to cover the total envisaged expenditure; or
 - c) no acceptable tenders are received.
 - d) there is a material irregularity in the tender process.

C.1.5.2 The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised

C.1.5.3 An employer may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

C.1.6 Procurement procedures

C.1.6.1 General

Unless otherwise stated in the tender data, a contract will, subject to C.3.13, be concluded with the tenderer who in terms of C.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.

C.1.6.2 Competitive negotiation procedure

C.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 C.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of C.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

C.1.6.2.2 All responsive tenderers or at least a minimum of not less than three responsive tenderers that are highest ranked in terms of the evaluation criteria stated in the tender data shall be invited to enter into competitive negotiations based on the principle of equal treatment, keeping confidential the proposed solutions and associated information.

Notwithstanding the provisions of C.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.

C.1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the employer to revise their 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.

C.1.6.2.4 The contract shall be awarded in accordance with the provisions of C.3.11 and C.3.13 after tenderers have been requested to submit their best and final offer.

C.1.6.3 Proposal procedure using the two stage-system

C.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 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.

C.1.6.3.2 Option 2

C.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.

C.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.

C.2 Tenderer's obligations

C.2.1 Eligibility

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

C.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.

C.2.2 Cost of tendering

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

C.2.2.2 The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

C.2.3 Check documents

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

C.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.

C.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.

C.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.

C.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.

C.2.8 Seek clarification

Request clarification of the tender documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the tender data.

C.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.

C.2.10 Pricing the tender offer

C.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 fourteen (14) days before the closing time stated in the tender data.

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

C.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.

C.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.

C.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.

C.2.12 Alternative tender offers

C.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.

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

C.2.12.3 An alternative tender offer must only be considered if the main tender offer is the winning tender.

C.2.13 Submitting a tender offer

C.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 identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.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.

C.2.15 Closing time

C.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.

C.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.

C.2.16 Tender offer validity

C.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.

C.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.

C.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. If the validity period stated in C.2.16 lapses before the employer evaluating tender, the contractor reserves the right to review the price based on Consumer Price Index (CPI).

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

C.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 C.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.

C.2.18 Provide other material

C.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.

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

C.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.

C.2.20 Submit securities, bonds and policies

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

C.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.

C.2.22 Return of other tender documents

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

C.2.23 Certificates

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

C.3 The employer's undertakings

C.3.1 Respond to requests from the tenderer

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

C.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.

C.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 (3) working 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 collected tender documents.

C.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.

C.3.4 Opening of tender submissions

C.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.

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

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

C.3.5 Two-envelope system

C.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.

C.3.5.2 Evaluate functionality of the technical proposals offered by tenderers, then advise 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 functionality evaluation more than the minimum number of points for functionality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any points claimed for specific goals. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for functionality.

C.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.

C.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.

C.3.8 Test for responsiveness

C.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.

C.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.

C.3.9 Arithmetical errors, omissions and discrepancies

C.3.9.1 Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

C.3.9.2 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with C.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 a quantity in bills of quantities or schedules of prices; or

(ii) the summation of the prices.

C.3.9.3 Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.

C.3.9.4 Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

a) 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.

b) 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.

C.3.10 Clarification of a tender offer

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

C.3.11 Evaluation of tender offers

The Standard Conditions of Tender standardize the procurement processes, methods and procedures from the time that tenders are invited to the time that a contract is awarded. They are generic in nature and are made project specific through choices that are made in developing the Tender Data associated with a specific project.

Conditions of tender are by definition the document that establishes a tenderer's obligations in submitting a tender and the employer's undertakings in soliciting and evaluating tender offers. Such conditions establish the rules from the time a tender is advertised to the time that a contract is awarded and require employers to conduct the process of offer and acceptance in terms of a set of standard procedures.

The CIDB Standard Conditions of Tender are based on a procurement system that satisfies the following system requirements:	
Requirement	Qualitative interpretation of goal
Fair	The process of offer and acceptance is conducted impartially without bias, providing simultaneous and timely access to participating parties to the same information.
Equitable	Terms and conditions for performing the work do not unfairly prejudice the interests of the parties.
Transparent	The only grounds for not awarding a contract to a tenderer who satisfies all requirements are restrictions from doing business with the employer, lack of capability or capacity, legal impediments and conflicts of interest.
Competitive	The system provides for appropriate levels of competition to ensure cost effective and best value outcomes.
Cost effective	The processes, procedures and methods are standardized with sufficient flexibility to attain best value outcomes in respect of quality, timing and price, and least resources to effectively manage and control procurement processes.

The activities associated with evaluating tender offers are as follows:

- a) Open and record tender offers received
- b) Determine whether or not tender offers are complete
- c) Determine whether or not tender offers are responsive
- d) Evaluate tender offers
- e) Determine if there are any grounds for disqualification
- f) Determine acceptability of preferred tenderer
- g) Prepare a tender evaluation report
- h) Confirm the recommendation contained in the tender evaluation report

C.3.11.1 General

The employer must appoint an evaluation panel of not less than three persons conversant with the proposed scope of works to evaluate each responsive tender offer using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

C.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.

C.3.13 Acceptance of tender offer

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

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;
- 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, under Business Rescue as provided for in chapter 6 of the Companies Act No. 2008, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her 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.

C.3.14 Prepare contract documents

C.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.

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

C.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.

C.3.16 Registration of the award

An employer must, within twenty-one (21) working days from the date on which a contractor's offer to perform a construction works contract is accepted in writing by the employer, register and publish the award on the cldb Register of Projects.

C.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.

C.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.