



LEJWELEPUTSWA DISTRICT MUNICIPALITY

DIRECTORATE: TECHNICAL SERVICES

TENDER FOR THE APPOINTMENT OF SERVICE PROVIDER IN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR THE:

IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND-SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (1) YEAR.

TENDER NUMBER: 118/06/2022

CLOSING DATE: 29 July 2022

LEJWELEPUTSWA DISTRICT MUNICIPALITY

ADDRESS: Corner Jan Hofmeyer and Tempest Road,
Welkom, 9460

Contact (Procurement): cathy@lejwe.co.za

Contact (technical): brian@lejwe.co.za

Telephone: 057 353 3094

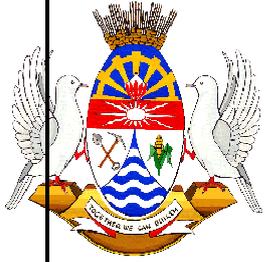
Fax: 057 547 8062

NAME OF BIDDER:

TOTAL BID AMOUNT :(VAT INCL.)

(Amount in words).....

.....



Cnr. Jan Hofmeyer & Tempest Road
P.O. Box 2163
WELKOM
9460
Tel: (057) 353 3094/5/8/9
Fax: (057) 353 3382

LEJWELEPUTSWA

DISTRICT MUNICIPALITY

Office of the District Municipal Manager

REQUEST FOR TENDER

RFT NO. 118/06/2022: APPOINTMENT OF A SERVICE PROVIDER FOR IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (1) YEAR.

The Following Conditions will apply:

- This proposal will be evaluated in terms of the **80/20** preference point system in terms of the Supply Chain Management Policy, and for this purpose the **MBD1, MBD4, MBD6.1, MBD8** and **MBD9** must be scrutinized, completed and submitted together with your proposal. **Non-adherence to this request will lead to disqualification.**
- A valid SARS Tax Clearance Certificate and the tax compliance status pin to be submitted. It is the responsibility of the bidder to ensure that the company's Tax Status remains **compliant** at **ALL** times.
- The National Treasury Central Supplier Database Summary report must be submitted.
- In order to claim preference points a valid original or certified **B-BBEE** status level verification certificate or a sworn affidavit completed on the DTI format must be submitted to validate the claim.
- The validity period for submission must be **90 days** from the closing date.
- A tender offer not satisfying the stated eligibility criteria will be eliminated.
- Tenders that are deposited in the incorrect tender box or delivered at any other venue will not be considered.

NB: No proposals will be considered from the person in the service of the state.
No late proposals will be considered.

Enquiries: Technical matters - **Mr. Brian Lehlekiso** (brian@lejwe.co.za)
SCM matters – **Me. CB. Baloyi** (057 101 0187 or cathy@lejwe.co.za)

Completed tenders in a **sealed** envelope endorsed "**APPOINTMENT OF A SERVICE PROVIDER FOR IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (1) YEAR.**", must be placed in the Tender Box Corner Jan Hofmeyer and Tempest Road, Welkom, 9460 or posted to PO Box 2163, Welkom, 9460 on or before **Friday, 29 July 2022 at 12:00 pm**

Tender documents will only be obtained from the **municipal website** (www.mylejweleputswa.co.za) and on **e-Tender**.

Ms. PME KAOTA
MUNICIPAL MANAGER

PLEASE ENSURE THAT THE FOLLOWING FORMS HAVE BEEN DULY COMPLETED AND SIGNED AND THAT ALL DOCUMENTS AS REQUIRED, ARE ATTACHED TO THE BID DOCUMENT:

NO	DOCUMENT NAME	HAVE YOU INCLUDED/COMPLETED THE FOLLOWING COMPULSORY DOCUMENT (Yes/No)
1.	Have you fully completed and signed the MBD 1 forms- Invitation to bid?	
2.	Have you fully completed functionality scoring form	
3.	Have you fully completed and signed form 1.1 General information?	
4.	Have you fully completed and signed form 1.3 Certificate of authority of signatory?	
5.	Have you completed/ signed and submitted the following schedules 1,2 and 3	
6.	Have you fully completed and signed the MBD 4 forms- Declaration of Interest?	
7.	Have you completed and signed MBD 6.1-Preferential points claim form)	
8.	Have you fully completed and signed the MBD 8 – Declaration of bidder's past supply chain management practices	
9.	Have you fully completed and signed the MBD 9 – Certificate of Independent bid determination?	
10.	Do you understand the scope of work that includes the standard specifications / project specifications and particular specifications?	
11.	Have you completed and signed the Bill of quantities?	
12.	Have you completed the form of offer in words as well as in figures ?	
13.	General Conditions of Contract (initialed on every page)	

LIST OF RETURNABLES (COMPULSORY)

NO	DOCUMENT NAME	HAVE YOU ATTACHED THE FOLLOWING COMPULSORY DOCUMENT (Yes/No)
1.	Have you submitted an original certified Tax Clearance Certificate/ SARS Pin?	
2.	Have you submitted CSD Registration Report?	
3.	Have you submitted copy of Company Registration	
4.	Have you submitted the Business/ Company Profile	
5.	Have you submitted the certified Copy of B-BBEE Certificate (SANAS accredited) or sworn affidavit	
6.	Have you submitted copies of Municipal Accounts/ Lease Agreement/ Tribal Authority confirmation letter for the company and the owner(s)/ Director(s) not older than 3 months	
7.	Have you submitted original certified ID copy(ies) of owner(s)/ Director(s)	
8.	Have you submitted the certified copy of the Letter of Good Standing (Compensation for Occupational Injuries and Diseases Act 130 Of 1993) COIDA issued by the Dept of Labour	
9.	Have you submitted certified copy of the Registered Competent Person's 3ph Wireman's License in terms SANS 10142 part 1 and the Occupational Health and Safety Act 1993 issued by the Chief Inspector from the Dept of Labour	
10.	Have you submitted the certified copy of the Engineer's Government Certificate of Competency (GCC) Certificate in terms of General Machinery Regulation 2 (GMR); Appointment of Competent Person(s) for Plant and Machinery; Section 43 of The Occupational Health And Safety Amendment Act issued by The Chief Inspector from The Department of Labour as a Certificated Electrical Engineer	
11.	Have you submitted the certified copy of Proof of Registration as an Energy Services Company (ESCO) with South African National Energy Development institute (SANEDI)	
12.	Have you submitted the certified copy of the Electrical Contractor Registration Certificate for the company registered with Dept. of Labour in terms of Regulation 6(4) of The Occupational Health and Safety Amendment Act	

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE LEJWELEPUTSWA DISTRICT MUNICIPALITY			
BID NUMBER:	118/06/2022	CLOSING DATE:	29 July 2022
		CLOSING TIME:	12H00
DESCRIPTION	IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (01) YEAR.		
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).			
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)			
Corner Jan Hofmeyer and Tempest Road, Welkom, 9459			
SUPPLIER INFORMATION			
NAME OF BIDDER			
POSTAL ADDRESS			
STREET ADDRESS			
TELEPHONE NUMBER	CODE	NUMBER	
CELLPHONE NUMBER			
FACSIMILE NUMBER	CODE	NUMBER	
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
	TCS PIN:	OR	CSD No:
	Yes		
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	Yes No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?			
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX		AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)	
		A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)	
		A REGISTERED AUDITOR	
		NAME:	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	Yes No [IF YES ENCLOSE PROOF]	2. ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS/ SERVICES/ WORKS OFFERED?	
SIGNATURE OF BIDDER		DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY	LEJWELEPUTSWA DISTRICT MUNICIPALITY		
CONTACT PERSON	Cathy Baloyi	CONTACT PERSON	Brian Lehlekiso
TELEPHONE NUMBER	057 353 3094	TELEPHONE NUMBER	057 353 3094
E-MAIL ADDRESS	cathy@lejwe.co.za	E-MAIL ADDRESS	brian@lejwe.co.za

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION: LEJWELEPUTSWA DISTRICT MUNICIPALITY		
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.	
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE	
1.3.	BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.4.	WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.5.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.	
2. TAX COMPLIANCE REQUIREMENTS		
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.	
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE (http://www.sars.gov.za/).	
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.	
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.	
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.	
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS		
3.1.	IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	YES / NO
3.2.	DOES THE BIDDER HAVE A BRANCH IN THE RSA?	YES / NO
3.3.	DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	YES / NO
3.4.	DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	YES / NO
<p>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</p>		

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

TENDER NUMBER: 118/06/2022

QUOTATION FOR THE APPOINTMENT OF SERVICE PROVIDER IN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR THE:

IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (01) YEAR.

1. INTRODUCTION

The LEJWELEPUTSWA DISTRICT MUNICIPALITY (hereinafter referred to as the MUNICIPALITY) wish to appoint a suitable qualified electrical service provider for the IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF THREE (3) YEARS SUBJECT TO AVAILABILITY OF DMRE FUNDING .

2. ROLE OF THE MUNICIPALITY

In a nutshell the MUNICIPALITY's role could be described as to provide services to and ensure the socio-economic development of the LEJWELEPUTSWA area to the benefit of all the residents by providing good, effective and efficient governance.

3. OBJECTIVE

The overall objective of the proposed project is to track, and monitor progress against the national target for energy in the public sector through the implementation of energy saving interventions and the establishment of a comprehensive monitoring system.

Energy efficiency is widely recognized as the most fundamental short-run imperative for rapid, ambitious and cost-effective, least-polluting and readily-available energy source. More than half of the electricity-sector related carbon emissions reduction target and the coming twenty year could be achieved through energy efficiency.

Efficiency can enhance the competitiveness of economies while helping to alleviate energy poverty as energy becomes more available. Energy productivity gains will lower the cost for the economy as a whole, enhance the supply security and reduces the need to develop new sources of energy supply to serve those without access to modern energy services for health and education enhancement. Accelerated energy efficiency can also create attractive White jobs and businesses.

As a commitment to this process, government published in 2005 the National Energy Efficiency Strategy that set a target of 12% Energy Demand Reduction to be achieved by 2015. In addition, the Department of Energy's approved 2012 Plan for the next three years, which requires national energy savings from implemented Energy Efficiency and Demand Side Management (EEDSM) measures across all sector including the public sector. The Municipal Energy Efficiency Project, making part of the EEDSM program, is to assist the Department of Energy in implementing energy efficiency projects in municipalities that will contribute towards the achievement of these targets, and also to provide an energy efficiency base line for the next financial year.

In the light of the above, the South African Government through the Department of Energy has embarked on a process of developing and implementing the National energy efficiency strategy,

Energy Efficiency Tax Incentive Scheme, Energy Management Systems and Standards, and Energy Efficiency Monitoring System. This overall target is based on sectorial targets from the residential section (10%), industrial and mining sector (15%), commercial and public buildings (15%), power generation (15%), and transport (9%). Although a variety of energy efficiency measures have been introduced since 2005, monitoring and quantification of energy savings has been a challenge.

In addition, various sector energy efficiency improvement programs have been implemented, namely the Municipal Energy Efficiency Program, the Public Building Energy Efficiency Program, Industrial Energy Efficiency Program, and the other initiatives led by the private sector.

4. SCOPE OF WORK

The scope of work to be executed will include the following:

- Project Administration - logistics and coordination of project activities, compilation and submission of monthly, quarterly and close-out reports on the implementation progress of the project.
- Infrastructure Inventory – Identification and description of the infrastructure (i.e. HVAC systems, public lights(pole no, luminaire wattage, type of lamp), water plant (type of motor, pump type, wattage etc.) and ,buildings (gross floor area, total number of floor levels, etc.), building base data (i.e. type of buildings, number of floors, occupancy), main energy sources (electricity, gas, etc.), building characteristics (building length, height], width, etc.), geographic position of each infrastructure.
- Calculation of kWh savings for buildings, street lighting, Highmast lighting, and water purification and pumping (Energy auditing)
- Supply and replacement of inefficient technologies with efficient technologies in buildings, public lighting, and water purification and pumping plants
- Monitoring of electricity consumption and savings post-retrofitting period
- Develop capacity building and training plan for local technicians
- Create a database of trained technicians or participants
- Develop a municipal energy efficiency awareness plan

5. COMPETENCIES OF THE SERVICE PROVIDER

- (a) Registered Electrical Contractor with Dept. Of Labour.
- (b) Experience in Electrical infrastructure
- (c) Proof of registration as an Energy Services Company (ESCO) with South African National Energy Development Institute (SANEDI)

6. MANAGEMENT OF THE PROJECTS

The MUNICIPALITY (through the Technical Services Department) shall be entitled to audit any aspect of both supply installation and maintenance.

7. DURATION OF PROJECT

Project should be completed in 12 months

8. EVALUATION OF TENDER OFFERS

The procedure for the evaluation of responsive tender offer is the 80/20 preference. Pricing Low does not guarantee appointment. Minimum quality point to be achieved in order to be considered for further evaluation is 80 points.		Maximum points to be allocated	Scoring	BLM SCORE	
Description					
Bid Amount (Vat Incl.) (From pricing Data)					
Price Points $\{80 \cdot (1 - (Pt - Pm) / Pm)\}$		80			
Specific project applicable expertise (FUNCTIONALITY)	Infrastructure of Firm	Experience Similar Projects	60		
		Experience of Key Personnel: Qualifications	20		
		Implementation Plan and Methodology	20		
	Total (Specific project applicable expertise)		100		
	Minimum quality point to be achieved in order to be considered for further evaluation is 80 points				
	PRICE	80			
	BBBEE LEVEL CERTIFICATE	20			
	Total Points	100			

FUNCTIONALITY SCORE CARD:

Bidder evaluation criteria for functionality	Criteria	Scoring	Points allocated	Points
Similar work experience of the bidder	<p>Bidders to demonstrate experience in similar work done</p> <p>(Attach appointment letters and reference letters/completion certificates with reference for the work done by various institutions</p>	<ul style="list-style-type: none"> • No appointment letter attached • 1 to 2 similar assignments • 3 to 4 similar assignments • 5 to 6 similar assignments • 7 and above similar assignments 	<p>0</p> <p>15</p> <p>30</p> <p>45</p> <p>60</p>	60
Key Personnel Qualifications	The bidder to attach CV and certified qualifications & certified ID copy for key personnel	<ul style="list-style-type: none"> • Non submission • BSc/BTech Electrical Engineering with ECSA registration as a Professional Engineer ≥ Five (5) years relevant experience • Registered Installation Electrician in terms of the Occupational Health and Safety Act 1993, with minimum a Diploma in Electrical Engineering, Electrical Trade Test Certificate and 3 phase Wiremans License ≥ Five (5) years relevant experience • Occupational Health and Safety Officer with minimum a Diploma in Occupational Health and Safety Management and registered with a professional body ≥ three (3) years relevant experience 	<p>0</p> <p>10</p> <p>5</p> <p>5</p>	20
Implementation Plan and Methodology	Tenderer to submit a Project Implementation Plan & Methodology statement detailing how the project will be executed	<ul style="list-style-type: none"> • Project implementation plan with activities, milestones, timelines, and deliverables • Proposed Methodology detailing the approach on the provision of the required services, supply and installation of the technologies and systems • Management structure with roles and responsibilities of team Members • Description of the capacity building and training being offered to 		20

		support the planning and implementation of energy efficiency Demand Side Management		
		NOTE:		
		NO Implementation Plan submitted points	0	
		Poor Implementation Plan = 5 points	5	
		Average Implementation Plan = 10 points	10	
		Good Implementation Plan = 15 points	15	
		Excellent Implementation Plan = 20 points	20	
		Total		100
		Minimum points required		80

9 ALTERATIONS TO DOCUMENTS

Do not make any alterations or additions to the Term of Reference, except to comply with instructions issued by the employer, or necessary to correct errors made by the Service Provider. All signatories to the Bid offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

No alternative Bid officer will be considered

10 FORMAL AGREEMENT AND CONDITIONS OF CONTRACT

The award of the contract is subject to the successful bidder entering into an agreement with the LEJWELEPUTSWA MUNICIPALITY.

11 DECLARATION OF CONFIDENTIALITY

The Service Provider(s) shall regard all information in, or in support of the project as confidential and may not use any information for personal or 3rd party gain

12 CONTACTABLE OFFICIALS FOR CLARIFICATION

Enquiries regarding clarification of aspects mentioned in this TOR can be addressed to Mr. Brian Lehlekiso during office hours at Tel. no: 057 353 3094 or Supply Chain Manager Ms. Cathy Baloyi

FORM 1.1 GENERAL INFORMATION

Details of person responsible for the tender process:

Name: _____

Contact number _____

Address of office submitting the tender:

Address: _____

Telephone no: _____

Fax no: _____

E-mail address: _____

SIGNED ON BEHALF OF COMPANY:

Name:

Signature:

Capacity:

Date:.....

FORM 1.3 CERTIFICATE FOR AUTHORITY OF SIGNATORY

Signatories for Companies must establish their authority by attaching a copy of the relevant Resolution of the Board of Directors, duly signed and dated, to this form.

AN EXAMPLE IS SHOWN BELOW:

"By Resolution of the Board of Directors at a meeting on
..... 2022

Mr/Mrs/Ms.

has been duly authorised to sign all documents in connection with the Tender on behalf of (Block capitals)

.....

SIGNED ON BEHALF OF COMPANY:

IN HIS CAPACITY AS:

SIGNATURE OF SIGNATORY:

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

Name: Position:

Signed: Date:

COMPULSORY MUNICIPAL BID DOCUMENTS

MBD 4

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favoritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorized representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name of bidder or his or her representative:.....

3.2 Identity Number:

3.3 Position occupied in the Company (director, trustee, shareholder²):.....

3.4 Company Registration Number:

3.5 Tax Reference Number:.....

3.6 VAT Registration Number:

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars.

.....

¹MSCM Regulations: "in the service of the state" means to be –

(a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any MUNICIPALITY or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

² Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

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

3.9.1 If yes, furnish particulars.....

.....

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

3.10.1 If yes, furnish particulars.

.....

.....

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

3.11.1 If yes, furnish particulars

.....

.....

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

3.12.1 If yes, furnish particulars.

.....

.....

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

3.13.1 If yes, furnish particulars.

.....

.....

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

3.14.1 If yes, furnish particulars:

.....

.....

(a) 4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE) STATUS LEVEL CERTIFICATES

Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.

Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points for out of 90 or 80 for price only and zero points out of 10 or 20 for B-BBEE.

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

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

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

1. GENERAL CONDITIONS

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

- 1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

4. THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- P_{min} = Comparative price of lowest acceptable bid

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

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

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

6. BID DECLARATION

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

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

- 7.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

8. SUB-CONTRACTING

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

8.1.1 If yes, indicate:

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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

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

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

MUNICIPALITY **where** **business** **is** **situated:**

.....

Registered Account Number:

Stand Number:.....

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

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

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

WITNESSES

1.

2.

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

DATE:

ADDRESS

.....

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the MUNICIPALITY / municipal entity, or to any other MUNICIPALITY / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the MUNICIPALITY / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the MUNICIPALITY or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of MUNICIPALITY / Municipal Entity)

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

I certify, on behalf of:

_____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate.
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect.
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder.
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder.
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

- (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation);
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
 10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
 Signature Date

.....
 Position Name of Bidder

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SPECIFICATIONS

IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (01) YEAR.

1. Lighting:

Applicable National and International Standards

The following applicable lighting standards are to be noted:

- SANS 475:2013 Luminaires for interior lighting, streetlighting and floodlighting — Performance requirements
- SANS 10114-1: Interior lighting Part 1: Artificial lighting of interiors
- SANS 10114-2: Interior lighting Part 2: Emergency lighting
- SANS 10400-O: The application of the National Building Regulations Part O: Lighting and ventilation
- SANS 10389-2: Exterior lighting Part 2: Exterior security lighting

2. Electric Motors:

Applicable National and International Standards

SANS 60034-30-1:2014 / IEC 60034-30-1: 2014: Rotating electrical machines, Part 30-1: Efficiency classes of line operated AC motors (IE code)

3. Variable Speed Drives (VSDs):

Applicable National and International Standards

SANS 60034-31:2010 / IEC/TS 60034-31:2010 - Rotating electrical machines, Part 31: Selection of energy-efficient motors including variable speed applications — Application guide

4. Solar PV

IEC61215 or IEC61646 is a compulsory design qualification and type approval for crystalline silicon terrestrial PV modules. The module must be IEC61730 certified. IEC61730 addresses the safety qualifications for PV modules. Inverters should comply with the CE standard and IEC 62109 which evaluates safety requirements and IEC 62116 which evaluates the performance of islanding prevention or any other local requirement if any.

.....
Signature

.....
Date

.....
Name of Bidder

.....
Position

Form of Offer and Acceptance

C1.1 FORM OF OFFER AND ACCEPTANCE

C1.1.1: Form of Offer

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

IMPLEMENTATION OF ENERGY EFFICIENCY DEMAND SIDE MANAGEMENT (EEDSM) WITHIN LEJWELEPUTSWA DISTRICT MUNICIPALITY FOR A PERIOD OF ONE (01) YEAR.

TENDER NUMBER: 118/06/2022

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

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

***THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS:**

.....

..... Rand (in words);

R (in figures)

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

Signature Block: Tenderer	
Signature	Date
Name	
Capacity	
Name of organization	
Address of organization	
.....	
Signature of witness	Date
Name of witness	

C1.1.2: Form of Acceptance

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

The terms of the contract, are contained in:

- Part C1: Agreements and contract data, (which includes this agreement)
- Part C2: Pricing data
- Part C3: Scope of work.
- Part C4: Site information and drawings and documents or parts thereof, which may be incorporated by reference into Parts C1 to C4 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule.

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

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

Signature Block: Employer	
Signature	Date
Name	
Capacity	
for the Employer LEJWELEPUTSWA DISTRICT MUNICIPALITY	
Signature of witness	Date
Name of witness	

C1.1.3: Schedule of Deviations

- 1 Subject:
Details:
.....
.....
.....
.....

- 2 Subject: Details:
.....
.....
.....
.....

- 3 Subject:
Details:
.....
.....
.....
.....

- 4. Subject:
Details:
.....
.....
.....
.....

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

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

GENERAL CONDITIONS OF CONTRACT

1. DEFINITIONS

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

Contract

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

Contract Data

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

Contract Price

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

Day

A calendar day.

Defect

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

Deliverable

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

Employer

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

Force Majeure

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

Key Persons

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

Others

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

Parties

The Employer and the Service Provider.

Period of Performance

The period within which the Services are to be performed and completed.

Personnel

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

Personnel Schedule

A schedule naming all Personnel and Key Persons.

Pricing Data

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

Project

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

Scope of Work

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

Service Provider

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

Services

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

Subcontractor

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

2. INTERPRETATION

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

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

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

3. GENERAL

3.1 Governing law

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

3.2 Change in legislation

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

3.3 Language

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

3.3.2 All reports, recommendations and reports prepared by the Service Provider under the Contract shall be in English.

3.4 Notices

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

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

3.5 Location

The Services shall be performed at such locations as are specified in the Contract Data, and where the location of a particular task is not so specified, at such locations as the Employer may approve. For this project,, the exact location will be Masilonyana Local Municipality and Tokologo Local Municipality.

3.6 Publicity and publication

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

3.7 Confidentiality

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

3.8 Variations

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

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

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

3.9 Sole agreement

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

3.10 Indemnification

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

3.11 Penalty

3.11.1 If due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract or in law, be entitled to levy a penalty for every Day or part thereof, which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.

3.11.2 If the Employer has become entitled to the maximum penalty amount referred to in 3.11.1, he may after giving notice to the Service Provider:

- a) terminate the Contract
- b) complete the Services at the Service Provider's cost.

3.12 Equipment and materials furnished by the Employer

3.12.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory

of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.

3.12.2 The Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.12.1 for their full replacement value.

3.13 Illegal and impossible requirements

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

3.14 Programme

3.14.1 The Service Provider shall, within the time period set out in the Contract Data, submit to the Employer a programme for the performance of the Services which shall, *inter alia*, include:

- a) the order and timing of operations by the Service Provider and any actions required of the Employer and Others;
- b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them; and
- c) other information as required in terms of the Scope of Work or Contract Data.

3.14.2 The Employer may, during the course of the Contract, request the Service Provider to amend the programme. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.

3.14.3 The Service Provider shall regularly update the programme to reflect actual progress to date and expected future progress.

4. EMPLOYER'S OBLIGATIONS

4.1 Information

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

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

4.2 Decisions

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

4.3 Assistance

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

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

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

4.4 Services of Others

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

4.5 Notification of material change or defect

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

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

4.6 Issue of instructions

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

4.7 Payment of Service Provider

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

5. SERVICE PROVIDER'S OBLIGATIONS

5.1 General

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

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

5.2 Exercise of authority

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

5.3 Designated representative

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

5.4 Insurances to be taken out by the Service Provider

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

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

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

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

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

5.6 Co-operation with Others

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

5.7 Notice of change by Service Provider

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

6. CONFLICTS OF INTEREST

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

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

6.2 Royalties and the like

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

6.3 Independence

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

7. SERVICE PROVIDER'S PERSONNEL

7.1 General

- 7.1.1 The Service Provider shall employ and provide all qualified and experienced Personnel required to perform the Services.
- 7.1.2 Where required in terms of the Contract, the Service Provider shall provide Key Persons as listed in the Contract Data to perform specific duties. If at any time, a particular Key Person cannot be made available, the Service Provider may engage a replacement who is equally or better qualified to perform the stated duty, subject to the Employer's approval, which approval shall not be unreasonably withheld.
- 7.1.3 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement to a named Key Person shall not exceed that which would have been payable to the person replaced.
- 7.1.4 The Service Provider shall bear all additional costs arising out of or incidental to replacement of Personnel, except where such replacement is otherwise provided for in the Contract.
- 7.1.5 The Service Provider shall take all measures necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

7.2 Provision of Personnel in terms of a Personnel Schedule

- 7.2.1 The Service Provider shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.
- 7.2.2 Where the Service Provider proposes to utilise a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval. Should the Employer not object in writing within 10 Days of receipt of such notification, the replacement shall be deemed to have been approved by the Employer.
- 7.2.3 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.2.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.

7.2.4 The Service Provider shall, if required in terms of Clause 7.2.1:

- a) forward to the Employer for approval, within 15 Days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
- b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
- c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION

8.1 Commencement of Services

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

8.2 Completion

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

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

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

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

8.2.4 The Employer shall, within 30 Days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the Services and the matter shall be dealt with as a dispute in terms of Clause 12.

8.3 Force Majeure

8.3.1 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of *Force Majeure*, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Contract, and has informed the other Party as soon as possible about the occurrence of such an event.

8.3.2 in the event that the performance of the Services has to be suspended on the grounds of

Force Majeure, the Period of Performance shall be extended by the extent of the delay plus a reasonable period for the resumption of work.

8.3.3 During the period of his inability to perform the Services as a result of an event of *Force Majeure*, the Service Provider shall be entitled to any payment due in terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by him in suspending, delaying and re-activating the performance of the Services.

8.4 Termination

8.4.1 The Employer may terminate the Contract:

- (a) where the Services are no longer required;
- (b) where the funding for the Services is no longer available;
- (c) if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) Days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;
- (d) if the Service Provider becomes insolvent or liquidated; or
- (e) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days;

8.4.2 The Employer shall give the Service Provider not less than thirty (30) Days written notice of any termination made in terms of 8.4.1 (a) or (b).

8.4.3 The Service Provider may terminate the Contract, by giving not less than thirty (30) Days written notice to the Employer after the occurrence of any of the following events:

- (a) if the Employer fails to pay any monies due to the Service Provider in terms of the Contract and not subject to dispute pursuant to Clause 12 within forty-five (45) Days after receiving written notice from the Service Provider that such payment is overdue; or
- (b) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days; or
- (c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds the period stated in the Contract Data, or it is clear to the Service Provider that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded the period stated in the Contract Data; or
- (d) if the Employer is in material breach of a term of the Contract and fails to rectify such breach within 30 Days of the receipt of written notice requiring him to do so.

8.4.4 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

8.4.5 Should the Service Provider, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond his control from performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights of either Party against the other.

8.5 Suspension

8.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the performance of the Services and minimize further expenditure.

8.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties

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

9. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

9.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

9.2 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.

9.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

10. SUCCESSION AND ASSIGNMENT

10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.

10.2 An assignment shall be valid only if it is a written agreement, by which the Service Provider transfers his rights and obligations under the Contract, or part thereof, to others.

10.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract or any part thereof, or any benefit or interest there under, except in the following cases:

- (a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or
- (b) by assignment to the Service Provider's insurers of the Service Provider's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider's loss or liability.

10.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned.

10.5 If the Service Provider has assigned his Contract or part thereof without authorization, the

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

11. SUBCONTRACTING

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

12. RESOLUTION OF DISPUTES

12.1 Settlement

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

12.2 Mediation

- 12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than 14 Days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person

named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.

12.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.

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

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

12.3 Adjudication

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

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

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

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

12.4 Arbitration

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

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

13. LIABILITY

13.1 Liability of the Service Provider

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

13.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time stated in a notification and the Defect

arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.

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

13.2 Liability of the Employer

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

13.3 Compensation

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

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

13.4 Duration of Liability

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

13.5 Limit of Compensation

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

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

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

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

13.6 Indemnity by the Employer

Unless otherwise indicated in the Contract Data, the Employer shall indemnify the Service Provider against all claims by third parties which arise out of or in connection with the performance of the Services save to the extent that such claims do not in the aggregate

exceed the limit of compensation in Clause 13.5, if applicable, or are covered by the insurances arranged under the terms of Clause 5.4.

13.7 Exceptions

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

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

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

14. REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

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

14.1 The Service Provider shall be entitled to render interim monthly accounts for fees and reimbursements throughout the duration of the Contract. Interim amounts of lump sum fees due shall be based on progress.

14.2 Amounts due to the Service Provider shall be paid by the Employer within thirty (30) Days of receipt by him of the relevant invoices. If the Service Provider does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Employer, at the prime interest rate charged by his bank and certified by such bank, plus 2% per annum, and calculated from the due date of payment.

14.3 If any item or part of an item in an invoice submitted by the Service Provider is disputed by the Employer, the latter shall, before the due date of payment, give notice thereof with reasons to the Service Provider, but shall not delay payment of the balance of the invoice. Clause 14.2 shall apply to disputed amounts which are finally determined to be payable to the Service Provider.

14.4 In respect of Services charged for on a time basis and all other reimbursable expenses the Service Provider shall maintain records in support of such charges and expenses for a period of twenty-four months after the completion or termination of the Contract. Within this period the Employer may, on not less than 14 Days' notice, require that a reputable and independent firm of accountants, nominated by him at his expense, audit any claims made by the Service Provider for time charges and expenses by attending during normal working hours at the office where the records are maintained.

15 AMOUNTS DUE TO THE EMPLOYER

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

BILL OF QUANTITIES

SECTION 1: PRELIMINARY AND GENERAL				
ITEM	DESCRIPTION	UNIT	QTY	RATE (ZAR) Ex VAT
1	PRELIMINARY AND GENERAL TASKS:			
1,1	Compliance With OHS And Contract Conditions Safety File,Inductions,Insurances,etc	Sum	1	
1,2	Site Establishment Allow for site establishment, all associated services and for storage of plant, project board, crane hiring, materials and equipment including protection of the material, Transport	Sum	1	
1,3	Project Planning Compilation of Energy Consumption Baseline Reports, Business Plan and Work Plans	Sum	1	
1,4	Project Management Compilation of Monthly, Quarterly and Closeout Reports	Sum	1	
1,5	Capacity Building and Training Development of capacity building and training plan for local technicians	Prov. Sum	1	R40 000.00
1,6	Energy Efficiency Awareness Campaigns Development of a municipal energy efficiency awareness plan	Prov. Sum	1	R40 000.00
	TOTAL FOR SECTION 1: PRELIMINARY TO SUMMARY	Total Amount To Be Carried Forward		

SECTION 2: SUPPLY AND INSTALLATION					
ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
2	SUPPLY AND INSTALLATION (INCLUDING C.O.C FOR ALL INSTALLATIONS)				
2.1	100W LED Streetlight (100-277V AC. 14000 Lm. 4000K. Type II) TO REPLACE 250W HPS STREETLIGHT	No	250		
2.2	400W LED Floodlight (100-277V AC. 64000 Lm. 4000K. Medium Beam) TO REPLACE 1000W HPS FLOODLIGHT	No	80		
	TOTAL FOR SECTION 2: SUPPLY AND INSTALLATION TO SUMMARY	Total Amount To Be Carried Forward			R

SUMMARY		
BROUGHT FORWARD FROM SECTION NO.	DESCRIPTION	AMOUNT
1	PRELIMINARY AND GENERAL	R

2	SUPPLY AND INSTALLATION	R
SUB-TOTAL: SECTION 1 + SECTION 2		R
VAT@ 15%		R
GRAND-TOTAL (Incl. VAT)		R