



TENDER COS 001/2023

**OPERATION AND MAINTENANCE OF BETHLEHEM
LANDFILL SITE**

**APPOINTMENT OF A SERVICE PROVIDER FOR THE OPERATION AND MAINTENANCE
OF BETHLEHEM LANDFILL SITE FOR A PERIOD OF 3 YEARS WITH EFFECT FROM
DATE OF AWARD.**

CLOSING DATE: 22 MARCH 2023	CLOSING TIME: 12:00
------------------------------------	----------------------------

NAME OF BIDDER*

ADDRESS*
.....
.....
.....

TEL NUMBER*

FAX NUMBER*

CSD DATABASE REG NO*

TENDER AMOUNT, INCL VAT*

(* TO BE COMPLETED BY BIDDER)

Prepared by:
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9700
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SECTION 1.1: INVITATION TO TENDER COS 001/2023

CLOSING DATE: **22 MARCH 2023**

CLOSING TIME: **12:00**

**TENDER NO COS 001/2023: OPERATION AND MAINTENANCE OF BETHLEHEM
LANDFILL SITE**

Tenders are hereby invited from service providers for the operation and maintenance of Bethlehem Landfill Site.

Tenders must be submitted on the original documents and remain valid for 80 (eighty) days after the closing date of the tender. Enquiries about the tender and the completion of the documents can be addressed to Mojabeng Makibinyane at telephone (058) 303-5732.

A set of tender documents can be obtained at a non-refundable cost of R1 000.00 per set from the Supply Chain Manager at telephone (058) 303-5732. **A compulsory information session will take place at 10:00 on Friday, 24 February 2023 at the Traffic Boardroom, Dihlabeng Local Municipality, corner of President Boshoff and Bruwer Street, Bethlehem.** Doors will close at 10:10. No payments can and will be accepted at the information session, all payments must be done prior thereto. Documents will only be handed to prospective bidders who produce a receipt for the payment of the tender document.

Fully completed tender documents must be placed in a sealed envelope and placed in the **tender box on the Ground floor at the Municipality by not later than 12:00 on Wednesday, 22 March 2023.** The envelopes must be endorsed clearly with the number, title and closing date of the tender as above.

The tender box will be emptied just after 12:00 on the closing date where after all bids will be opened in public. Late tenders will under no circumstances be accepted.

The Municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The Municipality does not bind itself to accepting the lowest tender or award a contract to the bidder scoring the highest number of points.

**KJ MASEKOANE
MUNICIPAL MANAGER**

**SECTION 1.2: MBD1: BID FOR THE REQUIREMENTS OF THE MUNICIPALITY
DIHLABENG**

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DIHLABENG LOCAL MUNICIPALITY					
BID NUMBER:	COS 001/2023	CLOSING DATE:	22 MARCH 2023	CLOSING TIME:	12:00
DESCRIPTION	OPERATION AND MAINTENANCE OF BETHLEHEM LANDFILL SITE				
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*)

9 MULLER STREET EAST
BETHLEHEM
9701

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:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No			<input type="checkbox"/> 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	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
	<input type="checkbox"/>	A REGISTERED AUDITOR			
		NAME:			

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER	DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	
CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

PART B
TERMS AND CONDITIONS FOR BIDDING

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

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

SECTION 1.3: TENDER CONDITIONS AND INFORMATION

1.1 General and Special Conditions of Contract

The General Conditions of Contract (GCC) as well as Special Conditions of Contract (SCC) forming part of this set of tender documents will be applicable to this tender in addition to the conditions of tender. Where the GCC and SCC are in conflict with one another, the stipulations of the SCC will prevail.

1.2 Acceptance or Rejection of a Tender

The Municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The Municipality does not bind itself to accepting the lowest tender or the tender scoring the highest points.

1.3 Validity Period

Bids shall remain valid for eighty (80) days after the tender closure date.

1.4 Cost of Tender Documents

Payment for tender documents, if specified, must be made to the Municipality of Dihlabeng. These costs are non-refundable. Proof of payment must be included in tender application document.

1.5 Registration on Accredited Supplier Database

It is expected of all prospective service providers who are not yet registered on the Municipality's Accredited Supplier Database to register without delay on the prescribed form. The Municipality reserves the right not to award tenders to prospective suppliers who are not registered on the Database.

1.6 Completion of Tender Documents

(a) The original tender document must be completed fully in black ink and signed by the authorised signatory to validate the tender. Section 4: DECLARATION must be completed and signed by the authorised signatory and returned. Failure to do so will result in the disqualification of the tender.

(b) Tender documents may not be retyped. Retyped documents will result in the disqualification of the tender.

(c) The complete original tender document must be returned. Missing pages will result in the disqualification of the tender.

(d) No unauthorised alteration of this set of tender documents will be allowed. Any unauthorised alteration will disqualify the tender automatically. Any ambiguity has to be cleared with contact person for the tender before the tender closure.

1.7 Compulsory Documentation

1.7.1 Tax Clearance Certificate

(a) A valid original Tax Clearance Certificate must accompany the bid documents unless the bidder is registered on the Accredited Supplier Database of the Municipality and the Municipality has a valid original Tax Clearance Certificate for the bidder on record. The onus is on the bidder to ensure that the Municipality has an original Tax Clearance Certificate on record. If the South African Revenue Services (SARS) cannot provide a valid original Tax Clearance Certificate; the bidder must submit a letter from SARS on an original SARS letterhead that their tax matters are in order and/or submit the pin provided by SARS.

(b) Bids not supported by a valid original Tax Clearance Certificate, either as an attachment to the bid documents or on record in the case of suppliers registered on the Supplier Database of the Municipality, will be disqualified.

1.8 Other Documentation

1.8.1 Construction Industry Development Board (CIDB) (If applicable)

When applicable, a copy of the bidder's registration with the CIDB must be included with the tender.

1.8.2 Municipal Rates, Taxes and Charges

(a) The original or a certified copy of the bidder's and those of its directors municipal accounts (for the Municipality where the bidder pays his account) for the month preceding the tender closure date must accompany the tender documents. If such a certified copy does not accompany the bid document of the successful bidder, the Municipality reserves the right to obtain such documents after the closing date to verify that their municipal accounts are in order.

(b) Any bidder which is or whose directors are in arrears with their municipal rates and taxes or municipal charges due to any Municipality or any of its entities for more than three months and have not made an arrangement for settlement of same before the bid closure date will be unsuccessful.

(c) If a bidder rents their premises, proof must be submitted that the rental includes their municipal rates and taxes or municipal charges and that their rent is not in arrears.

1.9 Authorised Signatory

(a) A copy of the recorded Resolution taken by the Board of Directors, members, partners or trustees authorising the representative to submit this bid on the bidder's behalf must be attached to the Bid Document on submission of same.

(b) A bid shall be eligible for consideration only if it bears the signature of the bidder or of some person duly and lawfully authorised to sign it for and on behalf of the bidder.

(c) If such a copy of the Resolution does not accompany the bid document of the successful bidder, the Municipality reserves the right to obtain such document after the closing date to verify that the signatory is in order.

1.10 Site / Information Meetings

Site or information meetings, if specified, are compulsory. Bids will not be accepted from bidders who have not attended compulsory site or information meetings.

1.11 Samples

Samples, if requested, are to be provided to the Municipality with the tender document.

1.12 Quantities of Specific Items

If tenders are called for a specific number of items, Council reserves the right to change the number of such items to be higher or lower. The successful bidder will then be given an opportunity to evaluate the new scenario and inform the Municipality if it is acceptable. If the successful bidder does not accept the new scenario, it will be offered to the second-placed bidder. The process will be continued to the Municipality's satisfaction.

1.13 Submission of Tender

- (a) The tender must be placed in a sealed envelope, or envelopes when the two-envelope system is specified, clearly marked with the tender number, title as well as closing date and time and placed in the **tender box on the Ground floor at the Municipality by not later than 12:00 on 22 March 2023.**
- (b) Faxed, e-mailed and late tenders will not be accepted. Tenders may be delivered by hand, by courier, or posted at the bidder's risk and must be received by the deadline specified above, irrespective of how they are sent or delivered.

1.14 Expenses Incurred in Preparation of Tender

The Municipality shall not be liable for any expenses incurred in the preparation and submission of the tender.

1.15 Contact with Municipality after Tender Closure Date

Bidders shall not contact the Dihlabeng Municipality on any matter relating to their bid from the time of the opening of the bid to the time the contract is awarded. If a bidder wishes to bring additional information to the notice of the Dihlabeng Municipality, it should do so in writing to the Dihlabeng Municipality. Any effort by the firm to influence the Dihlabeng Municipality in the bid evaluation, bid comparison or contract award decisions may result in the rejection of the bid.

1.16 Opening, Recording and Publications of Tenders Received

- (a) Tenders will be opened on the closing date immediately after the closing time specified in the tender documents. If requested by any bidder present, the names of the bidders, and if practical, the total amount of each bid and of any alternative bids will be read out aloud.
- (b) Details of tenders received in time will be published on the Municipality's website as well as recorded in a register which is open to public inspection.

1.17 Evaluation of Tenders

Tenders will be evaluated in terms of their responsiveness to the tender specifications and requirements as well as such additional criteria as set out in this set of tender documents.

1.18 Procurement Policy

Bids will be awarded in accordance with the Preferential Procurement Regulations, 2001 pertaining to the Preferential Procurement Policy Framework Act, No 5 of 2000 as well as the Municipality's Supply Chain Management Policy.

1.19 Contract

The successful bidder will be expected to sign a Service Level Agreement. The tender document together with the signed Service Level Agreement, will constitute the full agreement between the Municipality and the successful bidder.

1.20 Language of Contract

The contract documents will be compiled in English and the English versions of all referred documents will be taken as applicable.

1.21 Extension of Contract

The contract with the successful bidder may be extended should additional funds become available.

1.22 Stamp and Other Duties

The successful bidder will be liable for all duties and costs on legal documents resulting in the establishment of a contract and for the surety and retentions.

1.23 Wrong Information Furnished

Where a contract has been awarded on the strength of the information furnished by the bidder which, after the conclusion of the relevant agreement, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have, recover from the contractor all costs, losses or damages incurred or sustained by the Municipality as a result of the award of the contract.

1.24 Past Practices

(a) The bid of any bidder may be rejected if that bidder or any of its directors have abused the municipality's supply chain management system or committed any improper conduct in relation to such system.

(b) The bid of any bidder may be rejected if it is or has been found that that bidder or any of its directors influenced or tried to influence any official or councillor with this or any past tender.

(c) The bid of any bidder may be rejected if it is or has been found that that bidder or any of its directors offered, promised or granted any official or any of his/her close family members,

partners or associates any reward, gift, favour, hospitality or any other benefit in any improper way, with this or any past tender.

1.25 Enquiries

Enquiries in connection with this tender, prior to the tender closure date, may be addressed to Mojabeng Makibinyane at telephone (058) 303-5732 or by e-mail to mojabengm@dihlabeng.co.za.

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SECTION 1.4 GENERAL CONDITIONS OF CONTRACT

1. Definitions

1. The following terms shall be interpreted as indicated:
- 1.1 **“Closing time”** means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2 **“Contract”** means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 **“Contract price”** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4 **“Corrupt practice”** means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 **“Countervailing duties”** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6 **“Country of origin”** means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 **“Day”** means calendar day.
- 1.8 **“Delivery”** means delivery in compliance of the conditions of the contract or order.
- 1.9 **“Delivery ex stock”** means immediate delivery directly from stock actually on hand.
- 1.10 **“Delivery into consignees store or to his site”** means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.
- 1.11 **“Dumping”** occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 **“Force majeure”** means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 **“Fraudulent practice”** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 **“GCC”** means the General Conditions of Contract.
- 1.15 **“Goods”** means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 **“Imported content”** means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the bid will be manufactured.
- 1.17 **“Local content”** means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
- 1.18 **“Manufacture”** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 **“Order”** means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 **“Project site,”** where applicable, means the place indicated in bidding documents.
- 1.21 **“Purchaser”** means the organization purchasing the goods.

- 1.22 **“Republic”** means the Republic of South Africa.
- 1.23 **“SCC”** means the Special Conditions of Contract.
- 1.24 **“Services”** means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, and maintenance and other such obligations of the supplier covered under the contract.
- 1.25 **“Supplier”** means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 **“Tort”** means in breach of contract.
- 1.27 **“Turnkey”** means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 **“Written” or “in writing”** means hand-written in ink or any form of electronic or mechanical writing.

2. **Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. **General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

4. **Standards**

- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. **Use of contract documents and information inspection**

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. **Patent Rights**

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the

intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms: (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or (b) a cashier's or certified cheque.
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.
10. **Delivery and documents**
- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.
11. **Insurance**
- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.
12. **Transportation**
- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified
13. **Incidental Services**
- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any: (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
(b) Furnishing of tools required for assembly and/or maintenance of the supplied goods;
(c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
(d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
(e) Training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
14. **Spare parts**
- 14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
(a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
(b) in the event of termination of production of the spare parts: (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
15. **Warranty**
- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country,

whichever period concludes earlier, unless specified otherwise.

- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. **Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.

17. **Prices**

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

18. **Variation orders**

- 18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 20% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

19. **Assignment**

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. **Subcontracts**

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid.
Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. **Delays in the supplier's performance**

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.
- 21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of

- penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
22. **Penalties**
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.
23. **Termination for default**
- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
(a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2; (b) if the supplier fails to perform any other obligation(s) under the contract; or (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
(i) The name and address of the supplier and / or person restricted by the purchaser;
(ii) The date of commencement of the restriction
(iii) The period of restriction; and
(iv) The reasons for the restriction. These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.
- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the

period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website

24. **Antidumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favorable difference shall on demand be paid forthwith by the supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

25. **Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure. 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable means for performance not prevented by the force majeure event.

26. **Termination for insolvency**

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.

27. **Settlement of Disputes**

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Notwithstanding any reference to mediation and/or court proceedings herein, (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and (b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

28. **Limitation of Liability**

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6; (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. **Governing language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. **Applicable law**

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

31. **Notices**

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. **Taxes and duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and Municipal services charges are in arrears.

33. **Transfer of contracts**

33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser

34. **Amendment of contracts**

34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

35. **Prohibition of restrictive practices**

35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.

35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.

35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and/ or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

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SECTION 1.5 SPECIAL CONDITIONS OF CONTRACT

1 Introduction

The Dihlabeng Municipality wishes to enter into a contract with a suitable Services Provider for the operation and maintenance of Bethlehem Landfill Site for a period of three (3) years, from date of appointment.

PART 1: DATA PROVIDED BY THE EMPLOYER

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

"ADEQUATE" means acceptable in the opinion of the Employer and Engineer.

"CHIEF FINANCIAL OFFICER" means the duly appointed natural or juristic person or partnership or any other financial expert appointed from time to time by the Employer, to act on their behalf in regard to certain financial aspects of the administration and execution of this contract.

"CONTRACT" means these General Conditions, Specifications, Schedule of Prices and Rates, Certificates and Schedules, Annexures as well as the documents scheduled therein.

"CONTRACTOR" means the person, firm or company whose bid has been accepted by or on behalf of the Employer and includes the Contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Employer, any assignee of the Contractor.

"EMPLOYER" means the DIHLABENG LOCAL MUNICIPALITY (DLM) or its duly authorised representative.

"ENGINEER" means the duly appointed natural or juristic person or partnership or any other engineer appointed from time to time by the Employer, to act on their behalf in regard to certain technical aspects of the administration and execution of this Contract.

"ENGINEER'S REPRESENTATIVE" means any duly authorised assistant of the Engineer appointed by the Engineer from time to time to perform the duties set forth in Clause 5 hereof, whose authority shall be notified in writing to the Contractor by the Engineer.

"MAINTENANCE" means all work of repair, reconstruction and/or rectification required to maintain the Site in accordance with the Contract.

"OPERATION" means the work to be performed in accordance with the Contract.

"SITE" means the land, including structures, buildings, berms, drains, fences and the like, namely the Bethlehem landfill site, provided by the Employer for the purposes of the execution of the Contract.

1.2 Singular and plural

Words importing the singular only also include the plural and vice versa where the context requires.

1.3 **Clause headings**

The clause headings are inserted for convenience only and shall in no way affect the meaning and intent of the contract.

2. ASSIGNMENT AND SUB-LETTING

2.1 **Assignment**

The Contractor shall not cede, assign or delegate neither the contract nor any part thereof or any benefit, obligation or interest therein or thereunder without prior written consent of the employer.

2.2 **Sub-letting**

The Contractor shall not sub-let the whole of the contract or any part thereof without prior written consent of the employer. Any such consent, if given, shall not relieve the contractor from any liability or obligation under the contract and he/she shall be responsible for the acts, default and neglects of any sub-contractor, his/her agents, servants or workers as fully as if they were acts, defaults or neglects of the contractor his/her agents, servants or workmen.

3. CONTRACT DOCUMENTS

3.1 **Law governing the contract**

The law which is to apply to the contract and according to which the contract is to be construed shall be the law of the Republic of South Africa.

3.2 **Documents self explanatory**

The several documents forming the contract are to be taken as mutually explanatory of one another and in the case of ambiguities or discrepancies the same shall be explained and adjusted by the engineer, who shall thereupon issue to the contractor instructions directing what work is to be carried out. Provided always that if, in the opinion of the employer, compliance with any such instructions shall involve the contractor in any expense, which by reason (if any) such ambiguity or discrepancy, the contractor did not and had reason not to anticipate, the engineer shall certify and the employer shall pay such additional sums as may be reasonable to cover such expense.

The employer will furnish a duplicate copy of the contract to the contractor after the signing of the agreement and bond and the contractor will be entitled to receive a duplicate of any order in writing.

The contractor shall be deemed to have satisfied himself before bidding as to the completeness of the contract documents as no claim arising from the omission or duplication of pages of the document will be considered.

4. EXTENT OF CONTRACT

4.1 **Extent of contract**

The contractor's obligation comprises the day to day operation and maintenance of the site and includes the provision of all management, labour, materials, plant, etc, whether of a temporary or permanent nature, required in and for such operation and maintenance so far as the necessity for providing the same is specified in or can reasonably be inferred from the contract. The contractor will also be required to operate and maintain a public disposal facility. In addition the contractor will

be required to utilise the clean green fraction of the garden waste to produce odourless compost according to the requirements and specifications laid down in Clause 5.14 (m) of the specification.

4.2 **Orders to be in writing**

No variation to the contract shall be made by the contractor without an order in writing from the employer provided that if for any reason the employer shall consider it desirable to give such order verbally, the contractor shall comply with such order and any confirmation in writing of such verbal order given by the employer, whether before or after the carrying out of the order, shall be deemed to be an order in writing within the meaning of this clause. Provided further, that if the contractor confirms it as soon as possible, but within ten days of receiving such verbal order, in writing to the engineer and such confirmation is not contradicted in writing by the engineer within ten days of receipt thereof, it shall be deemed to be an order in writing by the engineer. No order in writing shall be required for increase or decrease in the quantities scheduled where such increase or decrease is not the result of an order given under this clause but is the result of the quantities exceeding or being less than those stated in the Schedule of Quantities and Rates.

5. OBLIGATIONS OF THE CONTRACTOR

5.1 **Contract agreement**

The contractor shall within 7 (seven) days after having been called upon to do so, enter into and execute a contract agreement in the form provided in *Part 5: Certificates and Schedules* (to be prepared and completed at the cost of the employer).

5.2 **Performance guarantee**

Within 14 (fourteen) days of acceptance of his/her bid the contractor shall furnish, entirely at his/her cost and in the form provided in *Part 5: Certificates and Schedules*, a guarantee from an approved and reputable insurance company or a registered banking institute for the due and proper fulfilment of the contract. The guarantee shall be in the amount of 10 (ten) percent of the annual contract value.

The guarantee is subject to annual revision based on the volumes of waste disposed of in the previous 12 months. The guarantee shall remain valid until thirty days after the date or extended date of completion of the Contract.

5.3 **Inspection of site**

The contractor shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself before submitting his/her tender as to the form and nature of the site, the means of access to the site, the facilities available and in general to have obtained all necessary information as to risks, contingencies and other circumstances which might have influenced his/her offer.

5.4 **Sufficiency of tender**

The contractor shall be deemed to have satisfied himself/herself before submitting his/her bid as to the correctness and sufficiency of his/her bid and of his/her rates, which rates shall cover all his/her obligations under the contract. It shall also be deemed that in entering into the contract, the contractor fully understands the terms, conditions and intent of the contract.

5.5 **Action Plan**

The prospective contractor shall submit as part of his/her bid, an action plan showing the programme and methods by which he/she proposes to carry out the operation. In addition to the said action plan, the prospective contractor shall submit a description of the plant and personnel complement he/she intends employing, in order to carry out this plan (see Clause 7 hereof). Whenever required by the engineer, the successful contractor shall furnish in writing such additional particulars in connection with the operation, plant, personnel, etc., as he/she may require within 7 (seven) days of been requested to do so.

Approval by the engineer of such action plan, or the furnishing of the additional particulars shall not relieve the contractor of any of his/her duties or responsibilities under the contract.

5.6 **Contractor's superintendence**

The contractor shall provide adequate superintendence of the operation for the duration of the contract. A competent person, appointed by the contractor and approved of in writing by the Employer (which approval may at any time be withdrawn), shall devote adequate time to the superintendence of the operation to ensure compliance with the requirements of the contract (also see Clause 7.1 hereof). The contractor's representative shall be issued with a LDV vehicle dedicated for use by the supervisor and should at all times be available to transport visitors on site visits.

5.7 **Care of the site**

The contractor shall take full responsibility for the site or any portions thereof until expiry of the contract period and any damage or loss from any cause whatsoever (save and except the excepted risks as defined below) shall be made good at the cost of the contractor to the satisfaction of the engineer. The "excepted risks" are:

- i) War, hostilities (whether war be declared or not), invasion, political riot, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, or unless solely restricted to employees of the contractor or of his/her sub-contractor and arising from the conduct of the contract, riot, commotion or disorder, or use or occupation by the employer of any part of the site.
- ii) Ionising, radiation or contamination by radio-activity from any nuclear fuel or from nuclear waste from the combustion of nuclear fuel, radio-active, toxic, explosion, or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof.
- iii) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.
- iv) Any occurrences that an experienced contractor could not foresee, or if foreseeable and having informed the engineer accordingly, could not reasonably make provision for or insure against.
- v) A cause due to use or occupation by or on behalf of the employer of any part of the Works.
- vi) Subsidence, settlement or shock caused directly by instability of the undermined workings in the vicinity of the site.

In the event of loss or damage to the site arising from or occasioned by any of the excepted risks, the same shall, if required by the employer be made good by the contractor but at the cost of the employer at a price to be mutually agreed upon between the contractor and the employer.

5.8 **Damage to persons and property**

The contractor shall indemnify and keep indemnified the employer against all losses and claims for injuries or damage to any persons or property whatsoever (including surface or other damage to land or crops not being on the site, suffered by tenants or occupiers) which may arise out of or in consequence of the execution of the contract and against all claims, demands, proceedings damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto. Provided always that nothing herein contained shall be deemed "to render the contractor liable" for or in respect of or to indemnify the employer against any compensation or damage for or with respect to:

- a) The permanent use or occupation of the site or any part thereof (save in respect of surface damage as aforesaid),
- b) The right of the employer to operate on, over, under, in or through any lands.
- c) Interference, whether temporary or permanent, with any servitude or other right which is the unavoidable result of the operation in accordance with the contract.
- d) Injuries or damage to persons or property resulting from any act or negligence done or committed during the currency of the contract by the employer, his/her agents, servants or any other contractors (not being employed by the contractor) for or in respect of any claims, demands, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto.

5.9 **Public liability insurance**

The contractor (but without limiting his/her obligations and responsibilities under Clause 6.8), shall insure in the joint names of the contractor and employer against any damage, loss or injury which may occur to any property or to any person by or arising out of the carrying out of the contract.

Such insurance shall be effected with an insurer and in terms approved by the employer (which approval shall not be unreasonably withheld) and for at least the amount of R3,000,000,00 (three million Rand) per event, and the contractor shall, when required, produce to the employer or the engineer the policy or policies of insurance and the receipts from payment of the current premiums.

In addition to any statutory obligations, the contractor shall report to the engineer every accident within 24 hours of its occurrence, whether such accident is in respect of damage to persons, property or things. If required by the engineer, the report shall be in writing and shall contain full details of the occurrence. The engineer shall have the right to make all and any enquiries either on the site or elsewhere as to the cause and results of any such accident and the contractor shall give the engineer full facilities for carrying out such enquiries.

5.10 **Accident or injury to workmen**

The employer shall not be liable for or in respect of any damages or compensation payable at Law in respect or in consequence of any accident or injury to any workmen or other person in the employment of the contractor, save and except an accident or injury resulting from any act or default of the employer, his/her agents or servants. The contractor shall indemnify and keep indemnified the employer against all such damages and compensation (save and except as aforesaid) and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

5.11 Insurance against accident etc, to workmen

The contractor shall insure against such liability with an insurer approved by the employer (which approval shall not unreasonably be withheld) and shall continue such insurance during the whole of the time that any persons are employed by him/her on the site and shall, when required, produce to the employer or the engineer such policy of insurance and the receipt for payment of the current premium.

5.12 Remedy on contractor's failure to insure

If the contractor fails to effect and keep in force any of the insurance which he/she may be required to effect in terms of the contract, then and in any such case the employer may effect and keep in force such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount so paid by the employer as aforesaid from any moneys due or which may become due to the contractor or recover the same as a debt from the contractor.

5.13 Clearance of site on completion

Upon expiry of the contract period, or any extension thereto, the contractor shall clear away and remove from the site all plant and equipment belonging to him/her and leave the whole of the site clean and in a condition to the satisfaction of the engineer.

5.14 Compliance with statutes, regulations, etc

The contractor shall, in execution of the contract, give all notices, pay all fees and conform in all respects with the provisions of any statute, ordinance or other law or any regulation or by-law of any local or other duly constituted authority that shall affect the contractor in the performance of his/her obligations under the contract with special regard to safety, dust, noise, odours, nuisance and disturbances, and shall hold the employer indemnified against all penalties and liability of every kind or breach of any such statute, ordinance, law, regulation or by-law. The employer and the engineer shall be satisfied that the contractor did comply with all the pre-set conditions before final payment will be authorised by the employer. In particular, Clause 6.13 applies hereto.

5.15 Complaints

The contractor shall maintain a complaint register, available on site at all times. Should any complaint be received concerning the operation, the contractor shall enter all details written or verbal into the register and furnish the employer with all relevant information to enable the employer to investigate the complaint. The contractor shall thereafter rectify the situation in accordance with any instructions issued by the employer, should the complaint be validated. The register shall be updated with what action was taken to rectify the complaint and be reviewed at operation and maintenance meetings.

5.16 Facilities for other contractors

The contractor shall, in accordance with the requirements of the engineer, afford access to the public and to other contractors employed by the employer and their workmen and to the workmen of the employer and of any other properly authorised person, authority or statutory body who may be employed in the execution on or near the site of any work not included in the contract or of any contract which the employer may enter into in connection with or ancillary to the operation.

5.17 **Use of site**

The contractor shall not use the land forming the site for any purpose whatsoever other than for that intended by the content of this contract. The contractor, other than for the sole use of operating the site may not use the site for storage of any plant, equipment or material.

No trees or bushes shall be cut down or damaged by the contractor or his/her employees without the prior written consent of the employer. Failure to comply will result in aspects of Clause 12 hereof being rigorously applied.

5.18 **Damage caused by outside parties**

The contractor shall be responsible to make good any damage caused to the site by an outside party (including illegal recyclers) by recovering the full amount for repairs from the relevant party (if applicable), failing which the contractor will be held responsible.

5.19 **Advertising**

Any advertisements erected or publicity given to the operation shall be subject to prior approval by the employer and to the terms of the applicable by-laws.

6. PERSONNEL, PLANT AND EQUIPMENT

6.1 **Contractor's personnel**

The contractor shall make his/her own arrangements for the engagement of all labour, local or otherwise and, for the transport, housing, subsistence and payment thereof. He/she shall employ in and about the execution of the contract only such persons as are careful, competent and efficient in their several trades and callings and the engineer shall be at liberty to object to and require the contractor to remove from the site forthwith any person who, in the opinion of the engineer, misconduct himself/herself or is incompetent or negligent in the proper performance of his/her duties and such person shall not be again employed upon the site without the written permission of the engineer.

The contractor shall submit with his/her bid, a description of his/her proposed staff complement, including the CV's and job descriptions of key personnel.

6.2 **Occupational health and safety of personnel**

The contractor will be responsible for ensuring the occupational health and safety of all site users, whether they be contractor's staff, employer's staff, or members of the public. In this regard, the contractor will be responsible for taking all necessary measures to ensure and maintain suitable occupational health and safety standards over the entire site for the duration of the contract. The contractor shall have authority commensurate with his/her responsibility. Should the contractor experience difficulty in ensuring safety because of the actions of the employer's employees or other contractors as well as members of the public, details shall be supplied to the engineer in writing, who will take any necessary action.

The contractor is to specifically allow for personal dust monitoring at intervals and according to specifications as laid down in the current legislation.

6.3 **Labour returns**

The contractor shall, if required by the engineer, deliver at his/her office a return in detail, in such form and at such intervals as the engineer may prescribe, showing the supervisory staff and the numbers of the several classes of labour from time to time employed by the contractor on the site.

6.4 **Plant and Equipment**

The contractor shall supply all plant and equipment required for the execution of the contract and it will be his/her responsibility to ensure that such plant and equipment are adequate in all respects to ensure compliance with the terms and conditions of the contract.

The contractor shall submit with his/her bid on the schedule provided in *Part 5: Certificates and Schedules*, a description of the plant complement that he/she proposes to use in carrying out his/her action plan.

All plant provided by the contractor shall, when brought on to the site, be deemed to be exclusively intended for the execution of the works, and the contractor shall not remove the same or any part thereof without the written consent of the employer. The contractor shall notify the employer **in writing of all hired, hire purchased and leased plant and of the name and address of the owner thereof.**

7. WORKMANSHIP

7.1 **Quality of workmanship**

All workmanship shall be of the respective kinds described in the contract and in accordance with the engineer's instructions and shall be subjected from time to time to such tests and by such persons as the engineer may direct. The contractor shall provide such assistance, instruments, machines, labour and materials as are required for examining and testing.

7.2 **Cost of tests**

The cost of making any test shall be borne by the contractor if such test is clearly intended by or provided for in the specification or schedule of prices and rates. If any test is ordered by the engineer which is not so intended by or provided for, then the cost of such test shall be borne by the contractor if the test shows the workmanship not to be in accordance with the provisions of the contract or the engineer's instructions but otherwise, by the employer.

7.3 **Access to site**

The employer, the engineer and their respective authorised agents, will have the right of access to the site and to the contractor's enclosure at all times. Any attempt to deny this right will be regarded as breach of contract.

8. COMMENCEMENT AND SUSPENSION

8.1 **Commencement of contract**

The contractor shall commence the contract within 21 (twenty-one) days after the receipt by him/her of an order in writing to this effect. Such notice may be delivered by hand or registered post and the contractor shall proceed with the operation with due expedition and without delay except as may be expressly sanctioned or ordered by the engineer or be wholly beyond the contractor's control

provided that said order shall be given not later than 45 days after the date of notification of the award of the contract, save by arrangement with the contractor.

8.2 **Contract period**

The contract period shall be 3 (three) years. Bidders are to submit rates for a 3 year contract term.

8.3 **Extension of contract period**

Not applicable.

8.4 **Reduction of contract period**

The employer reserves the right to cancel the contract should there be a change of ownership of the contractor or a joint venture be formed with another company after the award of the contract.

8.5 **Suspension of operation**

The contractor shall on the written order of the engineer suspend or curtail the operation for such time or times and in such manner as the engineer may consider necessary and shall during such suspension properly protect and secure the site so far as is necessary in the opinion of the engineer. The extra cost (where properly substantiated) incurred by the contractor in giving effect to the engineer's instructions under this Clause shall be borne by the employer unless such suspension is:

- necessary because of improper execution of the work or some other default on the part of the contractor;
- necessary because of weather conditions;
- necessary for safety reasons.

Provided that the contractor shall not be entitled to recover any such extra cost unless he/she gives notice in writing of his/her intention to claim to the engineer within 14 days of the engineer's order. The engineer shall determine the extra payment to be made to the contractor in respect of such claim as he/she may consider fair and reasonable.

If the operation is suspended on the written order of the engineer for more than 28 days, the contractor may, within 14 days from the receipt thereof, serve a written notice on the engineer requesting permission to proceed with the operation and, if such permission is not granted within that time, the contractor may (but is not bound) by a further written notice so served, elect to treat the suspension as an abandonment of the contract by the employer.

8.6 **Adverse conditions**

If during the operation of the site the contractor shall encounter physical conditions, other than climatic conditions, on the site, or artificial obstructions, which conditions or obstructions could, in his/her opinion, not have been reasonably foreseen by an experienced contractor, the contractor shall forthwith give written notice thereof to the engineer and if, in the opinion of the engineer, such conditions or artificial obstructions could not have been reasonably foreseen by an experienced contractor, then the engineer shall certify and the employer shall pay the additional cost to which the contractor shall have been put by reason of such conditions, including the proper and reasonable cost:

- of complying with any instruction which the engineer may issue to the Contractor in connection therewith,
 - of any proper and reasonable measures approved by the engineer which the contractor may take in the absence of specific instructions from the engineer,
- as a result of such conditions or obstructions being encountered.

8.7 **Claims**

Additional expenditure needs to be quantified by the contractor and approved by the employer before the work is done. No payment will be made for unapproved expenditure.

The contractor shall send to the employer once in every month an account giving full and detailed particulars of all additional claims for any additional expense to which the contractor may consider himself entitled, and no claim for payment for any such work will be considered which has not been included in such particulars.

Provided always that the employer shall be entitled to authorise payment to be made for any such work notwithstanding the contractor's failure to comply with this condition if the contractor has at the earliest practicable opportunity notified the employer that he/she intends to make a claim for such work.

9. MEASUREMENT

9.1 **Method of measurement**

While every effort has been made to ensure the correctness of the quantities set out in the schedule of quantities, these quantities are estimated quantities and can vary depending on strategic planning implemented by the employer and are not to be taken as the actual or correct quantities to be handled by the contractor in fulfilment of his/her obligation under the contract. The contractor shall submit to the employer a monthly statement showing the actual quantities handled by him/her in that period.

The measurement will be based on the mass of the refuse disposed of (i.e. tonnes).

10. CERTIFICATES AND PAYMENT

10.1 **Monthly payments**

The contractor shall be paid monthly on the amount due to him/her in respect of the work undertaken. The contractor's invoice is to be accompanied by the following monthly reports:

- Daily Audit Summary
- Monthly Summary

10.2 **Time of payment**

The contractor's invoices shall cover the inclusive period of one calendar month (i.e. from the 1st day of the month to the last day of the same month). Such invoices with the accompanied reports are to be submitted to the employer for certification within 7 (seven) days. Payment shall be made by the employer within 30 (thirty) days after such certificate has been delivered to him, provided that the certificate is correct and acceptable to the engineer/CFO and the employer. In the event of failure by

the employer to comply with these provisions, he/she shall pay to the contractor interest at the prevailing prime bank overdraft rate upon all over-due payments from the date on which the same should have been made.

10.3 **Correction of certificates**

The engineer/CFO or the employer may make any correction or modification to any present or previous certificate issued after due consultation with the contractor. Agreement in this regard shall be in writing.

10.4 **Final certificate**

The contract shall not be considered as completed until a final certificate has been signed by the engineer and delivered to the employer stating that the contract has been completed to his/her satisfaction. The final certificate shall be given by the engineer within 30 days of the publication of the Consumer Price Index (CPI) relevant to the certificate issued for the operation of the site for the last month or part thereof.

10.5 **Cessation of employer's liability**

The employer shall not be liable to the contractor for any matter arising out of or in connection with the contract unless the contractor has made a claim in writing in respect thereof before the giving of the final certificate.

10.6 **Unfulfilled obligations**

Notwithstanding the issue of the final certificate, the contractor and the employer shall remain liable for the fulfilment of any obligation incurred under the provisions of the contract prior to the issue of the final certificate which remains unperformed at the time such certificate is issued, and for the purposes of determining the nature and extent of any such obligation the contract shall be deemed to remain in force between the parties hereto.

10.7 **Provisional sums**

Provisional sums have been allowed in the Schedule of Prices and Rates for the contractor, where so instructed by the engineer, to execute certain work or purchase certain materials which have not been specified or included in detail when the contract is entered into. The contractor shall be paid the actual cost to him/her of the time expended and the materials used plus a maximum of 5 (five) percent which allowance will be held to cover all charges for the contractor's profit, overheads, etc. The contractor shall furnish the engineer with such receipts or other vouchers as may be necessary to prove the amounts paid and, before ordering materials, shall submit to the engineer tenders for the same, for his/her prior approval. The total amount due to the contractor for such approved provisional items will be claimed on the following invoice submitted by the contractor with payment being made as per Clause 11.2.

Expenditure in connection with provisional sums shall be solely at the discretion and direction of the engineer. Any amount not expended shall be deducted from the contract price.

10.8 **Escalation**

Except as hereinafter provided for, the rates and prices tendered shall be final and binding throughout the period of the contract.

11. REMEDIES AND POWERS

11.1 **Penalties**

If, at any stage during the contract period or extensions thereto, the contractor shall fail to operate and maintain the site in the manner described in the contract and in accordance to the Department of Water Affairs and Forestry's (DWAF's) "Minimum Requirements for Waste Disposal by Landfill, 1998", then the contractor shall pay to the employer a penalty or penalties for each occurrence or event that such requirements are not met. The engineer shall be entitled to apply the penalty or penalties in terms of this Clause. The events or requirements for which penalties shall be applied, and the corresponding amounts of the penalties, are described in the specification subject to escalation in accordance with Clause 11.8 hereof. The penalties to be imposed in such instances will be in accordance with the provisions of clause 7 of the specifications which forms part of this tender document.

The employer may, without prejudice to any other method of recovery, deduct the amount of the penalty or penalties from the contractor's monthly payment. The payment or deduction of such penalty or penalties shall not relieve the contractor of his/her obligations and responsibilities under the contract and in particular for any damages or losses suffered by the employer as a result of the contractor's default.

11.2 **Termination by employer**

If the estate of the contractor shall be sequestrated, whether provisionally or finally, or if the contractor shall publish a notice of surrender or present a petition for the acceptance of the surrender of his/her estate as insolvent or shall make an arrangement with or assignment in favour of his/her creditors or shall agree to carry out the contract under a committee of inspection of his/her creditors or (being a company) shall go into liquidation, whether provisionally or finally (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or if the contractor shall assign the contract without the consent in writing of the employer first obtained or shall have an execution levied on his/her goods or if the engineer shall certify in writing to the employer that in his/her opinion the contractor:

- has abandoned the contract, or
- without reasonable excuse has failed to commence the works in terms of Clause 9.1 hereof or has suspended the progress of the works for 14 days after receiving from the engineer written notice to proceed, or
- has failed to proceed with the operation with due diligence, or
- is not executing the operation in accordance with the contract or is persistently or flagrantly neglecting to carry out his/her obligations under the contract, or
- has, to the detriment of good workmanship or in defiance of the engineer's instructions to the contrary, sub-let any part of the contract, or
- has assigned the contract or any part thereof without the consent in writing of the employer,

then the employer may, after giving seven days' notice in writing to the contractor, enter upon the site and expel the contractor there from without thereby voiding the contract or releasing the contractor from any of his/her obligations or liabilities under the contract or affecting the rights and powers conferred on the employer or the engineer by the contract and may arrange with the surety to

or may himself continue with the operation or may employ any other contractor or persons to continue with the operation for the remaining duration of the contract period. The employer or such other contractor or persons may use for such completion so much of the plant on site which has been deemed to become the property of the employer under Clause 7.4 hereof as he/she or they may think proper and the employer may at any time sell any of the said plant and apply the proceeds of sale in or towards the satisfaction of any sums due or which may become due to him/her from the contractor under the contract.

11.3 **Payment after termination**

If the employer shall enter and expel the contractor under Clause 12.2, he/she shall not be liable to pay to the contractor any money on account of the contract until the costs of penalty (if any) and all other expenses incurred by the employer have been ascertained and the amount thereof certified by the engineer. The contractor shall be entitled to receive only such sum or sums (if any) as the engineer may certify as due to him/her after deducting the said amount. But if such amount shall exceed the sum, which would have been payable to the contractor, then the contractor shall upon demand pay to the employer the amount of such excess and it shall be deemed a debt due by the contractor to the employer and shall be recoverable accordingly. In this event, the employer may exercise a lien on the contractor's plant.

11.4 **Default of employer**

In the event of the employer:

- failing to pay to the contractor the amount due under any certificate of the engineer within 14 days after the expiry of the time of payment stated in Clause 11.2 hereof; or
- commit any other breach of this agreement

and should the employer remain in default for a period of 30 working days after receipt of written notice from the contractor requiring him to rectify such breach, the contractor shall be entitled without prejudice to any other rights or remedies to terminate the employment of the contractor under the contract by giving notice in writing to the employer. Upon the giving of such notice the property and all plant and materials brought upon the site by the contractor shall rest in him/her and he/she shall with all reasonable despatch remove the same from the site.

In the event of such termination the employer shall be under the same obligations to the contractor in regard to payment as if the contract had been terminated under the provisions of Clause 11.2 hereof but in addition to the payment specified in Clause 11.2 hereof the employer shall pay to the contractor the amount of any loss or damage to the contractor arising out of or in connection with or by consequence of such termination. Nothing contained in this clause shall prejudice the right of the contractor to exercise either in lieu of or in addition to the rights and remedies in this clause specified, any other rights or remedies to which the contractor may be entitled.

11.5 **Urgent repairs**

If, by reason of any accident or failure or other event occurring to or in connection with the works or any part thereof during the execution of the contract, any remedial or other work or repair shall in the opinion of the engineer be urgently necessary for security and the contractor is unable or unwilling at once to do such work or repair, the employer may by his/her own or other workmen do such work or repair as the engineer may consider necessary.

If the work or repair so done by the employer is work which in the opinion of the engineer the contractor was liable to do at his/her own expense under the contract, all costs and charges properly incurred by the employer in so doing shall on demand be paid by the contractor to the employer or may be deducted by the engineer/employer from any moneys due or which may become due to the contractor, provided always that the engineer shall as soon after the occurrence of any such emergency as may be reasonably practicable notify the contractor thereof in writing.

12. DISPUTES

12.1 **Settlement of disputes**

If any dispute or difference of any kind whatsoever shall arise between the employer or the engineer and the contractor in connection with or arising out of the contract or the carrying out of the contract, (whether during the progress of the operation and whether before or after the determination, abandonment or breach of the contract), it shall be referred to and settled by the engineer who shall state his/her decision in writing and give notice of the same to the employer and the contractor. Such decision in respect of every matter so referred shall be final and binding upon the employer and the contractor and shall forthwith be given effect to by the contractor who shall proceed with the operation with all due diligence, whether or not notice of dissatisfaction is given by him/her or by the employer as hereinafter provided.

12.2 **Mediation**

If the engineer shall fail to give the decision referred to in Clause 13.1 for a period of 30 days after being requested to do so, or if either the employer or the contractor is dissatisfied with any such decision of the engineer, then and in any such case either the employer or the contractor may, within 30 days after receiving notice of such decision or within 30 days after the expiration of the said period of 30 days (as the case may be), require that the matter shall be referred by the parties without legal representation to a mediator at a place and time to be determined by him.

The mediator shall be selected by agreement between the parties from a panel of mediators appointed from time to time by the President of the Institute of Waste Management (SA), or alternately by the President of the South African Association of Consulting Engineers. Should the parties fail to agree on the selection of the mediator, he/she will be selected from the said panel by the President for the time being of the relevant association on the application of either party.

The mediator shall at his/her entire discretion determine whether the reference to him/her shall be made in the form of written or verbal representation, provided that in making this determination, he/she shall consult the disputing parties and may be guided by their common reasonable desire of the form in which the said representations are to be made.

The mediator shall within a reasonable period thereafter express in writing an opinion on the matter and furnish the employer, the engineer and the contractor each with a copy thereof by hand or by registered post. The opinion so expressed by the mediator shall be final and binding upon the employer and the contractor until otherwise ordered in arbitration proceedings under Clause 13.3.

12.3 **Arbitration**

If either the employer or the contractor be dissatisfied with or unwilling to accept the opinion expressed by the mediator, then either the employer or the contractor may within 28 days after receiving notice of such decision require that the matter shall be referred to a single arbitrator to be agreed upon between the parties or, failing agreement to be nominated on the application of either party by the President for the time being of the Institute of Waste Management (SA), or alternately

of the South African Association of Consulting Engineers, and any such reference shall be deemed to be a submission to the arbitration of a single arbitrator within the meaning of the Arbitration Act, 1965 or any amendment thereof.

12.4 **Provisos**

Notwithstanding anything elsewhere provided:

- a) The cost of the mediation shall be determined by the mediator and shall comprise:
 - The mediator's expenses and
 - A fee based on a scale of fees from time to time for the purposes of this Clause by the President for the time being of the Institute of Waste Management (SA), or alternately of the South African Association of Consulting Engineers.

The said costs shall be borne equally by the employer and the contractor and shall be due and payable to the mediator on presentation to them of his/her written account.
- b) The exercise of the employer's power to give a notice of terms of Clause 12.2 hereof shall not be a subject for mediation in terms of Clause 13.2, but only for a decision in arbitration in terms of Clause 13.3.
- c) The expressed opinion of the mediator shall not prejudice the rights of the parties in any manner whatsoever in the event of their proceeding to arbitration.
- d) No decision given by the engineer in accordance with the foregoing provisions shall disqualify him/her from being called as a witness and giving evidence before the arbitrator on any matter whatsoever relevant to the dispute or difference so referred to the arbitrator or the court as aforesaid.
- e) The arbitrator and the court shall have full power to open up, review and revise any decision, opinion, direction, certificate or valuation of the engineer, and neither party shall be limited in the proceedings before such arbitrators to the evidence or arguments put before the engineer for the purpose of obtaining his/her decision as referred to in Clause 13.1.
- f) Should any one of the Presidents referred to in Clauses 13.2 or 13.3 be interested personally in the contract, the function of participating in the appointment of an arbitrator shall be performed by the Vice-president or First Vice-President (as the case may be) of the organisation represented by such President.

PERFORMANCE GUARANTEE

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:.....,

“Physical address:.....

“Employer" means.....

“Contractor” means.....

"Engineer" means:

"Works" means:

”Site" means:.....

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

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

Amount in words:

“Guaranteed Sum" means: The maximum aggregate amount of R.....

Amount in words:.....

Expiry Date" means:.....

CONTRACT DETAILS

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

PERFORMANCE GUARANTEE

1. The Guarantor's liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor's period of liability shall be from and including the date of issue of this Performance Guarantee and up to and including the Expiry Date or the date of issue by the Engineer of the Certificate of Completion of the Works or the date of payment in full of the Guaranteed Sum, whichever occurs first. The Engineer and/or the Employer shall advise the Guarantor in writing of the date on which the Certificate of Completion of the Works has been issued.
3. The Guarantor hereby acknowledges that:
 - 3.1 any reference in this Performance Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
 - 3.2 its obligation under this Performance Guarantee is restricted to the payment of money.
4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3:
 - 4.1 A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Engineer in an Interim or Final Payment Certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;
 - 4.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;
 - 4.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum or the full outstanding balance upon receipt of a first written

demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:

- 5.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 5; or
 - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 5; and
 - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
 7. Where the Guarantor has made payment in terms of 5, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Employer until the date of refund.
 8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
 9. Payment by the Guarantor in terms of 5 will only be made against the return of the original Performance Guarantee by the Employer.
 10. The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his release from his Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
 11. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.

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

Signed at..... Date

Guarantor's signatory (1)

Capacity

Guarantor's signatory (2)

Capacity.....

Witness signatory (1).....

Witness signatory (2)

AGREEMENT IN TERMS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1993
(ACT NO 85 OF 1993)

THIS AGREEMENT made at

on this the day of in the year

between (hereinafter called "the Employer") of the one part, herein represented by

in his capacity as

and

(hereinafter called "the Mandatory") of the other part, herein represented by

.....

in his capacity as

WHEREAS the Employer is desirous that certain works be constructed, viz

and has accepted a bid by the mandatory for the maintenance and operation whereas the employer and the mandatory have agreed to certain arrangements and procedures to be followed in order to ensure compliance by the mandatory with the provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

NOW THEREFORE THIS AGREEMENT WITNESSETH AS FOLLOWS:

- 1 The Mandatory shall execute the work in accordance with the Contract Documents pertaining to this Contract.
- 2 This Agreement shall hold good from its Commencement Date, which shall be the date of a written notice from the Employer or Engineer requiring him to commence the execution of the Works, to either
 - (a) the date of the Final Approval Certificate issued in terms of Clause 5.16.1 of the General Conditions of Contract 2010, 2nd edition (hereinafter referred to as "the GCC 2010"),
or
 - (b) the date of termination of the Contract in terms of Clause 9 of the GCC 2010.
- 3 The Mandatory declares himself to be conversant with the following:
 - (a) All the requirements, regulations and standards of the Occupational Health and Safety Act (Act 85 of 1993), hereinafter referred to as "The Act", together with its amendments and with special reference to the following Sections of The Act:
 - (i) Section 8 : General duties of employers to their employees;
 - (ii) Section 9 : General duties of employers and self-employed persons to persons other than employees;
 - (iii) Section 37 : Acts or omissions by employees or mandataries, and
 - (iv) Subsection 37(2) relating to the purpose and meaning of this Agreement.

SECTION 2.1: SPECIFICATIONS AND SITE INFORMATION

BACKGROUND

The Dihlabeng Municipality wishes to appoint an experienced Service Provider for the operation and maintenance of Bethlehem Landfill Site for a period of 3 years form date of appointment.

DESCRIPTION OF WORK (SPECIFICATIONS)

1. SCOPE OF THE PROJECT

This specification covers the requirements for the operation and maintenance of Bethlehem Landfill Site. It gives a general description of the site and the facilities available and covers the day to day requirements for receiving, depositing, spreading, compacting, composting and covering waste and the maintenance of the facilities on the site to ensure an effective operation in accordance with the conditions of the operating permit issued therefore and the Minimum Requirements for Waste Disposal by Landfill, 1998 (DWAF).

2. INTERPRETATION

2.1 Definitions

Builder's rubble :	Pieces of masonry, concrete, etc, resulting from construction, repair and demolition operations, without reinforcing steel, uncontaminated with general waste and with a maximum particle size of 300mm.
Bulky waste :	Items, such as motor car bodies, fridges, etc., whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
Cell :	A body of waste which has been placed between waste berms covered with soil, soil berms or builder's rubble berms, compacted and enclosed by cover material.
Chief Financial Officer :	Means the duly appointed natural or juristic person or partnership or any other financial expert appointed from time to time by the employer, to act on their behalf in regard to certain <u>financial</u> aspects of the administration and execution of this contract.
Clean greens :	Compostable waste derived from garden waste (gardens and parks), which has not been mixed with other waste categories.
Commercial waste :	Solid waste generated by stores, offices and other activities not involved in manufacture.
Committee of Control (C.O.C.) :	Committee consisting of representatives of the Dihlabeng Local Municipality, the engineer and operating contractor

		responsible for maintenance of the operational standard and advising on tariff structures.
Compaction density	:	The mass of a body of solid waste divided by the volume (after compaction) occupied by that same body of waste.
Compaction ratio	:	The ratio of the volume of loose waste to the volume of the same waste after placement and compaction.
Compost	:	Organic waste that has undergone controlled microbial degradation, to produce a contaminant/nuisance free product of potential value as a soil conditioner.
Contractor's enclosure	:	An area allocated to the contractor for his/her own use in connection with the contract including the storage of equipment and plant.
Cover material	:	Soil or other suitable material that is used for enclosing a body of compacted waste but does not include builder's rubble.
Daily cell	:	As with "cell", with the size being determined by the mass of waste disposed of in a single day, as well as by the number of vehicles delivering waste.
Dihlabeng Environmental Monitoring Committee	:	A Committee comprising interested and affected parties, who together with the Committee of Control shall act as an Environmental Monitoring Committee as contemplated in terms of Section 11.2 of the "Minimum Requirements" for Waste Disposal By Landfill.
Domestic waste	:	Solid waste that originates in a residential environment.
Employer	:	The employer will be the Dihlabeng Local Municipality.
Engineer	:	A suitably qualified person who may from time to time be appointed by the employer to act on his/her behalf.
Garden waste	:	Plant clippings, pruning and other discarded material from gardens in a municipal area.
Hazardous waste	:	An inorganic or organic element or compound that, because of its toxicological, physical, chemical or persistency properties, may exercise detrimental acute or chronic impacts on human health and the environment.
Industrial waste	:	Non-toxic and non-hazardous solid waste that results from industrial processes and manufacturing.
Landfill gas	:	Typically malodorous gases generated during the decomposition of waste.

Leachate	:	The contaminated aqueous liquid which results when water percolates through decomposing waste, and which may migrate from a landfill site and represent a pollution threat.
Lift	:	A completed layer of one cell in height and usually comprising numerous adjacent cells.
Methane gas	:	A major component of landfill gas generated in the methanogenic phase of waste composition. Where methane concentrations reach between 5% and 15% of atmospheric gas, landfill gas represents an explosion hazard, as well as a potential health risk.
Notifiable waste:		Waste, whether dry or liquid, that is potentially toxic or hazardous, and that requires special handling to avoid illness or injury to persons or damage to property (also refer to “Minimum Requirements for Waste Disposal by Landfill, 1998”).
Paper pulp waste	:	Waste formed during the re-pulping and de-inking of waste paper for conversion of the resulting pulp into a number of products. The short fibres together with impurities such as glue, ink and other materials associated with the waste paper, are separated and end up as waste.
Radioactive waste	:	Waste with a specific activity of more than 74 becquerels per g (Bq/g) and total activity more than 3,7 kBq(0,1uCi). Disposal of radioactive wastes in a landfill is prohibited.
Safe disposal	:	The process whereby spoilt foodstuff or condemned products may be disposed of on the landfill under supervision of the Environmental Practitioner and/or site supervisor.
Salvaging	:	The controlled and/or uncontrolled process of recovering any material, gas, compost, or other matter from the waste for benefit.
Sanitary landfill:		A method of disposing of refuse on land without causing nuisances or hazards to public health or safety, by utilising the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of soil or other suitable material at the conclusion of each day's operations, or at such more frequent intervals as may be deemed necessary.
Solid waste	:	Useless, unwanted or discarded material with insufficient moisture content to represent free-flowing sludge or to generate free liquid.
Ton	:	1 000kg.
Institutional, medical waste	:	Solid waste originating from educational (nurses/doctor), institutions, hospital, health care or research facilities.

Waste to cover ratio	:	The ratio of volume of compacted waste to volume of cover material.
Working face	:	That portion of the disposal site where waste is discharged before being compacted and enclosed by cover material.

3. **DETAILS OF THE SITE**

3.1 **General description**

The site is situated in the Dihlabeng Municipality area of jurisdiction some five kilometres north of Bethlehem and can be accessed from Road R26. The site is on Portion 2 of the farm Kupsheim 901 and Portion 1 of farm Goeimoed 1320.

This contract provides for the supply, of all labour, plant, tools, equipment and management necessary to operate the Bethlehem landfill site in an effective and environmentally sound manner. With its policy of outsourcing, the DLM appointed private contractors to operate the waste disposal site since 2010.

The existing entrance, access control, weighbridges, offices, workshop etc. will be used for the contract.

This facility is mainly receiving waste from parts of the Customer Care Centres of Bethlehem, Clarens, Fouriesburg, Paul Roux and Rosendal as well as private industries. During the contract period it may happen that the facility will also serve other areas. The waste is transported onto site by the relevant Customer Care Centres as well as by the general public and private contractors.

3.2 **Description of site and access**

The Bethlehem landfill site is the main landfill site in the Dihlabeng Local Municipality, with 4 transfer stations in the 4 Units owned by the Dihlabeng Local Municipality. The Bethlehem waste disposal site is established by Dihlabeng Local Municipality and will be operated in terms of permit conditions stated on the permit {GMB} issued by Department of Water and Sanitation. Currently the average tonnages disposed of per month is minimum of 6 000 tons and maximum of 8 000 tons. The original anticipated total operating life of the site at 20,000 tons is 30 - 35 years, meaning the total number of tons will determine the life span of the landfill site. The more the tons the shorter the life span of the landfill. The availability of airspace has been increased by making improvements within the various stages of development, to a total life of the site of \pm 40 years. The assumption was done after construction in 2006.

A facility of this magnitude requires a carefully planned long-term development and operational plan, in order to comply with the Department of Water and Sanitation (DWS) "Minimum Requirements for waste disposal by Landfill". The landfill division realises that poor long-term planning could result in significant increased operational costs and/or early closure of the facility.

A long-term waste disposal development plan (operational plan), is available for the phased development and rehabilitation of the waste disposal site. Aspects that have been addressed in the long-term development plan, are *inter alia* the size and sequence of waste disposal cell development, the availability of lining-, capping and daily cover material as well as the polluted and unpolluted water management systems on site.

3.3 Site facilities available

The following facilities will be made available on the site for use by the contractor at no cost:

a. Permanent buildings

- Gate Control House 20m² single story building with built-in desk. The building is equipped with a toilet and hand basin.

- Weighbridge control house 25m² double story building with built-in desk. The weather station is positioned in the site operator's office. LED displays on both sides of the weighbridge control house enable truck drivers to verify the weighbridge readings. The building is equipped with a toilet and hand basin.

- Administration building 85m² building, comprising:
 - single supervisor office
 - ladies toilet and wash basin
 - gents toilet and wash basin
 - kitchen and single sink
 - boardroom
 - no furniture or blinds/curtains. (Contractor to supply)

- Contractor's workshop 432m² building, comprising
 - 4 x 6m wide open bays (one paved)
 - 4 * 24m² store room
 - Three phase electricity

Note: Due to the unavailability of a sewer system in close proximity to the site, a septic tank is used for the toilet sewerage, whilst a "French drain" is used for shower and basin water. The contractor will be responsible for the removal, transport and disposal of sewerage into an approved sewer system.

b. Temporary buildings

The contractor will be entitled, subject to the engineer's approval and that of the employer to erect additional temporary or permanent buildings on the site such as plant shelters, should these be required by him. On termination of the contract the employer shall be given the option of purchasing the additional buildings and structures so erected and failing the exercise of such option, the contractor shall demolish and remove the buildings or structures at his/her own cost and return the site in the condition it was prior to such buildings or structures being erected.

c. Infrastructure enclosure

Highmast lighting in a major portion of the infrastructure area is aimed at providing improved security.

The servicing and maintenance of the contractor's vehicles and plant shall be carried out within the workshop and uncontrolled oil spillage will not be permitted.

d. Access roads

Access to the entrance of the site and gate control house is only possible from Road R26.

e. Paved areas

All roads from the gate control house to the wheel wash area, the parking areas in front of the administration block, the area in front of the composting area, the road leading to the working face as well as the public disposal area are paved with interlocking paving blocks. Where paving is no longer solid, repairs will need to be made by the contractor to interlock the paving.

f. Wheel wash

A 240m² paved double wheel wash area with a double settling tank and grease trap, is available to wash mud from vehicle wheels before leaving the site. The drainage system for the wheel wash area will have to be maintained and unblocked.

g. Access control gates

Manually operated security gate is provided across the incoming road and outgoing road adjacent to the gate control house, and are used to control the movement of vehicles during normal operating hours. After hours the entrance is closed with security gates.

h. Weighbridges

Not operational but the contractor is expected to give information on how he intend making it functional.

Maintenance of the weighbridges is the responsibility of the contractor. The contractor shall also be responsible to calibrate the weighbridge scales once per annum and obtain the necessary certification.

i. Security

The site is fenced with a 1.8m wire fence with various locked gates. The contractor is required to keep the fences and gates of both the outer perimeter and the infrastructure enclosure in good order and to repair any damage caused to it.

The contractor must allow for a minimum of 4 (four) security guards in order to prevent any unauthorised entry. Should the contractor require further security measures to protect equipment and property, he/she may take such measures at his/her own cost and subject to the engineer's approval.

Provision is to be made for the fact that no unauthorised entry is allowed, and no salvaging on the working face, whether it be formal or informal.

In addition to the above one dedicated security guard must be provided for the sole purpose of collecting signed weighbridge slips from the drivers of the waste trucks. This security guard must also ensure that no vehicle leave the site without the driver retaining a copy of the signed weighbridge slip.

All security personnel must be equipped with:

- Communication equipment e.g. Cell phones, two-way radios
- self defence equipment
- transport to effectively patrol the entire site
- a standing contract with a rapid response unit for the duration of the contract which must be maintained at his own expense for the duration of the contract period by the contractor

The procurement of armed response security and the monitoring and maintenance thereof will be the responsibility of the contractor.

j. Water supply

A municipal potable water connection is provided on site and will be available to the contractor for his/her domestic use as well as use in the operation of the waste disposal site (e.g. dust control, irrigation and vehicle washing). Any additional water pipe reticulation required on site by the contractor, over and above that already provided, shall be constructed only with the engineers' approval and at the contractor's own cost. Water used will be metered and will be for the contractor's account.

A storm-water collection pond was constructed at the entrance infrastructure area. Apart from being used for dust suppression, this pond is also to be used for dilution of small quantities of leachate that may occasionally be ponding on the surface of the site.

k. Electricity supply

A three phase, 380volt metered electricity supply is available at the workshop as well as at the wheel wash facility on site. The cost of electricity used as well as any other proportional basic charges raised by the DLM or Eskom, shall be borne by the contractor.

The contractor shall make provision for an emergency power supply in the form of a petrol/diesel generator to supply power to the weighbridge in event of a power failure.

l. Housing of employees

No facilities are available and the contractor will not be permitted to house any of his/her employees on the site.

4. **PLANT**

All plant used on the site shall be suitable for the application and prevailing site conditions, of adequate rated capacity, in good working condition, not more than 10 years old and shall be so designed and constructed as to cause a minimum of dust, noise and air pollution. The plant shall be operated by properly qualified and experienced operators. In the event of a breakdown occurring, the contractor shall be capable of calling upon such **back-up plant within 6 hours as is necessary to ensure that the proper operation and maintenance of the site is not placed in jeopardy.**

The contractor shall submit with his/her tender, a description of his/her proposed plant complement, as well as a description of his/her back-up or breakdown and workshop facilities. No plant may be removed from site without written permission from the engineer.

The service provider to be contracted for plant hire **must** be indicated on the relevant forms and provide certificate of ownership of the plant or letter of intent of the plant from an accredited dealership/manufactururer.

- Landfill Compactor – minimum 26 tons. The compactor must achieve a minimum compacted density of 850 kg/m³ (excluding cover material)
- Water tanker – minimum 5 000 L
- Tipper truck – minimum 10m³
- Front End Loader
- Bulldozer (Type D6 equivalent)
- A site bakkie

NB: Failure to provide proof or evidence of the above will lead to disqualification.

The turn-around time allowed for the repair of tyres is 2 hours. All vehicles on site must have at least 2 spare tyres available.

5. **OPERATION AND MAINTENANCE**

5.1 **Source of waste**

The Bethlehem landfill site is intended to serve as a regional facility for the Dihlabeng Local Municipality, although other local authorities may also become users of the site in the long term. Some industries from the surrounding area are also making use of the site.

5.2 **Other sources**

Should it be to the employer's benefit, the contractor may dispose of waste at the site that originates from sources other than those indicated in Clause 5.1. In such an event, the employer reserves the right to restrict the quantity of waste received from such sources. For the duration of the contract and any extensions thereto, it will be the contractor's responsibility to make known to the employer all and any interest he/she, and/or any of his/her personnel, may have in any company or commercial waste enterprise which may result in waste being disposed of at the site. In addition, should this position change, the contractor will be obliged to inform the employer thereof within 14 days of any such change.

Any obvious abuse of this entitlement will result in the immediate cancellation thereof.

5.3 **Waste quantities**

Quantities of waste generated by the participating local authorities, general public and private contractors are currently averaging about 20,000 tons per month for all waste categories. The employer shall not be bound to these quantities.

Because of unpredictable growth taking place, the actual quantities may vary considerably from the estimated quantities. Furthermore, the Dihlabeng Local Municipality reserves the right to vary its waste disposal strategy, which will affect the waste quantities involved. The contractor will be responsible for measuring the monthly mass.

5.4 Waste types

The site is permitted as a general landfill site (Classification GMB: Class C in line with the national norms and standards, NEMA 59 of 2008) and, subject to the exceptions indicated below, the contractor will be required to handle all dry, non-hazardous incoming wastes including:

- domestic waste
- garden waste
- builder's rubble and clean soil
- non-hazardous dry industrial waste
- commercial waste
- bulky waste
- tyres and other polymeric waste.
- dead animals (non-infectious animals)
- foodstuffs destined for safe disposal

Notifiable wastes, liquids, and sludges, whether in sealed drums or not, will NOT be allowed to be disposed of at the site. No drums displaying the hazardous chemical sign, whether closed or open, will be allowed for disposal on site. No foundry sand or paper pulp are allowed.

In the interests of environmental protection and complying with the site permit requirements, the contractor will be required to record all relevant details of any person, vehicle or operator who attempts to bring any such unacceptable waste onto the site. The vehicle owner, engineer and employer should be informed accordingly and the vehicle used to transport such waste, will immediately be blacklisted from all of the DLM waste disposal facilities. The contractor shall also advise the driver of such a vehicle of the locality of the nearest facility where such waste can be safely disposed of.

Storage of tyres on site for future disposal must be in accordance with the new Tyre Regulations in terms of the Environment Conservation Act, 1989 issued in 2007 by the Department Environmental Affairs and Forestry (DEAT). Currently tyres must be stockpiled separately at designated areas. tyres will be disposed in newly developed waste cells (at the base) at the cost of the operating contractor. Therefore the cost for transportation from the site stockpiles, handling, even spreading and placing of smaller tyres in large tyres cavities will be for the contractors cost and will be priced separately in the bill of quantities.

5.5 Charges for disposal:

The schedule of rates for disposal of waste is approved by the Dihlabeng Local Municipality's and is announced annually to coincide with their financial year. These tariffs will be updated on the computer software annually by the Financial Manager and the contractor shall be expected to adhere strictly to the prescribed schedule. The contractor will be responsible to maintain the notice board with the applicable tariffs erected at the weighbridge control house. No cash is handled on site and all users of the waste disposal facility, except private residents disposing of waste loads not exceeding 1 000 kg, will receive monthly invoices from the Chief Financial Officer.

a. Vehicles under contract to the employer.

As and when required, the Waste Officer will be furnished, on the first day of the month, with a list of registration numbers of the vehicles under direct or indirect control of the employer. These will include vehicles from participating Customer Care Centres.

Any private user requesting to dispose of waste after hours and for, which approval was granted by the engineer, will be charged at an increased tariff in order to compensate the contractor for the additional costs, incurred. Such a tariff will be agreed upon by the private user, the contractor and the employer at the time that permission is granted for the extended use of the site.

5.8 **Contractors site establishment**

The contractor will have stated in the data schedules at the time of bidding, the number, designation and qualifications of all staff to be employed, and the number and description of each of the various types of plant and equipment to be utilised on the site for the purpose of executing the contract. The contractor will be permitted to vary this establishment during the course of the contract only after written application has been made to and written permission received from the engineer. The contractor shall ensure that the engineer is, at all times, in possession of an up to date register of all staff, labour, plant and equipment employed on the site. Any deviation from the provisions of this Clause, especially to the removal of plant and equipment without prior approval, will be regarded in a serious light.

5.9 **Management of the gate control house and weighbridge control house (weighbridges)**

For the full duration of the contract the contractor shall provide at least three competent and reliable persons to manage the gate control house full time during normal working hours.

As a minimum requirement the contractor must deliver proof that the three persons have attended a special course dealing specifically with the identification of potential hazardous waste.

The responsibilities of these personnel shall *inter alia* include:

- access control according to specified guidelines
- identification and diversion of potential hazardous waste loads

5.10 **Site supervisor**

The contractor shall provide a full-time site supervisor with at least one year fulltime experience on a GMB⁷ landfill site, to manage the site. The experience and qualifications of the supervisor shall comply with the “Minimum Requirements for Waste Disposal by Landfill, 1998”, as issued by the Department of Water Affairs and Forestry as well as the National Environmental Management Act: Waste Act 59 of 2008 Section 7 (1) (c). Regulations no. 634, 635, 636.

The site supervisor must be contactable 24 hours a day in the event of any emergencies or serious problems that may arise on site.

5.11 **Preference to users**

The contractor must at all times show equal respect and considerations to all site users and under no circumstances may he/she treat any user preferentially. This Clause has particular reference to the use of the site by vehicles belonging to a company or enterprise in which the contractor may have a direct or indirect interest.

5.12 **Meetings and site inspections**

During the execution of the contract, the contractor, the employer and other operators and the engineer shall meet at approximately monthly intervals, arrangements for the Committee of Control

(C.O.C.) meeting being made by the engineer. In addition, meetings with the Dihlabeng Environmental Monitoring Committee (D.E.M.C.) will also be held at approximately bi-monthly intervals.

The contractor shall ensure that a member of his/her staff, who is sufficiently senior to be able to make operating decisions and commitments, as well as being familiar with the operation of the disposal site, is always in attendance at these meetings.

The contractor shall provide furniture for use in the boardroom and maintain a dairy of meetings scheduled. The minimum furniture required is a boardroom table, 15 (fifteen) chairs, white board and storage cabinet.

The meetings will be held to discuss all and any matters relating to the operation of the site, and to up-date and review the overall plan of operation. Decisions made, minuted and agreed upon at these meetings will be binding on the parties. It is, however, to be noted that the Committee of Control (C.O.C.) does not have executive powers and that decisions affecting the Dihlabeng Local Municipality need to be approved by Council.

Periodic (initially monthly) site inspections or audits will be undertaken by external auditors appointed by the employer. During this exercise a specially designed pro-forma will be filled out, which will numerically assess important aspects of the operation. This, together with appropriate recommendations, will be submitted to both the engineer and the contractor. These inspections may or may not be conducted in conjunction with the contractor at the monthly meetings. The frequency of meetings and audits will be increased if operational standards are not acceptable. At the discretion of the employer, such periodic site inspections can later be undertaken quarterly.

Any member of the C.C.C. or the C.O.C. will have unimpeded access to the site, provided that they report to security.

5.13 **Salvage rights**

Although certain salvage rights may be accorded to the contractor, scavenging amongst the refuse at the working face will be specifically excluded. The only exception to this rule is for steel objects that can cause punctures in tyres, as well as tyres disposed of as part of the general waste stream, to be removed at the working face. Revenue generated by the contractor from the sale of such steel will be for his/her own benefit.

Sorting or recovery of other recyclable waste will only be allowed under controlled conditions and the contractor will be required to enter into a separate contractual agreement with the employer in which the specific terms and conditions will be set out after the employer approved of the contractor's salvaging proposal.

Should the contractor not make use of his/her right to salvage, or fail to provide an acceptable salvaging proposal, the employer reserves the right to himself to perform salvage operations, or to permit a third party to do so, provided it does not have any adverse effect on the contractor's operation, and the contractor shall have no claims arising from such salvage operations.

Salvage rights may include materials sorting and recovery and any other operation of a similar nature, but excludes composting and methane gas.

5.14 Operation of the site

The operation of the site by the contractor will involve the following major functions:

- access to the site and access control
- operation of weighbridge or weigh pad and generation of reports
- operation and maintenance of public disposal facility
- maintenance of access roads and controlling of traffic within the site
- waste deposition and compaction
- provision and placement of cover material
- control of nuisance
- provision and maintenance of fire breaks
- washing the wheels of vehicles leaving the site
- construction and maintenance of site drainage.
- leachate control, pumping of all sump (leachate and sub-soil) and leachate gas
- record keeping
- monthly survey of the site
- composting of the clean greens
- maintenance (cleaning and removal of weeds) of infrastructure surrounding the site.
- provision and maintenance of an effective wet weather cell
- construction and maintenance of internal site roads
- maintenance and scraping of site road when ordered by Engineer.
- supply erection and maintenance of traffic signs
- effective administering of the site rules including site violations.
- maintenance of chemical dosing system

The principles regarding the above are discussed below, with a view to providing the prospective contractor with a clear concept of what is expected of him/her and also to providing him/her with guidelines for drawing up his/her proposed action plan. In addition to the major functions dealt with below, numerous other aspects are included for information:

a. Access to the site and access control

The contractor shall be responsible for keeping the entrance to the site via Road R26 in a clean and neat state. This includes the removal of all mud and refuse deposited on the road in the vicinity of the site entrance (particularly during wet weather) and the picking of all wind blown or scattered refuse and litter emanating from the waste delivery and disposal operation. This activity must be performed daily. The section of road to be cleaned stretches from the T-Junction with R26 Road to the entrance of the site.

In addition to the above the contractor will be responsible for all paved areas including roads on the inside of the fence. This includes the removal of all mud and refuse deposited on the paved roads in the vicinity of the site entrance, weighbridge and the road leading to the workfront (particularly during wet weather) and the picking of all wind blown or scattered refuse and litter emanating from the waste delivery and disposal operation. This activity must be performed daily. Access control shall at all times be performed in a responsible manner, thus ensuring that only vehicles with waste loads permitted in accordance with the permit conditions and the “Minimum Requirements for Waste Disposal by Landfill, 1998”, will be allowed on site.

b. Paper pulp

As a result of significant volumes of leachate previously generated mainly as a result of the disposal of paper pulp with a high moisture content, the Employer decided not to permit the disposal of paper pulp at the Bethlehem landfill site.

c. Operation and maintenance of public disposal facility (PDF)

The contractor will be required to operate and maintain a PDF for the disposal of waste and recyclable material by the public with loads of less than 1 000 kg, which limit may be changed in future. The operation and maintenance of this facility will include:

- The supply and maintenance of 6 (six) 6 m³ or 9 m³ skips (No alternative will be accepted) facilitating easy access by the public for the depositing/disposal of the different recyclable and non-recyclable waste materials.
- Supervision of the facility, directing of traffic, ensuring correct disposal and assisting the public with disposal, etc;
- The provision of the necessary signage at skips to have materials disposed of according to main categories (i.e. recyclable waste in different categories, garden refuse and general waste);
- The servicing of the skips by emptying them at the landfill working face when full. All skips shall be empty over-night;
- Keeping the PDF and its surrounds neat and clean by the removal of all wind blown or scattered refuse and the picking up of all litter emanating from the operation and removing mud from paved surfaces;
- Monitoring of all containers for recyclable waste (glass, paper, plastics, metals, oil, etc.) and arranging for their servicing by the relevant collection company, thus ensuring that such containers will not be overfilled with the resultant generation of windblown litter

Note: The container for the collection of recyclable oil as well as that for the disposal of small amounts of household hazardous waste, is supplied and serviced by others. The operating contractor is however responsible for the proper use of these facilities by the public, as well as for informing the responsible party when the containers are to be serviced. The servicing of the hazardous container will be for the contractor's cost and may only be deposited at a H:H site (frequency ±4 times per year).

d. Maintenance of access roads and controlling of traffic within the site

The contractor shall construct and maintain gravel/building rubble access roads to the disposal area on site as and when required during the contract period. The roads must be:

- usable in both wet and dry conditions.
- comfortably able to accommodate two large passing vehicles.
- sufficiently smooth and even without potholes to enable large loaded vehicles to travel at 20km/h, without damage or discomfort.

- flat enough to enable vehicles to stop and move off without undue difficulty and slipping. All gradients shall not be steeper than 1 in 10 on downhill and 1 in 15 for uphill.
 - watered during dry weather for dust suppression and have sufficient surface drainage for wet weather.
 - Construct and maintain speed humps at regular intervals on the internal roads to force drivers to reduce speed
- A road along the perimeter of the fence be provided and maintained for security patrol purposes.
- Clear and easily understandable speed limit, traffic control and direction signs must be provided from the site entrance to the off-loading point at the working face.
- Paved areas in and around the site must be swept and kept clean of excessive and windblown waste.

e. Waste deposition and compaction

Waste deposition will be conducted in adherence with the proven sanitary landfill principles (as per “Minimum Requirements for Waste Disposal by Landfill, 1998”) of spreading, compacting and daily covering of waste. To achieve this, a single cell shall be constructed and enclosed by cover material on each operating day. In order to expose as little waste as possible to rainfall and the environment and to afford the best compaction, waste cells will be as narrow as conditions permit. The size of the cell will be determined by the mass of waste and number of vehicles accommodated during the operating day.

- The cell shall be constructed as follows:
 - **Screening berms** are to be constructed along the outside face of the landform. Soil shall be used to construct 1,0m high by 1,0m crest width berms tipped at the natural angle of repose to form the start of the proposed cell.
 - **Internal berms** are to be constructed along the sides of the cell when inside the landform. Relatively inert waste or other suitable material shall be used to construct 1,5 to 2,5m high berms tipped at the natural angle of repose before it is compacted and covered with daily cover to form the sides of the proposed cell. Landfilling of refuse takes place in the area behind each consecutive berm in order to ensure the controlled deposition of waste.
 - The floor of the cell will have been compacted by the contractor prior to waste being placed (i.e. previous layer of covered waste).
 - Remove previous cover material on the floor of the cell over an area of approximately 9m² before depositing the day’s waste, to prevent the formation of perched liquid tables within the waste body and to ensure the unobstructed flow of methane gas within the landfill.
 - Waste shall be deposited at the toe of the cell and worked upwards by spreading in approximately 250 mm thick layers, and compacted by using three passes of the landfill compactor (of at least 26 tons operating weight)

per layer of waste to a density of at least 850kg/m³. Once compacted, the height of a cell shall not exceed 2,5 m in any situation.

· In order to maximise compaction effort, the slope of the working face shall be at an appropriate angle of between 1:3 and 1:4 to enable the plant to spread and compact the waste deposited at the toe of the cell, upwards upon the working face. The slope shall, however, not be so steep as to induce slipping of the driving wheels or tracks of the plant. Slopes that are too flat result in excessive use of daily cover.

The upper horizontal surface of a cell shall be finished such that it has a fall of at least 1:50 and not greater than 1:20, towards the working face. This will ensure that water on the cell floor will flow away from the working face, instead of building up against the working face, thus resulting in water infiltrating the waste.

· Cover material shall be deposited above the cell at the top of the ramp so as to enable exposed refuse to be covered as soon as required and not necessarily only at the end of the operating day.

· At the end of an operating day all waste must be contained within the cell. The entire waste surface area shall then be enclosed by cover material having a minimum compacted thickness of 150mm and a maximum compacted thickness of 250mm above the mean surface of the waste. Intermediate cover, in areas not utilised for an extended period of time, intermediate cover shall be placed at a thickness of 300 mm. Builders rubble may not be used as cover material, except for the preparation of wet weather cells, or with permission from the Engineer.

· The finished cover surface shall have a minimum slope of 3% and a maximum slope of 5% and shall be sufficiently uniform to ensure that runoff is encouraged and that the ponding of water cannot take place.

· In order to maintain the required surface gradients, level profile boards shall be erected and used for finishing off of each cell.

· As soon as possible after completion of a lift to the final finished profile, and upon approval by the engineer, the contractor shall construct the final cover as detailed in the approved rehabilitation plan for the site, which will be in accordance to "Minimum Requirements for Waste Disposal by Landfill, 1998".

· The contractor shall be seen to be working to the approved action plan.

The contractor shall immediately after the construction of the new waste cells, end-tip a maximum of 1 meter of waste to protect the liner and to minimize desiccation of the clay liners.

- **Manoeuvring space at working face**

Space must be available at the working face to enable vehicles to manoeuvre and reverse without causing excessive congestion. A minimum cell width determined by the number of vehicles disposing simultaneously must be maintained to enable vehicles to work alongside each other, while the waste is compacted. In order to avoid overturning of vehicles, the

working face area must also be located and graded so that the vehicles operate on level ground.

- Animal carcasses

Non-infectious animal carcasses

Animal carcasses are to be disposed of at the toe of the working face. The carcass must be covered immediately by disposing the next load of waste onto the carcasses, allowing for a minimum of 0,75m of waste and cover material. The contractor shall pay special attention to ensuring that the whole carcass is covered, with no protrusions of feet/hooves, tails, heads/horns etc. Notwithstanding the above, stricter regulations may be enforced by the Health Department of TMDM.

- Spoilt foodstuff

Spoilt foodstuffs of condemned products may be disposed of on the landfill by the method of Safe Disposal. The foodstuff must be disposed of at the toe of the working face whereafter it must immediately be destroyed beneath the compactor and covered by disposing the next load of waste onto the foodstuff, allowing for a minimum of 0,75m of waste and cover material. Extreme care should be taken that none of these foods are salvaged by any of the vehicle drivers or operating staff. Notwithstanding the above, stricter regulations may be enforced by regulatory authorities concerned.

Allowance for safe disposal, by appointment, shall be twice a week.

- Bulky waste

The contractor shall reduce the volume of items of bulky waste, as far as is practical, by the use of his/her plant.

- Wet weather

Vehicles may become stuck in the mud when the site is wet. In view of this, the contractor shall ensure that temporary access roads are passable in most situations, with a suitable contingency plan available for continuing the operation in the extreme situation where the access roads are impassable.

A wet weather cell on the main disposal site shall be kept available which has a surface of coarse well drained material, such as builder's rubble and coarse ash, which can be used as the disposal area when conditions become too wet in other areas.

- Vehicles stuck on site

The contractor shall have available on site at all times (during normal operating hours) heavy-duty towropes or towbars, and he/she shall assist any vehicle that becomes stuck on the Site with minimal delay. Stuck vehicles must be towed out and under no circumstances may they be pushed out.

The contractor will be held responsible for the cost of repairs to any vehicle that has been damaged due to being pushed instead of towed. The employer also reserves the right to apply a penalty should vehicles be pushed out.

g. Provision and placement of cover

Suitable sources of cover material include:

- Material excavated from future disposal cells. Although it is at present envisaged that a freehaul of 3 (three) km will apply under normal circumstances for the material to be transported from the excavation area to the disposal cells, an Extra Over Item for increased haulage is included in the Schedule of Quantities. This will come into effect in the event of material having to be hauled over longer distances in future, as a result of strategic changes required in the cell development plan;
- Excavated material stockpiled on site. This material may only be used in the event of an emergency when cover material can, due to weather conditions, not be obtained from the following cell excavation. This material is ultimately to be used as cover for the final cell on the landfill. The existing stockpile was therefore surveyed and material used from the stockpile is to be replaced by the contractor as soon as conditions permit;
- Approximately 3,0 tons / month of building rubble, ash, soil and other inert material suitable for covering the waste is delivered to the site. This material is also to be utilised for constructing, maintaining and repairing of the site roads and berms within the site;

Note: Excavations for cover material should be done according to predetermined dimensions and side slopes, in order to facilitate the construction of liners without the need to undertake excessive cutting and filling operations. It is required to construct the liners in such a way, that the respective cells will be free draining towards a predetermined low point, from where liquids can be extracted at various times of the landfill operation. In order to assist the excavation plant operators, it is suggested that level profile boards be used to indicate the angle at which side slopes are to be excavated.

Sufficient material for cell building and refuse covering on a daily basis, should be ensured by the contractor. Furthermore, a strategically placed stockpile of cover material, sufficient for three working days operation, should always be maintained.

h. Control of nuisances

The contractor shall take all reasonable measures to operate the site so as to reduce and, where possible, prevent nuisances such as:

- Odour (by applying sanitary landfill procedures for compaction and covering, as well as the removal and treatment of leachate exposed to the atmosphere)
- Dust (by means of watering)
- Flies and rodents (by applying sanitary landfill procedures of compaction and covering, as well as by setting fly traps, and placing fly bait at the working face, composting area, etc.)

Noise (by ensuring that all plant silencers, etc. are in good working order) and by limiting the operations to the prescribed hours.

Wind blown litter (by applying sanitary landfill procedures of compaction and covering, as well as using litter catch fences where required and picking up the litter which has been scattered in the area)

No scavenging shall be allowed on the working face. The removal from the work face of sharp steel objects which could cause punctures to waste collection vehicle tyres as well as tyres disposed of with the general waste, is however a requirement.

i. Washing the wheels of vehicles leaving the site

The contractor will be responsible for operating and maintaining the wheel wash. This includes providing and maintaining two high-pressure washers (which is to remain the contractor's property). The water collection canals and double settling ponds shall be cleared of all mud on a daily basis during operation.

The contractor will be required to operate the facility during times when the site is muddy, to wash the mud off the wheels of vehicles leaving the disposal site. This is to prevent mud from being deposited on the Site entrance roads and public roads.

j. Construction and maintenance of site drainage and leachate control

The contractor shall prevent undue contact between waste and storm-water, so as to minimise the volume of contaminated run-off and leachate formed. Two drainage systems are accordingly, required to be operated during the course of the contract; one for clean storm-water and uncontaminated run-off from the rehabilitated areas, and the other for contaminated storm-water and small quantities of leachate extracted from the surface which must be pumped/drained into a containment pond.

Uncontaminated storm-water:

A system of berms and cut-off drains is constructed around the perimeter of the site to prevent clean water entering the working area. The object of the drainage system is to divert clean storm-water run-off round one or both sides of the waste body. Once portions of the landfill have been rehabilitated, such runoff will be classified as unpolluted.

The continued extension and maintenance of this system by the contractor to keep it free-draining, is required throughout the contract and the contractor is required to state in his/her action plan, the methods he/she proposes to use in this regard.

Contaminated water:

The floor of the disposal cell must be kept clean and free from any obstruction to ensure that storm-water falling within the cell-area will flow away from the exposed waste at the working face and towards the lowest point of the cell, which will in turn be drained/pumped into a containment pond. Suitable pumping equipment is to be supplied by the contractor as

part of the equipment for operating and maintaining the site. The pumping equipment shall be kept available on the site and used to ensure that the cell-area is always drained.

All water that has been in contact with waste will be considered to be contaminated, as well as any water with which it comes into contact. The contractor will be required to contain such water in the containment pond (from where it will be allowed to evaporate or be used for dust suppression on site) and prevent it from polluting uncontaminated water from areas outside the waste disposal area.

The accumulation of water in the cover material borrow pit (future disposal cell) is to be minimised. Should water be accumulating in this area, it is to be pumped from the excavations as soon as possible to prevent it from hampering further excavations, as well as to prevent water from infiltrating the lower parts of the adjacent, previously disposed of, waste body.

Leachate

Suitable pumping equipment is to be supplied by the contractor as part of the equipment for operating and maintaining the site.

The leachate dam on site must have a free board of at least 500mm at all all times. An area of at least 2m surrounding the leachate dam must be maintained free of any vegetation including grass and weeds to prevent fire damage to the liners in the leachate dam. In addition to the above the contractor must maintain the fence and gate surrounding the leachate pond in good order. Any damage to the fence or the gate must be repaired immediately by the contractor. Should the liner in the leachate dam be damage as s result of fire, repair cost to the liner will be for the contractor's account.

Throughout the operation of the landfill, the primary objective should be to reduce the formation of leachate, with the secondary objective being to dispose of leachate formed in an environmentally sound manner without unnecessary exposure to the atmosphere.

k. Record keeping

The contractor shall maintain detailed daily records of the following aspects and these shall be available for inspection by the client and engineer at all times and must be supplied in hard copy as well as electronic format as and when requested, under normal circumstances this information must be supplied on a monthly basis:

- Quantity of cover placed
- Quantities of waste handled (Including mass, category and registration details of each vehicle)
- Daily position of depositing on site
- Mass of compost produced, used on site, stockpiled or sold
- Complaints lodged
- Accidents
- Site protocol violations
- Breakdowns and stoppages
- Weather stations including minimum and maximum temperature, rainfall, wind speed and direction.
- Site diary to record unusual incidents

The contractor shall also keep a site instruction book on site.

The supply of all consumables for record keeping and invoices.

Back-up information must be kept of all information by the contractor and back-ups must be provided on a CD on a monthly basis to the client.

1. Survey

The contractor shall maintain detailed records and a digital terrain model survey of the following and these shall be made available to the engineer on computer disc and paper hardcopy:

- **Monthly survey** of the landfill surface, including the determination of the volume of airspace used since the previous survey and the volume of airspace remaining beneath the final natural landform. The first survey is to be undertaken within the first month of operation.

- Mass of waste handled monthly according to category.

Monitoring of the development of the natural landform, as compared to the natural landscape design.

m. Composting of the clean greens

The contractor will be required to compost the clean green fraction of the garden waste stream either himself or by using a sub-contractor, approved by the engineer. The composting process is intended primarily to provide compost for final rehabilitation of the landfill. Since the cost effectiveness of a composting operation is dependent on the economies of scale, the employer may also consider a more sophisticated procedure at a later stage, for composting as an alternative to the low technology composting described in the following paragraph. (Currently the contractor is to price only on the low technology option).

The contractor shall provide a dedicated chipper of suitable capacity, for use at the Bethlehem landfill site only.

The low technology composting proposed will involve disposal of fine clean green (leaves, fine cuttings, grass) directly onto the compost area and branches/cuttings with a diameter exceeding 25mm and length exceeding 100mm first being chipped before deposition onto the compost area. The compost area is to be covered with a layer of cover material at regular intervals as required to prevent odours, reduce the risk of fires and facilitate inorganic degradation. No turning or aeration of the compost will be required for this particular composting operation.

The contractor is to maintain an open sump and leachate dam at the low point for the removal of leachate and water that may accumulate. Leachate collected in this fashion is immediately to be treated with chemicals like peroxide to eliminate odours, or alternatively to be disposed of by dilution in the storm-water collection dam and used for dust suppression on site. Leachate exposed to the atmosphere is a major source of odours and the presence of untreated leachate ponds on site is therefore not acceptable.

The prospective contractor will be required to supply full details of the type of chipping process to be used and how the clean greens will be placed. Should the contractor wish to compost other putrescible waste, he/she should demonstrate the integrity of the process to the engineer, who will evaluate and approve the process if it is considered to be environmentally acceptable without any nuisance impact on the surrounding community.

Bidders are also requested to describe the management and control procedures to be introduced, in order to ensure that material classified as compostable greens at the weighbridge control house, is in fact meeting the requirements and will be deposited and treated at the composting area.

5.15 **Maintenance of the site**

The contractor shall maintain all aspects of the site in order to ensure its smooth and efficient operation and to prevent undue deterioration of any item. The contractor shall bear all maintenance costs other than the costs of materials required as a result of normal wear and tear. These will, subject to prior approval by the engineer, be borne by the employer.

Should it at any stage be evident that a large repair has resulted because the contractor did not take action at an earlier stage, and that the contractor has no good reason for not having taken earlier action, the cost of that repair will be for the contractor's account. In maintaining the site the contractor will be expected to perform maintenance work on his/her own initiative and without first being instructed to do so by the engineer.

Included in the maintenance of the site are:

a. Scattered waste

The keeping of the **site and its surrounds** neat and clean by the removal of all wind blown or scattered refuse and the picking up of all litter emanating from the operation. This must be performed daily. Areas of particular importance are:

- Access to the site via Road R26.
- the entrance and surrounding area;
- the public disposal facility;
- all site roads;
- the area surrounding the working face
- the perimeter fence;

b. Buildings

The contractor shall be responsible for the upkeep of the buildings and structures used by him. This will include, but not be limited to the following:

- repair of any damage or deterioration to any of the buildings, other than normal wear and tear maintenance;
- general housekeeping to ensure that the buildings inside and outside as well as the areas surrounding them are kept clean and neat;

- painting once a year with durable paint approved by the engineer or employer, of all the inside walls and ceilings, as well as wooden doors, doorframes, window frames, fascia boards and roofs and any other building or structure instructed by the engineer or employer.
- upkeep and maintenance of gardens and landscaped areas
- ensuring clean and hygienic conditions in all toilets, showers, washbasins and kitchen areas.
- maintenance of all wooden doors
- service and maintenance of onsite power generators.

On termination of the contract, all buildings shall be left in a thoroughly clean and sound condition, to the satisfaction of the engineer.

c. Access road

The contractor shall be responsible for the maintenance of all temporary and permanent access roads (i.e. those roads within the site boundary to provide access to the working face). This work will include the watering of the surface to prevent dust nuisance, the grading and filling in of pot-holes from time to time, the resurfacing of the road with selected graded material or building rubble free from reinforcing and with particle size less than 300mm as well as any other repair work to ensure that access to the working area is provided in a safe and usable condition, to the satisfaction of the engineer. All roads shall be to an all-weather standard.

d. Berms and storm-water drainage channels

The contractor shall be responsible for keeping all berms and storm-water channels in good condition and blockage free, so that they will adequately perform their intended function. Silt accumulating in the storm-water drains shall be removed on a regular basis.

Where required, temporary berms and storm-water drainage channels shall be provided by the contractor to ensure the safe and sound operation of the waste disposal site. Such berms and channels are only to be constructed after consultation with the engineer, in order to ensure that it will not interfere with the long-term development plan for the site.

e. Fences, gates and access control boom

The contractor shall keep the fences and gates of both the perimeter and infrastructure area in good order and shall repair any damage caused to them. All bushes and trees that grow on the line of the security fence are to be removed and the roots killed.

f. Weighbridge(s)

The contractor shall be responsible for the care (once a year calibration) of the weighbridges and peripherals and any damage caused by misuse or negligence shall be made good by the contractor at his/her own cost. The contractor shall supply all consumables for the operation of the weighbridges, associated computer equipment and peripherals.

g. Established areas

The contractor shall be responsible for the watering of all trees and shrubs planted until such time as they are, in the opinion of the engineer, well enough established not to require

further watering. Any erosion furrows and subsidence's which form on intermediate or finally covered disposal areas shall be filled in and re-grassed where applicable.

h. Servitude alongside R26 Road

The keeping of the servitude neat and clean by the removal of all khaki-bos, weeds, windblown litter etc.

i. Wheel wash

The contractor will be responsible for maintaining the double wheel wash. This includes supply and maintaining of two high pressure washers and ensuring regular cleaning of settling ponds to prevent mud from consolidating in the water collection system.

j. Road-markings

The contractor will be responsible for maintaining all road markings on the paved entrance facility and access road, up to and including all the markings to the T-junction with R26 road.

k. Fire breaks

The contractor will be required to maintain adequate fire breaks, to satisfaction of the engineer, in order to prevent fires on site, and to take all other steps as may be required to prevent the outbreak and spreading of fires and to provide and maintain the acceptable levels of fire fighting equipment on the site.

5.16 **Notice boards**

The contractor shall supply and erect at an approved location, when required a weatherproof notice board, in accordance with the current guidelines of DWAF and to the engineer's approval. The contractor shall be responsible for keeping all boards, including the tariff board updated, to ensure that the information displayed there-on is kept in an up to date condition, and for maintaining the boards in good repair for the duration of the contract.

Current DWAF guidelines require:

- A weatherproof, durable and legible notice in the appropriate official languages displayed at the entrance to the site. The notice shall prohibit unauthorised entry to the site and state, the names, addresses and telephone numbers of the permit holder and the responsible person, the hours of operation and any emergency numbers. The sign should also clearly state the class of landfill and the types of waste that can be accepted.

A draft layout of the board is to be submitted to the engineer for approval before manufacturing.

5.17 **Testing**

Routine inspections will be carried out by the engineer to check the contractor's operations for compliance with the requirements of the specification.

5.18 **Violation of site protocol**

The contractor shall maintain a record and the details of the occurrence of all vehicles that violate the site protocol. Vehicles shall be "blacklisted" from being allowed to dispose of waste at the Bethlehem landfill site, or any of the other sites owned by the Dihlabeng Local Municipality, for a period determined by the employer, depending on the violation. A report of the violation is to be given to the vehicle driver and distributed to the driver's direct supervisor and the employer. Types of incidences considered to be a violation, are in accordance with the following site rules as displayed on site:

“SITE RULES FOR THE BETHLEHEM LANDFILL SITE

PERMIT : GMB- FOR DISPOSAL OF GENERAL, DRY, NON-HAZARDOUS WASTE ONLY

This landfill site is operated under contract by the Dihlabeng Local Municipality and right of admission is reserved. Violation of site protocol may lead to temporary or permanent expulsion from the waste disposal facility, together with possible prosecution, depending on the nature and / or frequency of the default.

- Only general, dry, non-hazardous waste may be disposed of on this facility.
- The contractor is legally bound to operate the site strictly according to the operational contract and instructions from the operating contractor’s personnel must be adhered to.
- The landfill site and all its facilities are used at the user’s own risk. The user exonerates the DLM and its personnel from any claim for loss or damages of any nature whatsoever originating / emanating directly or indirectly from the use of the facility.
- All drums and containers will be inspected at the weighbridge prior to disposal at the workplace. No sealed containers will be accepted on site.
- Empty containers displaying hazard or warning decals will not be permitted on this facility.
- Waste is only to be disposed of within the demarcated area or in the designated containers indicated by the operating contractor’s personnel. Site users are responsible for off-loading their vehicles and must provide adequate labour and equipment.
- Compostable garden refuse must be disposed of at the composting yard, or into the containers marked for that purpose.
- Persons with LDV’s or cars making use of the public disposal facility, will be required to off-load waste in demarcated containers indicated by the site operator.
- No reclamation / scavenging will be allowed at the landfill workplace, or at the public disposal containers.
- Scavenging by vehicle drivers and / or their assistants will lead to blacklisting of their vehicles.
- No open fires or the burning of waste is allowed on the site.
- Speed limits must not be exceeded and traffic rules must be adhered to.
- Road signs must be obeyed.
- Open or partially open trucks or containers must be covered with properly installed nets.
- Wheels of vehicles leaving the site will be washed as and when instructed by the contractor’s personnel.
- Children are not allowed to enter the site, unless accompanied by an adult. Neither are they allowed to leave vehicles in areas other than the public disposal area, and also only whilst under adult supervision.

- No vehicles may exceed the legal payloads or have waste stacked in areas not designed to carry waste.
- Vehicle's load mass must be verified whilst still on site.
- Invoicing of account holders will be according to the indicated tariff structure.
- Visitors must adhere to all security arrangements on site and users of the facility are not allowed to bring firearms into the security area. Use of alcohol is also prohibited on site.
- An administration penalty will be levied if incorrect or misleading information is provided by vehicle drivers.”

The employer may from time to time alter the site rules as dictated by conditions on site.

6. MEASUREMENT AND PAYMENT

6.1 **Method of measurement**

The contractor shall be paid monthly as per the agreement. The contractor will not be paid for handling material suitable as cover material (clean building rubble, coarse ash and cover soil).

All waste received on site shall be measured, categorised and controlled in terms of mass in units of tons or kilograms. The weights shall be recorded of the vehicle entering and leaving the site. The difference shall be taken as the weight of material disposed of.

The contractor shall check every incoming vehicle's load and an accurate determination of the waste category made and documented. Once the weighbridge or weigh pad is operational, agreement by the vehicle driver with the classification made is confirmed by his/her signature on the duplicate copy of the transaction slip.

6.2 **Basis of payment**

Monthly payments of contractor shall be as per acceptance of offer (as quoted).

6.3 **Measurement of salvaged materials**

If salvage rights are granted to the contractor on approval of the contractors proposed action plan, salvaged materials shall be measured and controlled in a manner agreed upon by the contractor and the engineer.

6.4 **Measurement of composting**

The contractor is to note that payment for composting will not be measured as an extra over rate to that made for the disposal of waste in the main landfill. Tonnages paid for under composting will be subtracted from the tonnages for normal disposal.

Payment to the contractor for composting shall be determined by the **total units (tons) of clean greens** diverted from the general waste stream for composting.

6.5 **Supervision and maintenance of the pump system for pumping the leachate**

All pumps and piping for the system will be supplied by the contractor. The maintenance of such pumping equipment, as well as the pumping of leachate, if and when required, shall be at the cost of the contractor.

7. PENALTIES

The events or requirements for which penalties shall be applied, and the corresponding amounts of the penalties, are as follows:

- a. Failure by the contractor to open or to operate the site on any of the operating days, or closure of the Site for each hour or part thereof during the agreed operating hours:

R5 000,00 for first hour or part thereof, escalating by R2 000,00 for each further one hour period or part thereof.

- b. Failure by the contractor to adequately cover overnight with material any one area of waste

exceeding 5,0m² (excluding limited volumes of waste delivered by Local Councils after hours) for normal waste and any exposure in the case of animal carcasses or similar wastes:

R4,000.00 for first occurrence, escalating by R2,000.00 for each further occurrence to a maximum of R20 000,00 per occurrence.

- c. Any proven deviation from the operating permit conditions, which includes the "Minimum Requirements for Waste Disposal by Landfill, 1998":

R5 000,00 for first occurrence, escalating by R2 000,00 for each further occurrence to a maximum of R20 000,00 per occurrence.

- d. Unacceptable attendance to all reasonable complaints from the public (direct or channelled through the engineer) within 8 working hours of occurrence:

R2 000,00 for first occurrence, escalating by R500,00 for each further occurrence to a maximum of R5 000,00 per occurrence.

- e. Inadequate nuisance control like litter control, odour control, dust control, rodent control and vector control:

R3 000,00 for first occurrence, escalating by R2 000,00 for each further occurrence to a maximum of R10 000,00 per occurrence.

- f. Vehicles pushed out when stuck on site:

R2 000,00 for first occurrence, escalating by R500,00 for each further occurrence to a maximum of R5 000,00 per occurrence, plus the cost for any repairs to damaged vehicles as a result of the pushing.

- g. Not removing previous cover material in area of disposal to a size of at least 9m² per new cell to prevent perched liquid levels:

R1000,00 for first occurrence, escalating by R500,00 for each further occurrence to a maximum of R5 000,00 per occurrence.

- h. Not caring and maintaining the site including scattered waste, all buildings and structures, access roads, entrance road, berms and storm-water drainage channels, fences, gates and access control boom, weighbridge, completed areas and the servitude alongside Main Reef Road.

R5 000,00 for first occurrence, escalating by R1000,00 for each further occurrence to a maximum of R10 000,00 per occurrence.

- i. Allowing the disposal of materials not being permitted for disposal according to the Minimum Requirements for Waste Disposal by Landfill 1988, the operational permit or the site rules:

R6 000,00 for first occurrence, escalating by R2 000,00 for each further occurrence to a maximum of R15 000,00 per occurrence.

- j. Allowing the disposal of paper pulp waste or foundry sand:

R6 000,00 for first occurrence, escalating by R2 000,00 for each further occurrence to a maximum of R15 000,00 per occurrence.

- k. Not excavating the cover material borrow pit to within 1,0m tolerance on the horizontal dimensions, 300mm on the vertical dimensions and slopes on the sides of excavations steeper than 1 (vertical) : 3 (horizontal):

The construction costs required for the additional cut-and-fill earthworks to ensure that any excavated waste disposal cell is correctly positioned in terms of the overall site development plan, free draining to a pre-determined low point as well as suitable shaped for the construction of liners by means of heavy civil engineering construction equipment.

- l. Developing the natural landform such that, irrespective of the final landform model, the side slope in any part of the landfill exceeds a maximum slope of 1 (vertical) : 3 (horizontal).

The construction costs required for the additional cut-and-fill to ensure the waste body is shaped such that it will not create a threat of potential side failure and will allow for the compaction of the final capping as part of rehabilitation by means of heavy civil engineering construction equipment.

- m. Employer reserves the right to terminate the contract if the contractor is in breach of contract and fails to rectify such breach of contract after a second written warning was issued to the contractor without the necessary remedial action being taken.

- n. Employer reserves the right to terminate the contract if the contractor is in breach of contract and fails to rectify such breach of contract after a second written warning was issued to the contractor without the necessary remedial action being taken.

SITE INFORMATION

LOCALITY MAP



**GPS LOCATION: S: 28° 09'38.4
E: 28° 20'31.5**

NATURE OF GROUND AND SUBSOIL CONDITIONS

Refer to Part 2.1: Specification for existing site facilities available for use and maintenance by the Contractor.

This contract predominantly covers the daily operation and maintenance of the facility. The maintenance of roads, external and internal soil berms, compaction of waste layers etc. will also be required. It should be noted that the bulk of the works will be carried out in existing waste. Special protection equipment and health and safety measures will be required.

SECTION 2.2: EVALUATION CRITERIA

Evaluation of tender

The Bids will be evaluated in four (4) stages, namely:

Stage 1: Responsiveness

Stage 2: Functionality

Stage 3: Financial Offer and Preference

Stage 4: Risk Analysis

2.2.1 STAGE 1: RESPONSIVENESS

2.2.1.1 The following submissions are the requirements for evaluating each bid for responsiveness. The Bidder who failed to submit the following results in immediate disqualification:

- (i) Proof of attendance of bid briefing and visit to site (Briefing Session Attendance Form). If applicable.
- (ii) Joint Venture Agreement and Power of Attorney, if applicable.
- (iii) Proof of payment (municipal account/statement) of Municipal Services, which is not more than three (3) months old and not more than ninety (90) days in arrears. If Municipal Services are paid by the Lessee, a copy of municipal account/statement and a valid Lease Agreement (**indicating the municipal account payer and the validity period of the contract**) must be attached, in the case where the municipal services are paid by the Landlord/owner, a valid Lease Agreement (**indicating the municipal account payer and the validity period of the contract**) must be attached.
- (iv) The document must be completely filled in Black Ink & corrections are countersigned.
- (v) Bill of Quantities **must** be completely filled with **black ink** not pencil
- (vi) A rate/amount is to be entered against all items in the schedule of fees/Bill of Quantities, an item against which no rate/amount is entered will lead to immediate disqualification due to unfair price advantage.
- (vii) The bidder completed and signed all prescribed and **compulsory** bid forms.
- (viii) Proof of CSD Registration Report which is **Valid/Compliant** from the date of availability of tender document.

2.2.1.2 According to National Treasury the revised regulations require organs of state to identify tenders, where it is feasible, to sub-contract a minimum of 30% of the value of the contracts for contracts above R30 million.

..... (BIDDER) tendering for
hereby has read the stipulated prequalification criteria as stated in 2.2.1.2 above.

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

DATE:

ADDRESS

.....

.....

2.2.2 STAGE 2: FUNCTIONALITY

FUNCTIONALITY AS PER THE BELOW SCORE CARD

The functionality points will only be used to pre-qualify the bids before consideration for price and preference stage. It must be noted that bids that score less than 60% of the maximum points allocated for functionality will automatically be disqualified. The maximum obtainable points are 100 points (100%); however, a Bid will be disqualified should it fail to meet the minimum threshold for functionality per criteria and in total as prescribed in the table below. The minimum threshold required is 60 points (60%) and the minimum per criteria as indicated in the “Min Pts. Required per criteria” column.

Points will be allocated as follows:-Points will be allocated as follows:-

Stage 2 Evaluation		
Criteria	Proof Submitted	Max Points
Company Experience (Past experience in Landfill management and maintenance) Number of landfill sites managed 10 or more than 10 = 15 points Less than 10 but equal or more than 5 = 7 points Less than 5 but equal and more than 1 = 1 point	Attach Certified completion certificates from previous and current landfill sites	15
Membership of the IWMSA. Member of IWMSA = 10 points Member of any Waste Management Body = 5 points	Attach Certified membership certificate	10
Duration or period of each project managed. Duration (3 years) :- 5 or more that 5 projects = 10 points Duration (3 years) :- less than 5 but greater than 1 = 5 points Duration (less than 3 years):- 2 or less 2 projects = 1 point	Attach Certified completion certificates.	10
Number of any related waste trainings attended in relation to waste management and landfill site management. 8 or greater than 8 trainings = 10 points Less than 8 but equal or greater than 4 trainings = 5 points	Attach any certified copies of Waste Management certificates from an accredited institution.	10

Less than 4 but equal or greater than 1 = 1 point		
Technical Capacity, Experience and Educational Background in the field of Environmental Management, Planning or Sciences, Management of Landfill Site, Waste Management and research conducted. At least NQF Level 7 with: > 10 year's experience = 15 points 5 – 10 year's experience = 10 points <5 year's experience = 5 point	Attach CV and Certified proof of Qualification.	15
Methodology A methodology or site operational plan that entail how activities will be executed over the project period. Receiving (access control, spotters), weighing of tonnages of different waste types, disposal, compaction and covering of waste.	Attach a detailed landfill site operational plan, that complies with the Department of Water Affairs and Forestry's (DWAFF) "Minimum Requirements for waste disposal by Landfill" and Bethlehem Landfill Site Licence conditions.	25
Certificate of ownership of plant or letter of intent of the plant from an accredited Dealership or manufacturer. Ownership: = 15 points Letter of intent : = 5 points	Attach certified copies of ownership or letter of intent from an accredited dealership/manufacturer.	15
Maximum Point		100

*Attached appointment letters and completion certificates.

2.2.3 STAGE 3: FINANCIAL OFFER AND PREFERENCE

Each Bid will be evaluated in terms of price and preference in accordance with the Preferential Procurement Regulations 2022 (Government Gazette Vol. 689 4 November No. 47452 2022)

80/20 preference point system for acquisition of goods or services with Rand value above R30 000.00 up to Rand value equal R50 million

1. The following formula must be used to calculate the points out of 80 for price in respect of a quotation/tender with a Rand value above R10 000.00 up to R50 million, inclusive of all applicable taxes:

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

Where-

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration; and

P_{\min} = Price of lowest acceptable tender.

- 1.1 A maximum of 20 points may be awarded to a tenderer for the specified goals for the tender.
- 1.2 The points scored for the specific goal must be added to the points scored for the price and the total must be rounded off to the nearest two decimal places.
- 1.3 A bidder must submit proof of its compliant B-BBEE status level of contributor in order to claim points for B-BBEE
- 1.4 Failure to submit proof of B-BBEE or compliant B-BBEE status level of contributor with quotation/tender, will lead to a score of zero (0) and not a disqualification
- 1.5 Proof of locality must be submitted in order to claim point(s) for locality
- 1.6 Failure to submit proof of locality with quotation/tender, will lead to a score of zero (0) and not a disqualification
- 1.7 A bidder that score 0 points for B-BBEE and/ or 0 points for locality must be score for price in addition to points for B-BBEE or locality
- 1.8 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tendering scoring the highest points.

2. Specific Contract Participation Goals

- 2.1 the tendering conditions will stipulate the specific goals, as contemplated in section 2(1)d(ii) of the preferential Procurement Act, to be attained
- 2.2 for any tenders a maximum of 20 points (80/20 preference points system) or 10 (90/10 preference points system), will be allocated for specific goals. These goals are:
- 2.2.1 Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability
- 2.2.2 Local labour, and/ or promotion of enterprise located in the municipal area
- 2.3 Regarding paragraph 6.3.1, 50% of the 20/10 points will be allocated to promoting this goal and points will be allocated in terms of the BBEEE scorecard as follows:

B-BBEE Status Level of Contributor	Number of points for preference (80/20 system)	Number of points for preference (90/10 system)
1	10	5
2	9	4.5
3	8	4
4	5	2.5
5	4	2
6	3	1.5
7	2	1
8	1	0.5
Non-compliant contributor	0	0

- 2.4 A bidder must submit proof of its BBEEE status level contributor [scorecard]
- 2.5 A bidder failing to submit proof of BBEEE status level contributor -
- 2.5.1 may only score in terms of the 80/90-point formula for price; and
- 2.5.2 scores 0 points for BBEEE status level contributor, which is in line with section 2 (1) (d) (i) of the Act, where the supplier or service provider did not provide thereof.

- 2.6 Regarding paragraph 6.3.2, 50% of the 20/10 points will be allocated to promote this goal.
Points will be allocated as follows:

Locality of supplier	Number of points for locality (80/20)	Number of points for locality (90/10)
Within the boundaries of Free State	4	2
Within the boundaries of Dihlabeng municipality	6	3

- 2.7 The policy should not include Pre-qualification goals.
- 2.8 Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender.
- 2.9 A tenderer failing to submit proof of required evidence to claim preferences for other specified goals, which is in line with section 2 (1) (d) (ii) of the Act.
- (i) may only score in terms of the 80/90-point formula for price; and
 - (ii) scores 0 points for the relevant specific goals where the supplier or service provider did not stipulate locality.
- 2.10 The preference points scored by a bidder must be added to the points scored for price.
- 2.11 The points scored must be rounded off to the nearest two decimal places.
- 2.12 The contract must be awarded to the tenderer scoring the highest procurement points
- 2.13 (a) If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.
- (b) The organs of state may-
- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

2.2.4 STAGE 4: RISK ANALYSIS

In addition to the evaluation of Responsiveness, Functionality and Financial Offer, a risk analysis will be performed on the bidders having the highest ranking/number of points to ascertain if any of the following, as relevant, present an unacceptable commercial risk to the employer in terms of:

1. The bid of any bidder may be disregarded if that bidder, or any of its directors have –
 - a) Abused the institution's supply chain management system;
 - b) Committed fraud or any other improper conduct in relation to such system;
 - c) Failed to perform on any previous contract.

2. 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?

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 *audi alteram partem* rule was applied.

The Database of Restricted Suppliers is available 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.

3. 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)?

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.

- a) Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?

- b) Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?

PLANT

All plant used on the site shall be suitable for the application and prevailing site conditions, of adequate rated capacity, in good working condition, not more than 10 years old and shall be so designed and constructed as to cause a minimum of dust, noise and air pollution. The plant shall be operated by properly qualified and experienced operators. In the event of a breakdown occurring, the contractor shall be capable of calling upon such **back-up plant within 6 hours as is necessary to ensure that the proper operation and maintenance of the site is not placed in jeopardy.**

The contractor shall submit with his/her tender, a description of his/her proposed plant complement, as well as a description of his/her back-up or breakdown and workshop facilities. No plant may be removed from site without written permission from the engineer.

The service provider to be contracted for plant hire **must** be indicated on the relevant forms and provide certificate of ownership of the plant or letter of intent of the plant from an accredited dealership/manufacturer.

- Landfill Compactor – minimum 26 tons. The compactor must achieve a minimum compacted density of 850 kg/m³ (excluding cover material)
- Water tanker – minimum 5 000 L
- Tipper truck – minimum 10m³
- Front End Loader
- Bulldozer (Type D6 equivalent)
- A site bakkie

NB: Failure to provide proof or evidence of the above will lead to disqualification.

SECTION 2.3: MBD 6.1 PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- 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 **To be completed by the organ of state**

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) The applicable preference point system for this tender is the 80/20 preference point system.
- c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

2. DEFINITIONS

“Historically Disadvantaged Individual” (HDI) is defined as a South African citizen –

- 1) who, due to the apartheid policy that was in place, had no voting rights in the national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 100 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (“the interim Constitution”), and/or
- 2) who is a woman, and/or
- 3) who has a disability With the understanding that any person who received South African citizenship on or before the introduction of the interim Constitution, will not be deemed to be HDI.

“tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

- (a) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (b) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (c) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (d) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 \\
 \mathbf{Ps} = \mathbf{80} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{Pmin}}{\mathbf{Pmin}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left(\mathbf{1} - \frac{\mathbf{Pt} - \mathbf{Pmin}}{\mathbf{Pmin}} \right)
 \end{array}$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

3.2. **FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT**

3.2.1. **POINTS AWARDED FOR PRICE**

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

80/20

or

90/10

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \text{ or } Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

A	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Within the boundaries of Free State		4		
Within the boundaries of Dihlabeng municipality		6		
Historically Disadvantaged Individual		10		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

<p>WITNESSES</p> <p>1.</p> <p>2.</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE:</p> <p>ADDRESS</p> <p>.....</p> <p>.....</p>
--

SECTION 2.4: RETURNABLE SCHEDULES REQUIRED FOR TENDER EVALUATION PURPOSES

FORM 2.4.1: AUTHORITY FOR SIGNATORY

FORM 2.4.2: SCHEDULE OF WORK CARRIED OUT BY TENDERER

FORM 2.4.3: PROPOSED KEY PERSONNEL

FORM 2.4.4: STAFFING PROFILE

FORM 2.4.5: SCHEDULE OF PLANT

FORM 2.4.6: SCHEDULE OF PROPOSED SUBCONTRACTORS

FORM 2.4.7: METHOD STATEMENT: OPERATIONAL PLAN

FORM 2.4.8: JOINT VENTURE/CONSORTIUM AUTHORITY

FORM 2.4.1: AUTHORITY FOR SIGNATORY

1. COMPANIES AND CLOSE CORPORATIONS

- (a) **If a Bidder is a COMPANY, a certified copy of the resolution by the board of directors**, duly signed, authorising the person who signs this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the company **must be submitted with this bid**, that is, before the closing time and date of the bid
- (b) In the case of a **CLOSE CORPORATION (CC)** submitting a bid, **a resolution by its members**, authorizing a member or other official of the corporation to sign the documents on their behalf, **shall be included with the bid.**

PARTICULARS OF RESOLUTION BY BOARD OF DIRECTORS OF THE COMPANY / MEMBERS OF THE CC

Date Resolution was taken			
Resolution signed by (name and surname)			
Capacity			
Name and surname of delegated Authorized Signatory			
Capacity			
Specimen Signature			
Full name and surname of ALL Director(s) / Member (s)			
Is a CERTIFIED COPY of the resolution attached?	YES		NO

SIGNED ON BEHALF OF COMPANY / CC:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

2. SOLE PROPRIETOR (SINGLE OWNER BUSINESS)

I, _____ the undersigned, hereby confirm

that I am the sole owner of the business trading as

3. PARTNERSHIP

We, the undersigned partners in the business trading as

hereby authorize Mr/Ms _____ to sign this bid as well as any

contract resulting from the bid and any other documents and correspondence in connection with this bid and /or contract for and on behalf of the abovementioned partnership.

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner	Signature

SIGNED ON BEHALF OF PARTNERSHIP:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

4. CERTIFICATE OF AUTHORITY FOR JOINT VENTURES

This returnable schedule is to be completed by JOINT VENTURES

We, the undersigned, are submitting this tender offer in joint venture and hereby authorize Mr/Ms _____ authorized signatory of the Company/Close Corporation/Partnership, acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

1. Name of firm (Lead partner)			
Address			
		Tel. No.	
Signature		Designation	

2. Name of firm			
Address			
		Tel. No.	
Signature		Designation	

3. Name of firm			
Address:			
		Tel. No.	
Signature		Designation	

4. Name of firm			
Address			
		Tel. No.	
Signature		Designation	

NOTE: A copy of the Joint Venture Agreement showing clearly the percentage contribution of each partner to the Joint Venture, shall be appended to this Schedule.

FORM 2.4.2: SCHEDULE OF WORK CARRIED OUT BY TENDERER

The Tenderer shall list below contracts of a similar nature awarded. Please list in full the Employer's name and address, and the name of the professional person responsible for supervising the project.

Alternatively, tenderers without experience may submit statements from a person or persons or organisation as to their abilities and standing in support of their tender, for adjudication purposes.

This information is material to the award of the Contract.

EMPLOYER (Name, tel no and fax no)	CONSULTING ENGINEER (Name, tel no and fax no)	NATURE OF WORK	VALUE OF WORK	YEAR OF COMPLETI ON

***Please attach a copy of appointment letter and completion certificate as proof for only up to three similar projects completed.**

FORM 2.4.3 PROPOSED KEY PERSONNEL

The Tenderer shall list below the key personnel (including first nominee and the second choice alternate), whom he proposes to employ on the contract should his tender be accepted, both at his headquarters and on the Site, to direct and for the execution of the work, together with their qualifications, experience, positions held and their nationalities.

DESIGNATION	NAME AND NATIONALITY OF: (i) NOMINEE (ii) ALTERNATE	SUMMARY OF QUALIFICATIONS, EXPERIENCE AND PRESENT OCCUPATION
<p><u>HEADQUARTERS</u></p> <p>Partner/director</p> <p>Project Manager</p> <p><u>MONITORING</u></p> <p>Site Agent/Supervisor</p> <p>Other key staff (Give description)</p>		

Please attach the CV of the above key personnel.

***Note that; this will be used on the evaluation process.**

FORM 2.4.5: SCHEDULE OF PLANT

The Tenderer shall state below what Plant will be available for the work should he be awarded the Contract. Distinguish between plant immediately available, plant to be hired for use. A letter from the owner/company leased or hired plant must be attached.

DESCRIPTION, SIZE, CAPACITY	NUMBER

FORM 2.4.6: SCHEDULE OF PROPOSED SUBCONTRACTORS

The Tenderer shall, in accordance with the provisions of condition of tender, list below the subcontractors he proposes to employ for part(s) of the project.

The naming of any proposed subcontractor hereunder shall not be deemed to constitute a qualification of the Tender, and acceptance of a Tender shall not be construed as approval of any or all of the listed subcontractors, neither shall it in any way limit or detract from the powers of the Engineer and the obligations of the Contractor pertaining to subcontracting as stated in the Contract, nor shall it prevent the Tenderer from deviating in any way during the Contract from the list of proposed subcontractors hereunder if the Tender is accepted.

If any or all of the subcontractors listed hereunder are not approved subsequent to acceptance of the Tender, it shall in no way invalidate the Tender or the Contract, and the tendered unit rates for the respective items of work shall remain final and binding even if a subcontractor not listed below is approved by the Employer.

PART OR TYPE OF WORK	PROPOSED SUBCONTRACTOR	WORK RECENTLY EXECUTED BY SUBCONTRACTOR

FORM 2.4.8 : JOINT VENTURE/ CONSORTIUM AUTHORITY

JOINT VENTURE/ CONSORTIUM INFORMATION

(Complete only if applicable)

The parties hereto form a Joint Venture/ Consortium for the purpose of jointly bidding and obtaining the award of contract for the **OPERATION AND MAINTENANCE OF BETHLEHEM LANDFILL SITE for a period of 3 years** and of jointly performing such contract under joint and several responsibility.

The share of the partners in the Joint Venture/ Consortium shall be:

Full Name and address of Lead enterprise
..... %
.....

Full Name and address of 2nd enterprise
..... %
.....

Full Name and address of 3rd enterprise
..... %
.....

The Lead Partner is hereby authorised to incur liabilities, receive instructions, payments, sign all documents in connection with the bid, and to be responsible for the entire execution and administration of the contract for and on behalf of the partners.

The parties hereto shall make available to the Joint Venture/ Consortium the technical advice and benefit of their individual experience and shall, in all other respects, endeavour to share the responsibility and burden of the performance of the Joint Venture/ Consortium.

To this end the parties hereto shall share, in the above proportions, in all risks and obligations arising out of or in connection with the Contract, especially in the provisions of all necessary working capital and guarantees, in profit and loss and personnel.

The Lead Partner shall supply, in its name, the necessary insurance prescribed for the industry and such other insurance as may be prescribed by the DLM, for the amount and period as stated in the Contract Data.

The Joint Venture/ Consortium may not be terminated by any of the parties hereto until either:

The contract has been awarded to another bidder

or

The work undertaken by the Joint Venture/ Consortium under the contract has been completed and all liabilities and claims incurred by and made by the Joint Venture/ Consortium have been settled, the bid is cancelled or the period of validity of bid extended.

No party to the Agreement shall be entitled to sell, assign or in any manner encumber or transfer its interest or any part thereof in the Joint Venture/ Consortium without obtaining the prior written consent of the other party hereto.

The Parties of the Joint Venture/ Consortium shall cooperate on an exclusive basis. No Party shall during the validity period of the bid submit a bid to or enter into a Contract with the DLM or any other party for the Project, either alone or in collaboration with a third party.

Authorised Signature Lead Partner.....

Name

Designation

Signed at..... on

Authorised Signature of 2nd Partner.....

Name

Designation

Signed at..... on

Authorised Signature of 3rd Partner.....

Name

Designation

Signed at..... on

(ALL SIGNATORIES SHALL CONFIRM THEIR AUTHORITY BY ATTACHING TO THE LAST PAGE OF THE BID, ORIGINAL OR CERTIFIED COPIES OF DATED AND SIGNED RESOLUTIONS OF THE MEMBERS/DIRECTORS/PARTNERS AS THE CASE MAY BE.)

In the event that there are more than 3 Joint Venture/Consortium partners, additional page/s may be added in order to furnish the requested information and authorised signatures

SECTION 3.1 : MBD3.3: PRICING SCHEDULE (Professional Services)

NAME OF BIDDER:	BID NO.:
CLOSING TIME 12:00	CLOSING DATE.....

PRICING INSTRUCTIONS

1. GENERAL

The Conditions of Bid, the Conditions of Contract, the Specifications and the Drawings are to be read in conjunction with the Schedule of Quantities and Rates.

The bidder is advised to check the number of pages and, should any be found to be missing or in duplicate or the figures or writing indistinct or this Schedule of Quantities contain any obvious errors, the bidder must inform the engineer at once and have the same rectified. No liability whatsoever will be admitted in respect of errors due to the foregoing.

Should there be any doubt or obscurity as to the meaning of any particular item, the bidder must obtain an explanation of it, in writing, from the engineer. No claims for extras arising from any such doubt or obscurity will be admitted after submission of the Tender.

2. QUANTITIES

The quantity of waste to be disposed of at the site is estimated for a one year period, but can vary depending on the disposal strategy adopted by the Dihlabeng Local Municipality. The prospective contractor must submit rates for all items in the schedule. The contractor will be required to handle whatever quantity of waste is received from day to day. The contractor's monthly payments will be computed from the fixed costs added to the actual quantities of waste handled, valued at the relevant prices and rates.

3. PRICES AND RATES

It is deemed that provision for head office overheads, consumable stores, profit, etc., as well as all labour, material and plant costs, is made in the priced items of the measured schedule following the preliminary schedule and that any increases and decreases in the measured quantities will correspondingly adjust for these charges.

The sum and unit prices to be inserted in the Schedule of Quantities are to be fully inclusive value of the work described under the several items, including all costs and expenses which may be required in and together with all general risks, liabilities and obligations set forth or implied in the documents on which the tender is based.

All unit prices shall be quoted net and be exclusive of Value Added Tax. Provision is made in the summary page for the addition of Value Added Tax to the total of the various sections comprising the Schedule of Quantities.

4. ALL ITEMS TO BE PRICED

All unit prices, extensions and totals must be entered in BLACK INK.

A sum or unit price is to be entered against each item in the Schedule of Quantities, whether quantities are stated or not. The price of items against which no price is entered will be considered to be zero and covered by other prices or rates in the schedule. The only exception to this will be Items related to the construction of liners, capping and grassing as part of final rehabilitation, which are considered to be optional and which is to be marked as N/A (Not applicable), should the bidder decide not to price those particular Items.

Where any discrepancy exists between the unit price and the extended total against any item, the unit price will be held fixed and the discrepancy will be adjusted by altering the total amount filled in against such item and, consequently, the total tender sum.

5. PROVISIONAL SUM

A provisional sum is to be allowed for additional work or materials specifically ordered by the engineer.

SECTION 3.2: SCHEDULE OF ACTIVITIES / BILL OF QUANTITIES

OFFER TO BE VALID FOR 80 DAYS FROM THE CLOSING DATE OF BID.

For the duration of the contract.

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT (3 years)
1	FIXED MONTHLY CHARGE				
1.1	Monthly charges on the operation and maintenance of the landfill site will include:	R	NOT APPLICABLE	NOT APPLICABLE	R
	<u>Yellow Fleet,</u> Landfill Compactor	Wet rate: R	x1	R	R
	Bulldozer	R	x1	R	
	Water tanker	R	x1	R	
	Tipper Truck	R	x1	R	
	TLB	R	x1	R	
	<u>Leachate Pumps:</u> Maintenance, pumping and extension	NOT APPLICABLE	NOT APPLICABLE	R_____	R
	<u>Once off maintenance of landfill infrastructure</u> • All buildings, • Fence (Erection of new fence), • Dams, boreholes, • Weighbridge (Fixing and calibration).	NOT APPLICABLE	NOT APPLICABLE	R_____	R
	<u>Security:</u> Min of 4 security guards	R	x4	R	R
	<u>Construction of Berms</u>	NOT APPLICABLE	NOT APPLICABLE	R_____	R
		TOTAL FOR SECTION 1			R

TOTAL (for 3 years) EXCLUDING VAT R_____

ADD VAT (15%) R_____

TOTAL CONTRACT AMOUNT R_____

WITNESSES:

1.
2.

..... SIGNATURE (S) OF BIDDER (S) DATE:

SECTION 3.3: FORM OF OFFER AND ACCEPTANCE

(Agreement)

Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract in respect of the following project:

Operation and Maintenance of Bethlehem Landfill Site.

The Tenderer, identified in the Offer signature block below, has examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the Tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance, the Tenderer offers to perform all of the obligations and liabilities of the Contractor under the Contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the Conditions of Contract identified in the contract Data.

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

.....
..... Rand (in words); R (In figures).

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document to the Tenderer before the end of the period of validity stated in the Tender Data, whereupon the Tenderer becomes the party named as the Contractor in the Conditions of Contract identified in the Contract Data.

For the Tenderer:

.....
Signature

.....
Name

.....
Capacity

Name and address of organisation:

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

Signature and name of witness:

.....
Signature

.....
Name

.....
Date

Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the Tenderer's Offer. In consideration thereof, the Employer shall pay the 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

Agreements and Contract Data, (which includes this Agreement)
Pricing Data
Scope of Works. (Specifications)
Site Information

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

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto 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, which must be duly signed by the authorised representative(s) of both parties.

The Tenderer shall within two weeks after receiving a completed copy of this Agreement, including the Schedules of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data at, or just after, the date this Agreement comes into effect. Failure to fulfill any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the Tenderer (now Contractor) within five days of the date of such receipt

notifies the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract between the parties,

For the Employer:

.....
Signature

.....
Name

.....
Capacity

Name and address of organisation:

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

Signature and name of witness:

.....
Signature

.....
Name

Date

Schedule of Deviations

Notes:

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

1. Subject.....

Details

2. Subject.....

Details.....

By the duly authorised representatives signing this Schedule of Deviations, 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 change to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance.

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

For the Tenderer:

For the Employer:

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

Name and address of organisation:

Name and address of organisation:

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

.....	Witness Signature	.....
.....	Witness Name	.....
.....	Date	.....

CONFIRMATION OF RECEIPT

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

the (day) of (month) 20 (year) at
(place)

For the Contractor:

.....

Signature

.....

Name

.....

Capacity

Signature and name of witness:

..... **Signature**

..... **Name**

SECTION 4.1 MBD 4: DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

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

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹“State” means –

- (a) 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);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution

Any other particulars:

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

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

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

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

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

2.10 Are you, or any person connected with the bidder, **YES/NO**
 aware of any relationship (family, friend, other) between
 any other bidder and any person employed by the state
 who may be involved with the evaluation and or adjudication
 of this bid?

2.10.1 If so, furnish particulars.

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO**
 of the company have any interest in any other related companies
 whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Persal Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of bidder

SECTION 4.2: MBD8 : DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions 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 disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 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	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? (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). 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	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)? 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any 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"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION
FORM IS 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

SECTION 4.3: DECLARATION

1. I hereby declare that I have read, understood, agree and comply with all of the sections below, if included, that it shall be deemed to form and be construed as part of this agreement:

- Invitation to Tender
- Tender Conditions and Information
- General Conditions of Contract
- Special Conditions of Contract
- Specification(s)
- Price schedule(s)
- Bid for Requirements of the Dihlabeng Municipality (Form MBD1)
- Declaration of Interest (Form MBD4)
- Preference Points Claim Form in Terms of the Preferential Procurement Regulations, 2001 (Forms MBD6.1 and MBD6.11)
- Declaration of Bidder's Past Supply Chain Management Practices (Form MBD8)
- Contract Form
- Any other sections that might be added to form part of this document.
- Certificate of Independent BID Determination (Form MBD 9)

2. I confirm that I am duly authorised to sign this document.

NAME (PRINT)	WITNESSES 1 2. DATE:
CAPACITY	.....
SIGNATURE	.....
NAME OF FIRM	.....
DATE	.....

SECTION 4.4: MBD 7.2: CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .

2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

WITNESSES	
1	.....
.	.
2	.....
.	.

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

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

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

4. I confirm that I am duly authorised to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE:

SECTION 4.5: MBD 9: CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Standard 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 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD 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 (SBD 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 Institution)

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.

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.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

ANNEXURE A

LICENCE IN TERMS OF SECTION 20 (b) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 2008 (Act 59 of 2008).