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REQUEST FOR PROPOSAL (RFP)

To:	The Bidder
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1. BID PARTICULARS

Project Description	MERSETA - FACILITATION SKILLS PROGRAMME NQF LEVEL 2 PRODUCTION OPERATOR FOR A TOTAL OF 15 BENEFICIARIES		
Bid Enquiries	Kayleen Swartz		
	021 495 4405 <i>*please note that staff work rotationally which could result in unanswered calls</i>		scm@atlantissez.co.za
Specifications Enquiries	Christelle Solomons		
	021 495 4413 <i>*please note that staff work rotationally which could result in unanswered calls</i>		christelle@atlantissez.co.za
Bid Reference	RFP 002 2024 IES_SD		
Bid Submission	Please return your quotation to the person listed under bid particulars and copy in scm@atlantissez.co.za on or before closing date and time. Late submission of Bids will NOT be considered for evaluation.		
Bid Closing Date	30 August 2024	Bid Closing Time	11h00 am

1. INTRODUCTION

The Atlantis Special Economic Zone (ASEZCo) is a Greentech zone, which focuses on attracting companies and investors which contribute to zero carbon emissions, resource-efficiency, and socially inclusive investment. It is building a sustainable manufacturing environment and actively explores how to also run a zero carbon, resource efficient, and socially inclusive zone. In doing so it contributes directly to the objectives of the “just transition.” The entity has ambitious goals such as building skills and enterprises in and around the Atlantis environment for application in the green economy, generating and supplying renewable energy to its future investors, being a net-zero water user, and having no waste go to landfill.

The Atlantis Special Economic Zone Company SOC Ltd (ASEZCo) is a state-owned entity as defined in the Companies Act and a provincial public entity listed under schedule 3D of the PFMA and is characterized as a government business enterprise. The shareholders are the Western Cape Government and the City of Cape Town.

The ASEZCo is a geographical area of 118 hectares in the industrial area of Atlantis. It is a Greentech SEZ with the objective of attracting Greentech manufacturers. The ASEZCo currently consists of a number of investors on privately owned land (about 25ha) as well as three separate portions of vacant and industrial zoned land owned by the City of Cape Town (+93ha). This land is in the process of being acquired from the City of Cape Town.



The ASEZCo aims to contribute to green industrial development in Atlantis and creating decent work and other economic and social benefits in the region of Atlantis, including the broadening of economic participation by promoting small, micro and medium enterprises and co-operatives, and promoting skills and technology transfer. The area will no doubt become a key platform for Greentech industrial development in the Western Cape.

2. SPECIFICATIONS

2.1. The Atlantis Special Economic Zone seeks to appoint a credible service provider for the provision of a facilitation skills programme for NQF level 2 Production Operator training for a total of 15 beneficiaries.

2.2. Background

The ASEZCo's Integrated Ecosystem (IES) Unit was established in 2019 to maximise local community integration within skills and enterprise development opportunities as the ASEZCo facilitates the rollout of green industrial development in the Green Economy. The team applies principles of systems thinking to identify and address deeply rooted socio-economic challenges in a complex community environment and to support expansion of community assets and adaptive systems.

The Production Operator Skills Programme NQF 2 Training intervention is designed to address the specific needs of the manufacturing and production industry by providing foundational skills and knowledge essential for entry-level production operators. This training intervention aims to develop a competent, efficient, and safe workforce that can meet the demand of the modern manufacturing and production industry.

Primary reasons for offering this qualification:

2.2.1. Enhancing Employability:

- Equip individuals with the essential skills required to start working effectively as production operators. This includes understanding production processes, basic machinery operation, safety protocols, and quality control.
- Provide a pathway for individuals seeking entry-level positions in the production and manufacturing sector, ensuring they have the competencies needed to contribute immediately to the workplace.

2.2.2. Addressing Industry Skills Gaps:

- Address the shortage of skilled production operators by providing training in technical skills such as machinery operation, maintenance basics, and production line efficiency.
- Ensure participants understand the fundamentals of production operations, including the principles of manufacturing, basic troubleshooting, and workflow management.

2.2.3. Supporting Economic Growth:

- Contribute to the development of a skilled workforce that can meet the demands of the manufacturing industry, thereby supporting economic growth and competitiveness.
- Help employers by providing a pool of trained individuals who can quickly adapt to production roles, leading to increased productivity and reduced downtime.

2.2.4. Promoting Workplace Safety:

- Educate participants on workplace safety standards and protocols to minimize accidents and injuries, creating a safer working environment.
- Ensure that employees understand and comply with health and safety regulations, which is critical for maintaining industry standards and avoiding legal issues.

2.2.5. Facilitating Lifelong Learning and Career Advancement:

- Serve as a foundation for further education and training in production and manufacturing. Participants can build on their NQF Level 2 qualification to pursue higher-level qualifications and specialized skills.
- Provide a clear career pathway for individuals in the production industry, encouraging continuous learning and professional development.

2.2.6. Supporting Employer Needs:

- Offer employers a reliable measure of the basic skills possessed by potential employees, simplifying the recruitment process and ensuring consistency in skill levels.
- Reduce the need for extensive on-the-job training for basic skills, allowing new hires to contribute more quickly and effectively to production goals.

2.2.7. Encouraging Personal and Professional Development:

- Boost the confidence and self-esteem of individuals by equipping them with essential skills and knowledge, enabling them to perform their roles effectively.
- Empower individuals to take control of their career paths and professional development, leading to better job satisfaction and personal fulfilment.

2.2.8. Enhancing Quality Control:

- Train participants in basic quality control principles, helping to maintain high standards of production and reducing waste and defects.
- Foster a culture of continuous improvement in production processes, encouraging employees to contribute to efficiency and quality enhancements.

2.3. Scope of work

The skills programme should include the following minimum outcomes and be merSETA registered (credit-bearing to allow NQF progress):

- a) Student registration for 15 learners on the merSETA NSDMS.
- b) Advising on the compulsory documentation required to be submitted by Learners as per merSETA requirements.
- c) Project management for the duration of theoretical training and practical training and by-weekly project team calls with the ASEZCO Skills Development Unit.
- d) Provision of training material (Learner Guide, Workbook, Portfolio of Evidence, Learner Assessment, Professional Facilitation, theoretical & practical training at the venue to be confirmed.
- e) Provision and distribution of PPE to all learners.
- f) Ensure certification of learners with merSETA.
- g) Programme management, submission of update reports after every module recording and submission of required administration for merSETA, a record of daily student attendance, and safe storage of learner records and personal details.

Production Operator - Skills Programme NQF 2 Breakdown

Name of Module	Unit Standards covered	NQF Level	Duration	Approval Number
Production Operator (52)	119463 - Access and use information from texts (5) 119454 - Maintain and adapt oral/signed communication (5) 119456 - Write/present for a defined context (5) 119460 - Use language and communication in occupational learning programmes (5) 9007 - Work with a range of patterns and functions and solve problems (5) 7480 - Demonstrate understanding of rational and irrational numbers and number systems (3) 12444 - Measure, estimate and calculate physical quantities and explore, describe and represent geometrical relationships in 2-dimensions in different life or workplace contexts (3) 244338 – Operate a production Process (15) 265000 – Complete post production and finishing operations (6)	2	17	MERSETA SP 0947/15-17

From these Unit Standards the Skills Programme will consist of three (3) modules, namely:

Communication Skills	119460, 119456, 119454, 119463	5 Days
Numeric Skills	12444, 9007, 7480	5 Days
Operate a Production Process	265000, 244338	7 Days

2.4. Deliverables

Phase 1 to consist of:

- ASEZCo Skills Development Unit assist Service Provider with finalisation and completion of recruitment of 15 suitable learners accepted into the programme
- ASEZCo Skills Development Unit to assist Service Provider in identifying suitable placement at host companies for learners
- Pre-assessment conducted on all learners.
- Submission of Pre-Assessment report, and attendance registers, including demographic details of participants captured into one report.
- Upload all learner information on MerSETA NSDMS and Print out Learner Agreements.
- Signing of Learner Agreements by all relevant parties.
- Upload learner agreements to NSDMS with all relevant documents
- Provide a suitable training venue for the roll-out of the programme.
- Provision of a complete training schedule
- Provision of complete training rollout plan
- Provision of PPE to all learners
- Printing of training material including Portfolio of Evidence.
- Conduct 'Prepare & Plan a POE for Assessment' with learners.
- 2 Project Team sessions with the ASEZCo on logistics, administration, risks identified, expectation management

Phase 2 to consist of:

- Commencement of Skills Programme: Basic Skills for the Workplace NQF 2
- Submission of weekly attendance registers of the theoretical and Practical, including ID numbers, learners' progress, risk identified, and recommendations
- Provision of updated status of learners' registration with merSETA
- Identified suitable workplace experiences for the learners.
- 100% of the Skills Programme is completed

Phase 3 to consist of:

- The final assessment is completed and reported on.
- Learners submit PoE for assessment
- Assessment of PoE is completed
- Internal moderation of PoE is completed, and the report is sent to merSETA
- External Moderation of PoE is completed.
- Training report compiled and submitted to ASEZCo, with learner details submitted to merSETA for verification and Statement of Results – SoR.
- Update on SoR process.
- Final close-out report detailing the impact of the programme

3. COMPLIANCE REQUIREMENTS FOR A VALID BID

- 3.1 Bidders that fail to adhere to any of the following, will be rendered non-responsive and will not be further evaluated
- 3.1.1 Bidders must submit proposals including the cost proposal (Section 2.5) inclusive of VAT before the bid closing date.
 - 3.1.2 A valid Tax Clearance Certificate must be accompanied as a supporting document.
 - 3.1.3 A bank confirmation letter must be accompanied as a supporting document
 - 3.1.4 Bidders must be registered on Central Supplier Database (CSD) and have active status on or before the closing date and time of the bid. A valid CSD report must be accompanied as a supporting document.
 - 3.1.5 Bidders must submit a duly completed and signed WCBD 4
 - 3.1.6 Each party participating in a Joint Venture or Consortium must be tax compliant and must provide a WCBD 4 for each party.
 - 3.1.7 Relevant SETA accreditation must be accompanied as a supporting document.

4. SERVICE PROVIDERS PROPOSAL

- 4.1 A detailed proposal submitted such include but not limited to
- 4.1.1 Cost proposal (Section 2.5) inclusive of VAT
 - 4.1.2 Bidder to provide a company profile detailing the company's experience where work similar to the specifications. The proposal should demonstrate the service providers expertise and relevant qualifications also include detailed CV of the Key Personnel and Facilitators that will support the project
 - 4.1.3 A detailed Project Implementation plan and Methodology clearly indicating the proposed work phases and methods to be followed; Propose key milestones and activities timelines and the planned resources allocated to the timelines.
 - 4.1.4 Contactable references of previous work done, provide at least 5 current references with contactable numbers where a similar project was undertaken
NB: The reference letters must be on the letterheads of the clients and must clearly indicate the scope of the work completed.
 - 4.1.5 Bidders base of operations: CIPC registration must be accompanied.

5. LATE BID SUBMISSIONS

- 5.1 Late submissions of Bids will NOT be considered for evaluation.
- 5.2 A submission will be considered late if it arrives one second after 11:00 AM or any time thereafter. Bids arriving late will not be accepted under any circumstances. Bidders are therefore strongly advised to ensure that bids be dispatched allowing enough time for any unforeseen events that may delay the delivery of the bid.

6. EVALUATION METHODOLOGY

- 6.1 Bids shall be evaluated in terms of the following phases:

6.1.1 Phase 1 - Compliance Checking

Evaluation of documents cited in section 3. Documents must be submitted, duly completed and signed where required.

6.1.2 Phase 2 - Functionality Criteria

Compliant bids will, thereafter, be evaluated against the criteria and weights for functionality depicted in the following table.

Functionality And Capability Requirements

A minimum threshold of 75 points will apply to qualify to the next stage of Price and BBBEE. Failure to reach the minimum threshold will lead to disqualification.

NO	CRITERIA	WEIGHT	REFERENCE
1	Company Profile and Experience and Qualifications	45	
1.1	<p>Bidder to provide a profile detailing the company’s experience where work similar to the specifications.</p> <ul style="list-style-type: none"> • Company Profile, CIPC registration must be accompanied = 15 points • Documents provided not aligned to the specifications of this RFP = 5 point 	15	Par 4.1.2 & Par 4.1.5
1.2	<p>Service providers expertise and relevant qualifications Detailed CV of the Key Personnel and Facilitators the service provider must show evidence of personnel that will support the project have the below qualification and experience</p> <p>Team Leader</p> <ul style="list-style-type: none"> • 5+ years’ experience and NQF 7 =20 points 	30	Par 4.1.2

	<ul style="list-style-type: none"> • 3+ years' experience and NQF 7 = 10 points • 2+ years' experience and NQF 7 = 5 points <p>Team Members</p> <ul style="list-style-type: none"> • 3+ years' experience = 10 points • 1-2 years' experience = 5 points • Less than 1 years' experience = 1 point 		
2	Methodology and Proposal	30	
2.2	<p>Detail of Project implementation plan and Methodology should clearly indicate the following:</p> <p>i) The proposed work phases and methods to be followed.</p> <p>ii) Propose key milestones and activities timelines.</p> <p>iii) The planned resources allocated to the timelines</p> <ul style="list-style-type: none"> • Excellent – project scope is comprehensively covered = 30 points • Good – meets some project scope requirements = 15 points • Unsatisfactory – not in alignment with the required project scope = 1 point 		Par 4.1.3
3	Contactable References	15	
3.1	<p>Bidders are required to provide at least 5 current references with contactable numbers where a similar project was undertaken.</p> <ul style="list-style-type: none"> • 5+ References = 15 points • 3+ References = 10 points • Less than 3 references = 5 points 		Par 4.1.4
4	Location	10	
4.1	<p>The bidders local base of operations to service the work for which they are bidding in the ASEZCo</p> <ul style="list-style-type: none"> • Atlantis based (Atlantis, Pella, Witsand and Mamre) = 10 points • City of Cape Town – 4 points • Western Cape = 2 points • National = 1 point 		Par 4.1.5

6.1.3 Phase 3: 80/20 Preference Points System

Only Bidders that have met the requirements in Phase 2 evaluated in terms of the 80/20 preference points

system, where the 80 points will be used for price and the 20 points are awarded to the bidder for attaining B-BBEE status level contributor in accordance with their BEE Certificate or affidavit.

B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

- A duly completed Preference Point Claim Form: Standard Bidding Document (WCBD 6.1); and
- B-BBEE Certificate / Affidavit

The bid will be awarded to the bidder with the highest score unless other objective criteria allow in accordance with section 2(1)(f) of the PPPFA and regulation 4 of PPR 2022 are applicable.

6.1.4 APPLICABLE OBJECTIVE CRITERIA

- 6.1.4.1 Service providers that have a local presence or have a significant impact on employment and local economic development of Atlantis area in alignment to the objectives of the ASEZCo's SMME policy.
- 6.1.4.2 Promote the achievement of the ASEZCo strategic objective of having significant **social impact** in the region and in Atlantis through Greentech and green economy opportunities, not only because it is democratic and just, but because it is consistent with the vision of ASEZCo and a key to supporting regional economic development.
- 6.1.4.3 Promote increased participation by, and market opportunities in the regional Greentech value chains.
- 6.1.4.4 Promote partnerships between ASEZCo and the public and private sectors in respect of the development and support to particularly local SMMEs.

7. DURATION OF CONTRACT

- 7.1 The commencement date of the agreement will be from the date the agreement is signed and will remain in place for the duration of 3 months.
- 7.2 The 17 tuition days and 30 placement days.

8. REPORTING AND MONITORING

- 8.1 The service provider will be expected to provide the AZSEZ with the below:
 - a) Programme management, submission of updated reports after every module recording and submission of required administration for merSETA, a record of daily student attendance, and safe storage of learner records and personal details.
 - b) Final close-out report detailing the impact of the programme

9. JOINT VENTURE / CONSORTIUM / TRUST

- 9.1 A joint venture, consortium or trust will qualify for points on evaluation of their B-BBEE status level as a legal entity, provided that the entity submits the requisite B-BBEE status level certificate.
- 9.2 Bidders must submit substantive proof of the existence of joint ventures and/or consortium arrangements. The ASEZCo will accept signed agreements as satisfactory proof for the existence of a joint venture and/or consortium arrangement.
- 9.3 Joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the lead partner. The agreement must also clearly identify the lead partner that is accordingly provided with a power of attorney to bind the other co-parties in all matters pertaining to the joint venture and/or consortium arrangement.

10. REGISTRATION ON SUPPLIER DATABASES

- 10.1 Prospective bidders must be registered on the CSD at the time of bid closure.
- 10.2 All prospective bidding agencies that are not registered on the CSD are requested to self- register on www.csd.gov.za.
- 10.3 Registration on databases and compliance of tax status will be verified at the time of the award.
- 10.4 Where a bidder is not tax compliant, the ASEZCo will notify the bidder in writing of their non-compliant status and the bidder will be requested to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations within 7-working days.

11. CONTRACTUAL ASPECTS

- 11.1 The contents of this document shall be deemed to constitute the Special Conditions of Contract applicable to this bid and shall be read together with the General Conditions of Contract issued in accordance with Chapter 16A of the Treasury Regulations.
- 11.2 Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract shall prevail.
- 11.3 The bid document, together with the specifications contained in this document, shall constitute part of the Contract.
- 11.4 Bidders shall not perform any work or render any services in terms of the Contract unless in receipt of a written instruction to this effect by the ASEZCo.
- 11.5 The successful bidder may not assign its obligations.
- 11.6 The successful bidder must advise the CFO of ASEZCo immediately when unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of

delay must be furnished.

12. LOCAL LABOUR / EMPLOYMENT

12.1 Awarded bidders will be required to utilise local labour for employment (as appropriate)

12.2 The following to be actively considered/requested at time of project scoping:

- The provision of opportunities for Small, Medium and Micro- Business Enterprises (SMMEs).
- The provision of work opportunities for local labour in the Atlantis and surrounding areas, including consideration for internships, job shadowing and work experience.

13. PERFORMANCE VERIFICATION

13.1 The ASEZCo's appointed contract manager or agent verifies that the performance of this contract in terms of services, delivery service, goods, labour and any other element specified in this contract is at the contracted performance level and/or the goods meet the contracted specifications with the represented of the contracted provider. Both parties verify this through signing the verification documentation. Both parties, at this time, agree on quantity, unit cost and total value on the same signed document.

14. DISCLAIMER

14.1 The ASEZCo has produced this document in good faith. The ASEZCo, its agents, and its employees and associates do not warrant its accuracy or completeness; make no representation, warranty, assurance, guarantee or endorsements to any third parties concerning the document. The ASEZCo has no liability towards the bidders in connection therewith.

14.2 Bidders must make and rely on their own investigations and satisfy themselves as to the correctness of all aspects of the bid. The ASEZCo will not be liable for any incorrect or potentially misleading information in relation to any part of this document and any accompanying bid documents.

14.3 The ASEZCo reserves the right not to appoint any contracted partner who does not comply with the conditions of this bid or if information is obtained by the ASEZCo about a bidder that could put the ASEZCo at risk.

14.4 The ASEZCo reserves the right to cancel this bid should the budget not be available at the time of award to cover the full quote of this bid or if the need does not exist anymore or the specification has changed.

14.5 It must be noted that the Atlantis Special Economic Zone reserves its right to:

- a) Award the bid to a bidder other than the highest scoring bidder where objective criteria allow.
- b) To reject the lowest acceptable bid received; and/or
- c) Cancel this bid.

15. ABSENCE OF OBLIGATION

15.1 No legal or other obligation shall arise between bidders and the ASEZCo unless and until the formal appointment documentation has been signed. The ASEZCo is not obliged to proceed with any proposals of any bidder. The ASEZCo also reserves the right to request changes to any proposed consortium.

16. COMMUNICATION

16.1 The contracted parties communicate in writing through mail, delivery, or email. The contracted party states the contract number and purchase order number, if the latter is applicable, on communication documentation. The contract party does not act upon any communication without the contract number or must verify such communication with the assigned ASEZCo's contract manager prior to acting upon it.

17. CONTRACTED PARTY DUE DILIGENCE

17.1 The ASEZCo has the right to conduct supply chain due diligence including site visits and inspections at any time during the contract period.

18. TERMINATION OF CONTRACT DUE TO NON-PERFORMANCE

18.1 In the event of non-performance as per the agreed contract, the ASEZCo will appoint an alternative at the cost of the appointed third party. The defaulting third party is obliged to settle the damages/additional costs that the ASEZCo has incurred as result of the non-performance of the appointed bidder.

19. INDEMNITY

19.1 The successful bidder will indemnify, protect, defend and hold harmless the ASEZCo from and against any and all claims, demands, actions and proceedings whatsoever including all fees, costs and expenses incurred in respect thereof arising out of:

- a) Any claim of any taxes payable by the bidder.
- b) Any claim for Workmen's Compensation Insurance or for any loss for which the bidder is liable.
- c) Any claim by a third party including any employees of the ASEZCo or of the bidder for any loss resulting from any bodily injury and or damages to property by any act or omission of the bidder or any of its employees, servants or agents.

20. OCCUPATIONAL HEALTH AND SAFETY WHEN WORKING ON THE ASEZCO'S SITES:

20.1 All personnel performing work on the ASEZCo's site/s as part of this contract are responsible to obtain safety induction.

20.2 Over and above the obligations provided by the Act, the contracted party meets with all relevant health and safety instructions as given to them by site safety personnel, where relevant. Personal protection equipment as per ASEZCo of Health's specification, closed safety shoes, hard hats, height safety equipment, and high visibility vests are worn at all times while on the work site. All personnel are to obey the relevant instructions,

including signage, related to restricted access and speed limits on all sites.

- 20.3 The contracted party is responsible for itself, its employees, and those people affected by its operations in terms of the Occupational Health and Safety Act the regulations promulgated in terms thereof (OHS Act No 85 of 1993 and its Regulations, known as 'The Act'). The contracted party performs all the work and uses equipment on site complying with the provisions of the Occupational Health and Safety Act.
- 20.4 The contracted party maintains a health and safety plan complying with the requirements of The Act at the work site during the period that contracted work takes place on the site.
- 20.5 The ASEZCo manages the contracted party in its capacity for the execution of this contract to meet the provisions of the said Act and the regulations promulgated in terms thereof. The contracted party accepts liability for any contraventions of the Act. Each member of the contracted party's team (including sub-contracted personnel), submits a signed indemnity form prior to entering the work site and kept in the contracted party's health and safety file.

21. FRONTING

- 21.1 The ASEZCo supports the spirit of broad based black economic empowerment and recognises that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and garnering opportunities in an honest, fair, equitable, transparent, and legally compliant manner. Against this background the ASEZCo strongly condemns any form of fronting.
- 21.2 The ASEZCo, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries / investigations in determining the accuracy of the representations made in bid documents / proposals. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade Industry and Competition ("dtic"), be determined during such enquiry / investigation, the onus will be on the bidder to prove that the allegation of fronting does not exist. Failure to do so within a period of 14-days from date of notification may invalidate the bid / contract and may also result in the restriction of the bidder to conduct business with the public sector for a period not exceeding 10-years, in addition to any other remedies the ASEZCo may have at its disposal and accordingly wish to institute against such bidder concerned.

22. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

- 22.1 The ASEZCo reserves the right to disqualify any potential bidding agency who either itself, or through any of its members (save for such members who hold a minority interest in the bidding agency through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of the ASEZCo or any other organ or entity and whether from the Republic of South Africa or otherwise:

- a) Engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid.
- b) Seeks any assistance, other than assistance officially provided by an ASEZCo, from any employee, advisor or other representative of a ASEZCo in order to obtain any unlawful advantage in relation to the procurement or services provided or to be provided to the ASEZCo employees, advisors or other representatives.
- c) Makes or offers any gift, gratuity, anything of any value or other inducement, to any ASEZCo, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to an entity
- d) Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to an entity.
- e) Pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift, or any other consideration, that is contingent upon or results from, the awarding of any tender/bid, contract, right or entitlement which is in any way related to procurement or the rendering of any services to an entity.
- f) Has in the past engaged in any matter referred to above.
- g) Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such a bidding agency, member or director's name(s) not specifically appearing on the List of Tender Defaulters kept at National Treasury.

23. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

- 23.1 The bidding agency should note that the terms of its tender/bid will be incorporated in the proposed contract by reference and that the ASEZCo relies upon the bidder's tender/bid as a material representation in making an award to a successful bidding agency and in concluding an agreement with said bidding agency.
- 23.2 It follows therefore that misrepresentations in a tender/bid may give rise to service termination and a claim by the ASEZCo against the bidder notwithstanding the conclusion of the SLA between the ASEZCo and the bidding agency for the provision of the service(s) in question. In the event of a conflict between the bidder's proposal and the SLA concluded between the parties, the contents of the SLA will prevail.

24. COPYRIGHT AND INTELLECTUAL PROPERTY

- 24.1 Intellectual property refers to creation of the mind, such as inventions; literary and artistic works; designs; and symbols, names, images used in commerce; and includes copyright (a legal term describing the rights that creators have over their literary and artistic works including books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings); trademark (a legal term describing a sign capable of distinguishing the goods or services of one enterprise from those of other

enterprises); and patents (a legal terms describing an exclusive right granted for an invention providing the patent owner with the right to decide how - or whether - the invention can be used by others).

- 24.2 Background intellectual property is defined as the intellectual property pertaining to this contract, created and owned by any of the contracted parties to this contract prior to the effective date of this contract.
- 24.3 Contract intellectual property is defined as intellectual property created by the parties to this contract for and in the execution of the contract.
- 24.4 All background intellectual property (existing prior to this contract) invests in and remains the sole property of the contracted parties to this contract. Both parties disclose openly such intellectual property ownership to the parties in writing at the commencement of this contract.
- 24.5 The contracted party grants the ASEZCo a fully paid up, irrevocable, and non-exclusive license to use its background intellectual property for the exploitation of this contract to enable the ASEZCo to obtain the full benefit of the contracted deliverables for this contract.
- 24.6 The parties agree that all right, title, and interest in contract intellectual property created during the execution of this contract invests with the ASEZCo unless where agreed in writing to a different allocation of the ownership of the contract intellectual property with such allocation being appended to this contract.
- 24.7 Both parties to this contract shall keep the intellectual property created during this contract confidential and shall fulfil its confidentiality obligations as set out in this document.
- 24.8 The contracted party agrees to assist the ASEZCo in obtaining statutory protection for the contract intellectual property at the expense of the ASEZCo wherever the ASEZCo may choose to obtain such statutory protection.
- 24.9 The contracted party shall procure where necessary the signatures of its personnel for the assignment of its respective contract intellectual property to the ASEZCo or as the ASEZCo may direct, and to support the ASEZCo or its nominee, in the prosecution and enforcement thereof in any country in the world.
- 24.10 The contracted party irrevocably appoints the ASEZCo to be its true and lawful agent in its own name, to do such acts, deeds, and things and to execute deeds, documents, and forms that the ASEZCo, in its discretion, requires in order to give effect to the terms of this clause.
- 24.11 The third party hereby gives the ASEZCo permission, in terms of the Protection of Private Information Act 4 of 2013, to process, collect, receive, record, organise, collate, store, update, modify, retrieve, alter, consult, use, disseminate, distribute, merge, link, erase or destroy personal information received. By submitting a bid, the third party gives its voluntary explicit consent to the terms of this special condition

25. CONFIDENTIALITY

The recipient of confidential information shall be careful and diligent as not to cause any unauthorised disclosure or use of the confidential information, in particular, during its involvement with the ASEZCo and after termination of its involvement with the ASEZCo, the recipient shall not:

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- a) Disclose the confidential information, directly or indirectly, to any person or entity, without the ASEZCo's prior written consent.
 - b) Use, exploit or in any other manner whatsoever apply the confidential information for any other purpose whatsoever, other than for the execution of the contract and the delivery of the deliverables or
 - c) Copy, reproduce, or otherwise publish confidential information except as strictly required for the execution of the contract.
- 25.1 The recipient shall ensure that any employees, agents, directors, contractors, service providers, and associates which may gain access to the confidential information are bound by agreement with the recipient both during the term of their associations with the recipient and after termination of their respective associations with the recipient, not to
- a) Disclose the confidential information to any third party, or
 - b) Use the confidential information otherwise than as may be strictly necessary for the execution of the contract,
 - c) The recipient shall take all such steps as may be reasonably necessary to prevent the confidential information from falling into the hands of any unauthorised third party.
- 25.2 The undertakings set out in this clause shall not apply to confidential information, which the recipient is able to prove:
- a) Was independently developed by the recipient prior to its involvement with the ASEZCo or in the possession of the recipient prior to its involvement with the ASEZCo;
 - b) Is now or hereafter comes into the public domain other than by breach of this contract by the recipient;
 - c) Was lawfully received by the recipient from a third party acting in good faith having a right of further disclosure and who do not derive the same directly or indirectly from the ASEZCo, or
 - d) Required by law to be disclosed by the recipient, but only to the extent of such order and the recipient shall inform the ASEZCo of such requirement prior to any disclosure.
- 25.3 The recipient shall within one (1) month of receipt of a written request from the ASEZCo to do so, return to the ASEZCo all material embodiments, whether in documentary or electronic form, of the confidential information including but not limited to:
- a) All written disclosures received from the ASEZCo;
 - b) All written transcripts of confidential information disclosed verbally by the ASEZCo; and
 - c) All material embodiments of the contract intellectual property.

- 25.4 The recipient acknowledges that the confidential information made available solely for the execution of the contract and for no other purpose whatsoever and that the confidential information would not have been made available to the recipient, but for the obligations of confidentiality agreed to herein
- 25.5 Except as expressly herein provided, this contract shall not be construed as granting or confirming, either expressly or impliedly any rights, licenses or relationships by furnishing of confidential information by either party pursuant to this contract.
- 25.6 The recipient acknowledges that the unauthorised disclosure of confidential information may cause harm to the ASEZCo. The recipient agrees that, in the event of a breach or threatened breach of confidentiality, the ASEZCo is entitled to seek injunctive relief or specific performance, in order to obtain immediate remedies. Any such remedy shall be in addition to and not in lieu of any other remedies available at law, including monetary damages.
- 26. FORCE MAJEURE**
- 26.1 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 26.2 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, 12 damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 26.3 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

End.

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www.atlantissez.com

NATIONAL TREASURY GENERAL CONDITIONS OF CONTRACT (NT GCC)

*Please refer to the website of the National Treasury for the general conditions of contract
<http://www.treasury.gov.za/divisions/ocpo/sc/GeneralConditions/General%20Conditions%20of%20Contract-%20Inclusion%20of%20par%2034%20CIBD.pdf>

I confirm that I have read and understand the conditions set out in the above link in terms of the General Conditions of Contract and am duly authorized to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

WITNESSES	
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