

Munisipale Kantoor  
 Privaatsak X12  
**VREDENBURG**, 7380  
 Tel. No.(022) 701-7113  
 Faks No.(022) 715-1304



Municipal Offices  
 Private Bag X12  
**VREDENBURG**, 7380  
 Tel. No.(022) 701-7113  
 Fax No.(022) 715-1304

## BID DOCUMENT

<b>BID NUMBER</b>	<b>SBM 50/23/24</b>
<b>BID DESCRIPTION</b>	<b>APPOINTMENT OF AN INDEPENDENT POWER PRODUCER TO PROVIDE ELECTRICITY FROM POWER GENERATION PLANT/S COMPRISING OF DISPATCHABLE, LOAD TRACKING POWER GENERATION TECHNOLOGIES FOR A PERIOD OF 15 YEARS TO SALDANHA BAY MUNICIPALITY (SBM)</b>
<b>DURATION OF CONTRACT</b>	<b>15 YEARS</b>
<b>START DATE AND END DATE</b>	
<b>NAME OF BIDDER</b>	
<b>BUSINESS ADDRESS</b>	
<b>TELEPHONE NUMBER</b>	
<b>CSD NUMBER</b>	

### SUBMISSION DETAILS:

<b>ADDRESS</b>	BID BOX, GROUND FLOOR, BULLER/INVESTMENT CENTRE, 15 MAIN ROAD, VREDENBURG		
<b>CLOSING DATE</b>	23 May 2025	<b>CLOSING TIME</b>	12h00

The document, fully completed in all respects, together with any returnable and additional, supporting documentation required, must be submitted in a sealed envelope with the name and address of the bidder, the project number and description and the closing date and time indicated on the envelope. The sealed envelopes must be inserted into the appropriate official tender box before the closing date and time.

**OTHER IMPORTANT DETAILS:**

<b>COMPULSORY PHYSICAL/ VIRTUAL CLARIFICATION MEETING (BIDDERS NOT ATTENDING THE MEETING WILL BE FOUND NON-RESPONSIVE)</b>			
<b>ADDRESS</b>	COUNCIL CHAMBERS, 12 MAIN ROAD, VREDENBURG, 7380 GPS COORDINATES: -32°53' 59.99"S; 17° 58'59.99E VIRTUAL LINK: Will be provided to all bidders prior to the meeting. Bidders must send an email to <a href="mailto:IPP@sbm.gov.za">IPP@sbm.gov.za</a> receive the link to register. <b>Cut-off time to register: 16 October 2024</b>		
<b>DATE</b>	23 October	<b>TIME</b>	Physical attendance: 11H00 Virtual attendance: Room will open at 10h00 if attending virtually and will close 11h00 <b>NOTE: NO GRACE PERIOD WILL BE ALLOWED</b>

**CLARIFICATION MEETING: ENQUIRIES:**

[IPP@sbm.gov.za](mailto:IPP@sbm.gov.za);

Mr Du Preez: 022 -701 7123

Ms H Meeding: 022 – 701 6916

**INSTRUCTION: HANDLING OF BID DOCUMENT**

Bids must be properly received and deposited in the above-mentioned bid box on or before the closing date and before the closing time. No late bid offers will be accepted under any circumstances. Bid offers must be submitted in a sealed envelope properly marked in terms of the bid number and bid description as indicated above. If the bid offer is too large to fit into the abovementioned box, please enquire at the public counter opposite the bid boxes for assistance. No bid offers will be accepted via facsimile, email or electronic copies.

All bids must be submitted on the official bid documents issued by SBM for this bid and not be re-typed.

Do not dismember this Bid Document (do not take it apart or put documents between its pages) and all other documents of the submission must be attached to this Bid Document.

Bids generated from e-Tender:

**E-TENDER DECLARATION****It is compulsory to confirm "yes or no" on all line items****Yes/No**

The original document collected from the Municipality must be submitted or, if documents are printed from the e-Tender website, the original, printed document must be submitted, clearly reflecting all writing and signatures in black ink. Copied documents where the writing and signatures is unclear and/or copied will render the bid non- responsive.	
Print the bid document with a quality printer. If the wording is unclear, the document will be discarded.	
Printed documents must be <u>bound securely</u> according to page numbers to prevent pages getting lost. Missing pages will render the bid non- responsive. <u>Do not</u> staple the pages together.	
The Price Schedule and all Annexures with compulsory attachments must be bound to the back of the document.	
No alterations of the document will be accepted. Any alterations will disqualify the bid.	
Print the <b><u>Bid document</u></b> on <b><u>both sides</u></b> to save paper and for standardisation.	

**Please see clause 2.3.17.2 on original submission as well as electronically required documents.**

**It is compulsory to comply and sign below if the bidder agrees to the requirements above**

I accept and approve all of the above.

\_\_\_\_\_  
SIGNATURE OF BIDDER

**CHECKLIST**

Please ensure that you have included all the documents listed below and submit it with your bid document as well as ensure that you adhere to the listed requirements. This will ensure that your bid is not deemed to be non-responsive and disqualified.

PLEASE TICK BOX ON THE LEFT ☒

- ☐ Identity Documents of all those with equity ownership in the organization. In the case of a company please include only those ID documents of the Directors with equity ownership.
- ☐ Company registration forms.
- ☐ Copy of company and director/s municipal account/s or lease agreement (see details in MBD 6.1)
- ☐ All relevant sections complete, signed and all pages of bid document initialled by authorized signatory.
- ☐ Proof attached that signatory is duly authorized to enter into contractual agreement with Saldanha Bay Municipality on behalf of the organization.
- ☐ Original or Originally Certified copy of a valid SANAS approved B-BBEE certificate or a valid B-BBEE affidavit.
- ☐ Proof for claiming points for locality as required in MBD 6.1.
- ☐ Audited financial statement or management accounts as per MBD 5.
- ☐ Tax-compliant status on CSD.

**DECLARATION**

I declare that all relevant documentations have been included with the bid document and all the bid conditions have been adhered to.

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Capacity: \_\_\_\_\_

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**PART A: INVITATION AND GENERAL INSTRUCTION****1. Advertisement**

<b><u>SALDANHABAAI MUNISIPALITEIT</u></b>	<b><u>SALDANHA BAY MUNICIPALITY</u></b>
<b><u>TENDER NOMMER: SBM 50/23/24</u></b>	<b><u>BID NUMBER: SBM 50/23/24</u></b>
<p><b>TENDER BESKRYWING: AANSTELLING VAN 'N ONAFHANKLIKE KRAGPRODUSENT OM ELEKTRISITEIT VAN KRAGOPWEKKING AANLEG/TE TE VOORSIEN WAT BESTAAN UIT VERSENTBARE, EN LAS VOLGING KRAGOPWEKKINGS TEGNOLOGIE/Ë VIR 'N PERIODE VAN 15 JAAR AAN SALDANHABAAI MUNISIPALITIET (SBM).</b></p> <p>Tender dokumente is beskikbaar om afgelaai te word op die e-Tender publikasie webtuiste <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> of kan alternatiewelik verkry word by Mev. Rosaire Farmer, Hoofstraat 15, Beleggingsentrum, Vredenburg vanaf <b>23 September 2024</b>.</p> <p><b>Indien tenders verkry word, moet 'n nie-terugbetaalbare tender deposito van R278.00 betaal word aan Saldanhabaai Munisipaliteit. 'n Bewys van betaling moet aangebied word vir die verkryging van tender dokumente.</b></p> <p>Navrae: <a href="mailto:IPP@sbm.gov.za">IPP@sbm.gov.za</a></p> <p>Tenders moet in die tenderbus by die Beleggingsentrum, Hoofstraat 15, Vredenburg ingedien word <b>voor 12H00 op 23 Mei 2025</b> en moet in 'n geseëde koevert wees waarop daar aan die buitekant duidelik gemerk is die bovermelde tender nommer en beskrywing.</p> <p>Na die sluitingsuur sal die tenders in die publiek oopgemaak word. Enige of die laagste tender sal nie noodwendig aanvaar word nie.</p> <p>Funksionaliteit sal gebruik word as maatstaf om in aanmerking te kom vir die tender. Dit hou verband met die tenderaar se vermoë om 'n gehalte diens aan die munisipaliteit te verskaf. Tenderaars wat nie voldoen aan die funksionaliteit kriteria (minimum punte), sal dus nie oorweeg word vir verdere evaluering nie.</p> <p>'n Verpligte uitklaringvergadering sal plaasvind by die Raadsaal, Hoofstraat 12, Vredenburg op <b>23 Oktober 2024, stiptelik om 11H00</b> (Vergadering kan aanlyn bygewoon word). Besigheid moet e-pos stuur na bogenoemde e-pos adres om skakel te kry om te registreer. Registrasie sluit <b>16 Oktober 2024</b>. Die aanlyn-kamer sal om <b>10H00</b> open en sluit om <b>11H00</b>. Geen grasie periode sal toegelaat word vir fisiese of aanlyn bywoning nie (Die Munisipaliteit sal geen verantwoordelikhede vat vir enige uitdagings wat ondervind word).</p> <p>Die 90/10 voorkeur-puntestelsel soos vervat in die Voorkeur Verkrygings Beleid R7/5-24 van 23 Mei 2024 sal in die beoordeling van hierdie tender gebruik word.</p> <p>'n Geldige inkomstebelasting uitklaringstifikaat, soos uitgereik deur die Suid-Afrikaanse Inkomstediens, moet tesame met die tender dokument ingehandig word, en die tenderaar moet voldoen aan die belastingvoorwaardes op die Sentrale Verskaffers Databasis (CSD).</p> <p>Mnr. H.F. Mettler MUNISIPALE BESTUURDER Saldanhabaai Munisipaliteit Privaatsak X 12 VREDENBURG <b>7380</b></p>	<p><b>BID DESCRIPTION: APPOINTMENT OF AN INDEPENDENT POWER PRODUCER TO PROVIDE ELECTRICITY FROM POWER GENERATION PLANT/S COMPRISING OF DISPATCHABLE, LOAD TRACKING POWER GENERATION TECHNOLOGIES FOR A PERIOD OF 15 YEARS TO SALDANHA BAY MUNICIPALITY (SBM).</b></p> <p>Bid documents can be downloaded from the e-Tender publication portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> or alternatively can be collected from Mrs. Rosaire Farmer, 15 Main Road, Investment Centre, Vredenburg from <b>23 September 2024</b>.</p> <p><b>If bids are collected, a non-refundable bid deposit of R278.00 is payable to Saldanha Bay Municipality. A proof of payment is required for the collection of bid documents.</b></p> <p>Enquiries: <a href="mailto:IPP@sbm.gov.za">IPP@sbm.gov.za</a></p> <p>Bids must be placed in the bid box of the Investment Centre, Ground Floor, 15 Main Road, Vredenburg, <b>before 12H00 on 23 May 2025</b>, in a sealed envelope upon the outside whereon is clearly marked the above-mentioned bid number and description.</p> <p>The bids shall be opened in the public after the closing hour. Any or the lowest bid will not necessarily be accepted.</p> <p>Functionality will be evaluated as an eligibility criterion. The eligibility criteria relate to the bidder's ability to provide a quality service to the municipality. Bidders that do not meet the functionality criteria (minimum score) will therefore not be considered for further evaluation.</p> <p>A compulsory information session will take place at the Council Chamber, 12 Main Road, Vredenburg on <b>23 October 2024, promptly at 11H00</b> (Meeting can be attended virtually). Business must send email to above address to receive link to register. Registration close on <b>16 October 2024</b>. The virtual room will open at <b>10H00</b> and close at <b>11H00</b>. <b>No grace period will be allowed for physical or virtual attendance (The municipality will take no responsibility for any challenges experienced).</b></p> <p>The 90/10 preference point system as contained in the Preferential Procurement Policy, R7/5-24, of 23 May 2024 will be used in the adjudication of this bid.</p> <p>A valid tax clearance certificate, from the South African Revenue Services, must be supplied with the tender document, and the tenderer must be tax-compliant on the Central Supplier Database (CSD).</p> <p>Mr. H.F. Mettler <b>MUNICIPAL MANAGER</b> Saldanha Bay Municipality Private Bag X 12 VREDENBURG 7380</p>

## 2. Instructions to Bidder

### 2.1. **Conditions of Bid:**

#### 2.1.1 Actions

- 2.1.1.1. The Saldanha Bay Municipality (SBM) and each bidder submitting a bid offer shall comply with these Conditions of Bid. In their dealings with each other, they shall discharge their duties and obligations as set out in these Conditions of Bid, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations.
- 2.1.1.2. The parties agree that this bid, its evaluation and acceptance and any resulting contract shall also be subject to the Employer's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, save that if the Employer adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this bid, such clause shall also be applicable to that contract. Please refer to this document contained on the Employer's website.
- 2.1.1.3. Abuse of the supply chain management system is not permitted and may result in the bid being rejected, cancellation of the contract, restriction of the supplier, and/or the exercise by SBM of any other remedies available to it as described in the SCM Policy or other applicable legislation.
- 2.1.1.4. SBM, the bidder and their agents and employees involved in the bid process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Bidders shall declare any potential conflict of interest in their bid submissions. Employees, agents and advisors of SBM shall declare any conflict of interest to SBM at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.
- 2.1.1.5. SBM shall not seek, and a bidder shall not submit a bid, without having a firm intention and capacity to proceed with the contract.
- 2.1.1.6. The General Conditions of Contract (GCC) as well as Special Conditions of Contract (SCC) forming part of this set of bid documents will be applicable to this bid in addition to the conditions of bid. Where the GCC and SCC are in conflict with one another, the stipulations of the SCC will prevail.

#### 2.1.2 Interpretation

- 2.1.2.1 The additional requirements contained in the returnable documents are part of these Conditions of Bid.

2.1.2.2	These Conditions of Bid and returnable schedules which are required for bid evaluation purposes (the complete bid document with all submissions required), shall form part of the contract arising from the invitation to bid.
2.1.3	Communication during bidding process
2.1.3.1	Verbal or any other form of communication from SBM, its employees, agents or advisors during site visits/clarification meetings or at any other time prior to the award of the Contract, will not be regarded as binding on SBM, unless communicated by SBM in writing to suppliers by its Manager: Supply Chain Management/persons identified in the bid document.
2.1.4	SBM's right to accept or reject any bid offer
2.1.4.1	SBM reserves the right to withdraw any invitation to bid and/or to re-advertise or to reject any bid or to accept a part of it. The Municipality does not bind itself to accepting the lowest bid or the bid scoring the highest points.
2.1.4.2	SBM may accept or reject any bid offer and may cancel the bidding process or reject all bid offers at any time before the formation of a contract. SBM may, prior to the award of the bid, cancel a bid if:
2.1.4.2.1.	due to changed circumstances, there is no longer a need for the services, works or goods requested; or
2.1.4.2.2.	funds are no longer available to cover the total envisaged expenditure; or
2.1.4.2.3.	no acceptable bids are received; or
2.1.4.2.4.	there is a material irregularity in the bidding process.
2.1.4.3	SBM shall not accept or incur any liability to a bidder for such cancellation or rejection, but will give written reasons for such action upon receiving a written request to do so.
2.1.5.	Procurement procedures
2.1.5.1	<p>Unless otherwise stated in the bid conditions, a contract will be concluded with the bidder who scores the highest number of bid preference points (price and preference).</p> <p>SBM intends to award the contract(s) to a single bidder that includes functionality through a single stage bidding process. If insufficient responsive bids are received, SBM reserves the right not to appoint a bidder at all.</p> <p>Bidders' submissions will need to demonstrate that they meet the eligibility criteria as stipulated in clause 2.2.1.</p> <p>SBM is looking to appoint a Service Provider to provide SBM with its energy needs – current plus forecasted, on a dispatchable basis, through a power purchase agreement (PPA). The successful Service Provider must be able to</p>

track the demand curve and adjust the supply as the demand increases and decreases taking load following tendencies into consideration. A list of approved EIA's in the Saldanha Bay municipal area for energy generation subject to relevant approvals and licensing and the capacity of the Eskom grid is included in the specifications. The goal of this is to provide an energy alternative to provide energy. Details of the municipal energy usage for a period three (3) years are included in this specification (Annexure A: Information will be provided in electronic format).

Please be advised that network constraints, applicable technical standards (Annexure C: Technical standards and legislative codes), national grid codes and other applicable legislative and regulatory requirements, must be taken into consideration and will not be deemed the responsibility of SBM and must be adhered to.

The Bidders shall submit bids aligned with the specifications of this document which includes all functionality criteria. All received bids will be evaluated for responsiveness based on the functionality criteria as included in the bid document.

A list of potentially suitable connection points is included in the specifications (Annexure B: Saldanha Bay Electrical Network: Information will be provided in electronic format). Further points can be negotiated after appointment. The bidder will be responsible for the of switching stations at its cost, if required in order to connect the facility to the SBM grid infrastructure.

The contract award will be subject to the successful outcomes of the following:

- a) A MFMA Section 33 process; and
- b) All project specific authorizations being obtained, including all agreements related to the usage of the applicable municipality and/or Eskom grid where applicable.

2.1.5.1. The bidder shall provide a detailed financial model based on 15 years period from the commercial operation date (COD), SBM's decision on a 15-year contract will be based on the most beneficial model for the Municipality. Proposal procedure using the two stage-system

A two-stage system will not be followed.

2.1.5.2. Nomination of Alternative Bidder

The above is not applicable.

2.1.5.3. Nomination of Standby Bidder

The above is not applicable.

- 2.1.6. Appeals in terms of Section 62 of the Municipal Systems Act, 32 of 2000 / Access to court
- 2.1.6.2. Appeals
- 2.1.6.2.1. In terms of Section 62 of the Local Government: Municipal Systems Act, 32 of 2000 read with clause 28(12) of the SBM SCM policy a person whose rights are affected by a decision taken by SBM, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within twenty-one (21) days of the date of the notification of the decision.
- 2.1.6.2.2. The appeal authority must consider the consider the appeal and may confirm, vary or revoke the decision that has been appealed, but no such revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- All requests referring to clauses 2.1.6.1 must be submitted in writing to:
- The Municipal Manager – 15 Main Road, Saldanha Bay Municipality, Vredenburg, 7380
- Via hand delivery at: 1 Floor (see above)
- Via post at: Private Bag X12, Vredenburg, 7380
- Via email at: [heinrich.mettler@sbm.gov.za](mailto:heinrich.mettler@sbm.gov.za) and/ [hermie.meeding@sbm.gov.za](mailto:hermie.meeding@sbm.gov.za)
- 2.1.6.3. Right to approach the courts and rights in terms of Promotion of Administrative Justice Act, 3 of 2000 and Promotion of Access to Information Act, 2 of 2000.
- 2.1.6.3.1. Clauses 2.1.6.1 above do not influence any affected person's rights to approach the High Court at any time or its rights in terms of the Promotion of Administrative Justice Act (PAJA) and Promotion of Access to Information Act (PAIA).
- All requests referring to clause 2.1.6.2 must be submitted in writing to the addresses provided in clause 2.1.6.1.2.
- 2.1.6.4. The minimum standards regarding accessing and processing of any personal information belonging to another in terms of Protection of Personal Information Act, 2013 (POPIA).
- The Employer, its employees, representatives and sub-contractors may, from time to time, Process the Contractor's and/or its employees', representatives' and/or sub-contractors' Personal Information, for purposes of, and/or relating to, the bid, this agreement, for research purposes, and/or as otherwise may be envisaged in the Employer's Privacy Notice and/or in relation to the Employer's Supply Chain Management Policy or as may be otherwise permitted by law. This includes the employers' assurance provider and Appeal Authority.

### 2.1.7. National Treasury Central Supplier Database (CSD) Registration

- 2.1.7.1. Bidders are required to be registered on the National Treasury Web Based Central Supplier Database (CSD) as a service provider. Bidders must register as such upon being requested to do so in writing and within the period contained in such a request as no award may be made to a bidder that is not registered on the Central Supplier Database (CSD). In the case of Joint Venture partnerships this requirement will apply individually to each party of the Joint Venture.
- 2.1.7.2. Bidders who wish to register on the National Treasury Central Supplier Database (CSD) may do so via the web address <https://secure.csd.gov.za>.
- 2.1.7.3. It is each bidder's responsibility to keep all the information on the National Treasury Web Based Central Supplier Database (CSD) updated.

### 2.2. Bidder's obligations

#### 2.2.1. Eligibility Criteria

- 2.2.1.1. Bidders are obligated to submit a bid offer that complies in all aspects to the conditions as detailed in this bid document. An acceptable bid must COMPLY IN ALL aspects with the bid conditions, specifications, pricing instructions, a beneficial financial model provided, contract conditions, etc. as required in the bid document.
- 2.2.1.2. Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

#### 2.2.2. Submit a bid offer

- 2.2.2.1. Only those bid submissions from which it can be established that a clear, irrevocable and unambiguous offer has been made to SBM, by whom the offer has been made and what the offer constitutes, will be declared responsive.

#### 2.2.3. Compliance with requirements of SBM SCM Policy and procedures

- 2.2.3.1. Only those bids that are compliant with the requirements below will be declared responsive:
  - 2.2.3.1.1. A completed Details of Bidder to be provided (Part B: 3. MBD 1);
  - 2.2.3.1.2. A completed Certificate of Authority for Partnerships/ Joint Ventures/ Consortiums to be provided authorising the bid to be made and the signatory to sign the bid on the partnership/joint venture/consortium's (Part C: 18. Authority to sign bid);

2.2.3.1.3.	A copy of the partnership / joint venture / consortium agreement to be provided (Part C: 18. Authority to sign bid);
2.2.3.1.4.	A completed Declaration of Interest – State Employees to be provided and which does not indicate any non-compliance with the legal requirements relating to state employees (Part B: 4. MBD 4);
2.2.3.1.5.	A completed Declaration for procurement above R10 million – Annual Financial Statement or management accounts must be provided (Part B: 5. MBD 5);
2.2.3.1.6.	A Completed Preference Points Claim form – information to be completed and submitted to claim preference (Part B: 6. MBD 6.1);
2.2.3.1.7.	A completed Declaration – Conflict of Interest and Declaration of Bidders' past Supply Chain Management Practices to be provided and which does not indicate any conflict or past practises that renders the bid non-responsive based on the conditions contained thereon (Part B: 7. MBD 8);
2.2.3.1.8.	A completed Certificate of Independent Bid Determination to be provided and which does not indicate any non-compliance with the requirements of the schedule (Part B: 8. MBD 9);
2.2.3.1.9.	The bidder (including any of its directors or members) confirm that there is no conflict of interest (Part B: 9. Conflict of interest).
2.2.3.1.10.	The bidder (including any of its directors or members), has not been restricted in terms of abuse of the Supply Chain Management Policy;
2.2.3.1.11.	The bidder's tax matters with SARS are in order, or the bidder is a foreign supplier that is not required to be registered for tax compliance with SARS;
2.2.3.1.12.	The bidder is not an advisor or consultant contracted with SBM whose prior or current obligations creates any conflict of interest or unfair advantage;
2.2.3.1.13.	The bidder is not a person, advisor, corporate entity or a director of such corporate entity, involved with the bid specification committee;
2.2.3.1.14.	The bidder (including any of its directors or members), has not been found guilty of contravening the Competition Act 89 of 1998, as amended from time to time; and
2.2.3.1.15.	The bidder (including any of its directors or members), has not been found guilty on any other basis listed in the Supply Chain Management Policy.
<b>2.2.4. Bid Guarantee</b>	
2.2.4.1.	Each Bidder shall provide SBM, at the time of bid submission, with a single Bid Guarantee (in Bank Guarantee Rands) to an amount of R700 000 (Seven

hundred thousand Rand) for the Project offering (Bid response) This Bid Guarantee must remain valid until finalization of the PPA signing (Part E: 23).

**2.2.5. Minimum score for functionality**

2.2.5.1. Only those bids submitted by bidders who achieve the minimum score for functionality as stated below will be declared responsive.

2.2.5.2. The description of the functionality criteria and the maximum possible score for each is shown in the table below. The overall score achieved for functionality will be the sum of the scores achieved, in the evaluation process, for the individual criteria.

<b>Evaluation Criteria</b>	<b>Applicable values/points</b>	<b>Weight</b>
<b>EXPERTISE OF KEY PERSONNEL</b>	Lead PM Energy Related Experience – Max 13 points	40
	Commercial Lead Energy Related Experience – Max 13 points	
	Technical Lead Energy Related Experience – Max 14 points	
<b>TRACK RECORD AND EXPERIENCE OF COMPANY, CONSORTIUM OR JOINT VENTURE</b>	Evidence of successful participation in: Completed energy procurement programs – Max 18 Points,	60
	The establishment of Utility scale power plants – Max 20 points	
	Operations and maintenance of utility scale power plants – Max 22 points	
<b>Total</b>		<b>100</b>

2.2.5.3. The minimum qualifying score for each of the criteria is 50%.

2.2.5.4. The minimum qualifying score for functionality is 65 out of a maximum of 100.

2.2.5.5. Where the entity tendering is a Joint Venture or consortium the bid must be accompanied by a statement describing exactly what aspects of the work will be undertaken by each party to the joint venture.

2.2.5.6. Bidders shall ensure that all relevant information has been submitted with the bid offer in the prescribed format to ensure optimal scoring of functionality points for each Evaluation Criteria. Failure to provide all information in this bid submission will result in the bidder not being able to achieve the specified minimum scoring.

2.2.5.7. A more detailed explanation and breakdown of the functionality criteria is given below:

**2.2.5.7.1. Expertise of Key Personnel**

Bidders must clearly demonstrate expertise in areas related to the establishment of a power plant and energy procurement. This includes the required technical, commercial and project management expertise that allows for the successful conclusion of required activities related to energy procurement, financing and

power plant construction. This must be provided as per Schedule 1. The scoring system is detailed below. Preferred related experience requirements are detailed below, which will be taken into account during the scoring of the functionality of the bid submission. Key personnel must be in the employ of at least one member of the bidder or Joint Venture / Consortium, where applicable.

#### 2.2.5.7.2. Track Record and Experience of Company, Consortium or Joint Venture

Bidders must clearly demonstrate previous experience in successful development and construction of a power plant and participating in a public or private energy procurement program, similar in nature to the one being proposed by the Saldanha Bay Municipality. In addition, evidence of the successful operations and maintenance of a utility scale power plant must be provided. This track record could have been established in a local and/or international setting and must be detailed and submitted as part of Schedule 2. The components of this aspect are detailed below, which will be taken into account during the scoring of the functionality.

Functionality criteria	Evaluation criteria	Maximum score
<b>Expertise of Key Personnel</b>		<b>40</b>
<p>Lead PM <u>Energy Related</u> Experience</p> <p>Relevant experience is described below.</p> <p>Project/programme manager/ director/ lead/ or leadership role for an / or related to power generation projects equal to or in excess of 5MW:</p> <ul style="list-style-type: none"> <li>• Energy/ generation related construction project</li> <li>• Project development</li> <li>• Project management</li> <li>• Major project refurbishment</li> <li>• For an IPP project company or EPC</li> <li>• Leadership role in an energy company</li> </ul> <p><b>SCHEDULE 1 TO BE COMPLETED</b></p>	<p>Based on accumulative years of relevant experience:</p> <ul style="list-style-type: none"> <li>• 10 Years or more – 13 points</li> <li>• Between 8 and 9 years – 10 points</li> <li>• Between 5 and 7 years – 7 points</li> <li>• Between 3 and 4 years – 4 points</li> <li>• Between 1 and 2 years – 2 points</li> <li>• Less than 1 year – 0 points</li> </ul>	13
<p>Commercial Lead <u>Energy Related</u> Experience</p> <p>Relevant experience is described below.</p> <p>Commercial lead/ manager/ advisor related to power generation projects equal to or in excess of 5MW:</p> <ul style="list-style-type: none"> <li>• Energy/ generation related construction project</li> <li>• EPC or IPP SPV</li> <li>• Project development</li> <li>• Acquisition/sale/transfer of generation plant</li> <li>• Finance institution</li> <li>• Business Development Executive</li> </ul> <p><b>SCHEDULE 1 TO BE COMPLETED</b></p>	<p>Based on accumulative years of relevant experience:</p> <ul style="list-style-type: none"> <li>• 10 Years or more – 13 points</li> <li>• Between 8 and 9 years – 10 points</li> <li>• Between 5 and 7 years – 7 points</li> <li>• Between 3 and 4 years – 4 points</li> <li>• Between 1 and 2 years – 2 points</li> <li>• Less than 1 year – 0 points</li> </ul>	13
<p>Technical Lead <u>Energy Related</u> Experience</p> <p>Relevant experience is described below.</p> <p>Technical/ engineering/ design manager/ lead for</p>	<p>Based on accumulative years of relevant experience:</p> <ul style="list-style-type: none"> <li>• 10 Years or more – 14 points</li> </ul>	14

<p>energy projects equal to or in excess of 5MW:</p> <ul style="list-style-type: none"> <li>• Energy/ generation related construction project</li> <li>• Major project refurbishment</li> <li>• O&amp;M project/ service</li> <li>• For an IPP project company or EPC</li> </ul>	<ul style="list-style-type: none"> <li>• Between 8 and 9 years – 12 points</li> <li>• Between 5 and 7 years – 8 points</li> <li>• Between 3 and 4 years – 5 points</li> <li>• Between 1 and 2 years – 2 points</li> <li>• Less than 1 year – 0 points</li> </ul>	
<b>SCHEDULE 1 TO BE COMPLETED</b>		
<b>Functionality criteria</b>	<b>Evaluation criteria</b>	<b>Maximum score</b>
<b>Track Record and Experience of the Bidder</b>		<b>60</b>
<p>Evidence of successful participation in completed energy procurement programs, as the seller of energy</p> <p><b>SCHEDULE 2 TO BE COMPLETED</b></p> <p>With regard to what would be deemed / counted as a successful and relevant participation in an energy programme or project, with respect to any juristic entity that is part of the bidder's JV/ consortium/ partnership, the following will apply:</p> <ul style="list-style-type: none"> <li>• A bid window round in a recognised power procurement program (with a minimum of one signed PPA). This includes private energy off-take agreements</li> <li>• Construction of any energy generation plant equal to or excess of 5 MW</li> <li>• A signed PPA for any energy generation plant equal to or excess of 5 MW</li> </ul> <p>The above may be in the capacity of:</p> <ul style="list-style-type: none"> <li>• A project vehicle/ company</li> <li>• EPC</li> <li>• Any combination of the above</li> </ul> <p>Individual experience will only be considered in personnel experience (i.e. Schedule 1)</p>	<p>Based on number of projects/ programmes</p> <ul style="list-style-type: none"> <li>• 5 or more programs – 18 points</li> <li>• 4 programs – 14 points</li> <li>• 3 programs – 9 points</li> <li>• 2 programs – 5 points</li> <li>• 1 program – 3 points</li> <li>• 0 programs – 0 points</li> </ul>	18
<p>Evidence of full development and establishment of utility scale power plant</p> <p><b>SCHEDULE 2 TO BE COMPLETED</b></p> <p>With regard to what would be deemed/ counted as a successful and relevant participation in an energy programme or project, with respect to any juristic entity that is part of the bidder's JV/ consortium/ partnership, the following will apply:</p> <ul style="list-style-type: none"> <li>• Design and/ or Construction of any commissioned energy generation or storage plant equal to or excess of 5 MW</li> </ul> <p>The above may be in the capacity of:</p> <ul style="list-style-type: none"> <li>• A project vehicle / company</li> <li>• EPC</li> <li>• Any combination of the above</li> </ul> <p>Individual experience will only be considered in personnel experience (i.e. Schedule 1)</p>	<p>Based on number of plants</p> <ul style="list-style-type: none"> <li>• 5 or more plants – 20 points</li> <li>• 4 plants – 17 points</li> <li>• 3 plants – 13 points</li> <li>• 2 plants – 11 points</li> <li>• 1 plant – 7 points</li> <li>• 0 plants – 0 points</li> </ul>	20
<p>Evidence of the successful operations and maintenance of utility scale power plant.</p>	<p>Based on number of projects/ programmes</p>	22

<p><b>SCHEDULE 2 TO BE COMPLETED</b></p> <p>With regard to what would be deemed / counted as a successful and relevant participation in an O&amp;M program, with respect to any juristic entity that is part of the bidder's JV/ consortium/ partnership, the following will apply:</p> <ul style="list-style-type: none"> <li>• Operation and/ or Maintenance of a power generation plant equal to or excess of 5 MW, for a period of at least 1 year</li> </ul> <p>The above may be in the capacity of:</p> <ul style="list-style-type: none"> <li>• A project vehicle/ company</li> <li>• EPC</li> <li>• Construction Company</li> </ul> <p>Any combination of the above "Evidence" refers to the achievement of technology specific key performance indicators for the period concerned versus nationally/internationally accepted benchmarks</p> <p>Individual experience will only be considered in personnel experience (i.e. Schedule 1)</p>	<ul style="list-style-type: none"> <li>• 5 or more plants – 22 points</li> <li>• 4 plants – 17 points</li> <li>• 3 plants – 13 points</li> <li>• 2 plants – 10 points</li> <li>• 1 plant – 6 points</li> <li>• 0 plants – 0 points</li> </ul>	
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### 2.3.6. Provision of samples

2.3.6.1. Not applicable.

### 2.3.7. Cost of bidding

2.3.7.1. SBM will not be liable for any costs incurred in the preparation and submission of a bid offer, including the costs of any testing necessary to demonstrate that aspects of the bid offer comply with the requirements.

2.3.7.2. Bid documents can be downloaded from the eTender publication portal at [www.etenders.gov.za](http://www.etenders.gov.za) or alternatively can be collected at a non-refundable bid deposit rate of R278 payable to Saldanha Bay Municipality. Payment for bid documents must be made by cash or payment into Saldanha Bay Municipality's bank account payable to the Saldanha Bay Municipality. These costs are non-refundable. No unauthorised alteration of this set of bid documents will be allowed. Any unauthorised alteration will disqualify the bid automatically.

2.3.7.3. Annexures to the tender document will be provided to bidders after the compulsory clarification meeting.

### 2.3.8. Check documents

2.3.8.1. The documents issued by SBM for the purpose of a bid offer are listed in the index of this bid document.

2.3.8.2. Before submission of any bid, the bidder should check the number of pages, and if any are found to be missing or duplicated, or the figures or writing is indistinct, or if the Price Schedule contains any obvious errors, the bidder must apply to SBM at once to have the same rectified.

**2.3.9. Confidentiality and copyright of documents**

- 2.3.9.1. Treat as confidential all matters arising in connection with the bid. Use and copy the documents issued by SBM only for the purpose of preparing and submitting a bid offer in response to the invitation.

**2.3.10. Reference documents**

- 2.3.10.1. Obtain, as necessary for submitting a bid offer, copies of the latest versions of standards, specifications, Conditions of Contract and other publications, which are not attached but which are incorporated into the bid documents by reference.

**2.3.11. Acknowledge and comply with notices**

- 2.3.11.1. Acknowledge receipt of notices to the bid documents, which SBM may issue, fully comply with all instructions issued in the notices, and if necessary, apply for an extension of the closing time stated on the front page of the bid document, in order to take the notices into account. Notwithstanding any requests for confirmation of receipt of notices issued, the bidder shall be deemed to have received such notices if SBM can show proof of transmission thereof via electronic mail, facsimile or registered post.

**2.3.12. Clarification meeting (In person or virtually)**

- 2.3.12.1. Attend, where required, a compulsory clarification meeting at which bidders may familiarise themselves with aspects of the proposed work, services or supply and pose questions. Details of the meeting(s) are stated in the General Bid Information.
- 2.3.12.2. Bidders should be represented at the clarification meeting by a person who is suitably qualified and experienced to comprehend the implications of the work involved.
- 2.3.12.3. Bids will not be accepted from bidders who have not attended the compulsory meeting on the specified date.
- 2.3.12.4. No grace period will be allowed.

**2.3.13. Seek clarification**

- 2.3.13.1. Request clarification of the bid documents, if necessary, by notifying SBM at least three weeks before the closing time stated in the General Bid Information.
- 2.3.13.2. Enquiries must be email to the following address: [IPP@sbm.gov.za](mailto:IPP@sbm.gov.za).
- 2.3.13.3. Response to queries will be distributed once a week and communicated to all parties.

**2.3.14. Pricing the bid offer**

- 2.3.14.1. Comply with all pricing instructions as stated on the Price Schedule.
- 2.3.15. Alterations to documents
- 2.3.15.1. Do not make any alterations or additions to the bid documents, except to comply with instructions issued by SBM in writing, or necessary to correct errors made by the bidder. All signatories to the bid offer shall initial all such alterations.
- 2.3.16. Submitting a bid offer
- 2.3.16.1. Submit one bid offer per original bid documents as issued by SBM, either as a single bidding entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract conditions and described in the specifications. Only those bids submitted on the bid documents as issued by SBM together with all Returnable Schedules duly completed and signed will be declared responsive.
- 2.3.16.2. Return the entire document to SBM after completing it in its entirety in writing legibly in non-erasable ink. No correctional fluid may be used in the Bid Document. If corrections must be made, a line must be drawn through the correction and it must be initialled.
- 2.3.16.3. **One original copy of the tender documents with returnable schedules, etc must be submitted including schedules required electronically on a memory stick.**
- 2.3.16.4. The bid may not be retyped.
- 2.3.16.5. No unauthorized alterations of this set of bid documents will be allowed. Any unauthorized alteration will disqualify the bid automatically. Any ambiguity has to be cleared with the contract person for the bid before the bid closure.
- 2.3.16.6. The complete original bid document must be returned. Missing pages will result in the disqualification of the bid.
- 2.3.16.7. The bidder must verify regularly on e-Tender and SBM's website whether there are any addendums before submission and addendums must be submitted with the bid document.
- 2.3.16.8. Submit the parts of the bid offer communicated on paper as an original with an English translation for any part of the bid submission not made in English.
- 2.3.16.9. Sign the original bid offer where required in terms of the bid conditions. The bid shall be signed by a person duly authorised to do so. Bids submitted by joint ventures of two or more firms shall be accompanied by the document of formation of the joint venture or any other document signed by all parties, in which is defined precisely the conditions under which the joint venture will function, its period of duration, the persons authorised to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning. Signatories for

	bidders proposing to contract as joint ventures shall state which of the signatories is the lead partner.
2.3.16.10.	Seal the original bid offer and copy packages together in an outer package that states on the outside only SBM's address, and identification details (tender number and description) as stated in the General Bid Information. If it is not possible to submit the original bid and the required copies in a single envelope, then the bidder must seal the original and each copy of the bid offer as separate packages marking the packages as "ORIGINAL" and "COPY" in addition to the aforementioned bid submission details.
2.3.16.11.	Accept that SBM shall not assume any responsibility for the misplacement or premature opening of the bid offer if the outer package is not sealed and marked as stated.
2.3.16.12.	Accept that bid offers submitted by facsimile or e-mail will be rejected by SBM, unless stated otherwise in the bid conditions.
2.3.16.13.	By signing the offer part of the Form of Offer (Section 2, Part A) the bidder warrants that all information provided in the bid submission is true and correct.
2.3.16.14.	Bids must be properly received and deposited in the designated bid box (as detailed on the front page of this bid document) on or before the closing date and before the closing time, in the bid box as included on the front page. If the bid submission is too large to fit in the allocated box, please enquire at the public counter for assistance to call a SCM official to come and assist.
2.3.16.15.	The bidder must record and reference all information submitted contained in other documents for example cover letters, brochures, catalogues, etc. in the returnable schedule titled List of Other Documents Attached by Bidder.
2.3.17.	Information and data to be completed in all respects
2.3.17.1.	Accept that bid offers, which do not provide all the data or information requested completely and in the form required, will be regarded by SBM as non-responsive.
2.3.18.	Closing time
2.3.18.1.	Ensure that SBM receives the bid offer at the address specified in the General Bid Information prior to the closing time stated on the front page of the bid document.
2.3.18.2.	Accept that, if SBM extends the closing time stated on the front page of the bid document for any reason, the requirements of these Conditions of Bid apply equally to the extended deadline.
2.3.18.3.	Accept that, SBM shall not consider bids that are received after the closing date and time for such a bid (late bids).
2.3.19.	Bid offer validity and withdrawal of bids

- 2.3.19.1. The bid warrants that the bid offer(s) remains valid, irrevocable and open for acceptance by SBM at any time for a period of **one year** after the closing date stated on the front page of the bid document.
- 2.3.19.2. If requested by the employer, consider extending the validity period stated in clause 2.3.20.1 for an agreed additional period with or without any conditions attached to such extension.
- 2.3.19.3. A bidder may request in writing, after the closing date, but before award, that the bid offer be withdrawn. Such withdrawal will be permitted or refused after consideration of the reasons for the withdrawal, which shall be fully set out by the bidder in such written request for withdrawal. Should the bid offer be withdrawn in contravention hereof, the bidder agrees that:
- 2.3.19.3.1. it shall be liable to SBM for any additional expense incurred or losses suffered by SBM in having either to accept another bid or, if new bids have to be invited, the additional expenses incurred or losses suffered by the invitation of new bids and the subsequent acceptance of any other bid; and
- 2.3.19.3.2. SBM shall also have the right to recover such additional expenses or losses by set-off against monies which may be due or become due to the bidder under this or any other bid or contract or against any guarantee or deposit that may have been furnished by the bidder or on its behalf for the due fulfilment of this or any other bid or contract. Pending the ascertainment of the amount of such additional expenses or losses, SBM shall be entitled to retain such monies, guarantee or deposit as security for any such expenses or loss.
- 2.3.20. Clarification of bid offer, or additional information, after submission
- 2.3.20.1. Provide clarification of a bid offer, or additional information, in response to a written request to do so from SBM during the evaluation of bid offers within the time period stated in such request. No change in the competitive position of bidders or substance of the bid offer is sought, offered, or permitted.
- Note: This clause does not preclude the negotiation of the final terms of the PPA with a preferred bidder following a competitive selection process, should SBM elect to do so.
- 2.3.20.2. Failure, or refusal, to provide such clarification or additional information within the time for submission stated in SBM's written request may render the bid non-responsive.
- 2.3.21. Provide other material
- 2.3.21.1. Provide, on request by SBM, any other material that has a bearing on the bid offer, the bidder's commercial position (including joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by

SBM for the purpose of the evaluation of the bid. Should the bidder not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in SBM's request, SBM may regard the bid offer as non-responsive.

**2.3.22. Compliance with Occupational Health and Safety Act, 85 of 1993**

2.3.22.1. Bidders are to note the requirements of the Occupational Health and Safety Act, 85 of 1993. The Bidder shall be deemed to have read and fully understood the requirements of the above Act and Regulations and to have allowed for all costs in compliance therewith.

2.3.22.2. In this regard the Bidder shall submit upon written request to do so by SBM, a Health and Safety Plan in sufficient detail to demonstrate the necessary competencies and resources to deliver the goods or services all in accordance with the Act, Regulations and Health and Safety Specification.

**2.3.23. Claims arising from submission of bid**

2.3.23.1. The bidder warrants that it has:

2.3.23.1.1. inspected the Specifications and read and fully understood the Conditions of Contract.

2.3.23.1.2. read and fully understood the whole text of the Specifications and Price Schedule and thoroughly acquainted himself with the nature of the goods or services proposed and generally of all matters which may influence the Contract.

2.3.23.1.3. visited the site(s) where delivery of the proposed goods will take place, carefully examined existing conditions, the means of access to the site(s), the conditions under which the delivery is to be made, and acquainted himself with any limitations or restrictions that may be imposed by the Municipal or other Authorities in regard to access and transport of materials, plant and equipment to and from the site(s) and made the necessary provisions for any additional costs involved thereby.

2.3.23.1.4. requested SBM to clarify the actual requirements of anything in the Specifications and Price Schedule, the exact meaning or interpretation of which is not clearly intelligible to the Bidder.

2.3.23.1.5. received any notices to the bid documents which have been issued in accordance with SBM's Supply Chain Management Policy.

2.3.23.1.6. SBM will therefore not be liable for the payment of any extra costs or claims arising from the submission of the bid.

**2.4. SBM's undertakings**

2.4.1. Respond to requests from the bidder

- 2.4.1.1. Unless otherwise stated in the Bid Conditions, respond to a request for clarification received up to one week (where possible) before the bid closing time stated on the front page of the bid document.
- 2.4.1.2. Response to queries will be distributed once a week and communicated to all parties.
- 2.4.1.3. SBM's representative for the purpose of this bid is stated on the General Bid Information page.
- 2.4.2. Issue Notices
- 2.4.2.1. If necessary, issue addenda in writing that may amend or amplify the bid documents to each bidder during the period from the date the bid documents are available until one week before the bid closing time stated in the Bid Data. The Employer reserves its rights to issue addenda less than one week before the bid closing time in exceptional circumstances. If, as a result a bidder applies for an extension to the closing time stated on the front page of the bid document, SBM may grant such extension and, shall then notify all bidders who drew documents.
- 2.4.2.2. Notwithstanding any requests for confirmation of receipt of notices issued, the bidder shall be deemed to have received such notices if SBM can show proof of transmission thereof via electronic mail, facsimile or registered post.
- 2.4.3. Opening of bid submissions
- 2.4.3.1. Open bid submissions in the presence of bidders or bidders' agents who choose to attend at the time and place stated in the bid conditions.
- 2.4.3.2. Bids will be opened immediately after the closing time for receipt of bids as stated on the front page of the bid document, or as stated in any Notice extending the closing date and at the closing venue as stated in the General Bid Information.
- 2.4.3.3. Announce at the meeting held immediately after the opening of bid submissions, at the closing venue as stated in the General Bid Information, the name of each bidder whose bid offer is opened and, where possible, the prices and BEE level indicated.
- 2.4.3.4. Make available a record of the details announced at the bid opening meeting on SBM's website.
- 2.4.4. Non-disclosure
- 2.4.4.1. Not disclose to bidders, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of bid offers and recommendations for the award of a contract, until after the award of the contract to the successful bidder.

- 2.4.5. Grounds for rejection and disqualification
- 2.4.5.1. Determine whether there has been any effort by a bidder to influence the processing of bid offers and instantly disqualify a bidder (and his bid offer) if it is established that he engaged in corrupt or fraudulent practices.
- 2.4.6. Test for responsiveness
- 2.4.6.1. Determine after opening whether each bid offer properly received:
- 2.4.6.1.1. complies with the requirements of these Conditions of Bid;
- 2.4.6.1.2. has been properly and fully completed and signed; and
- 2.4.6.1.3. is responsive to the other requirements of the bid documents.
- 2.4.6.2. A responsive bid is one that conforms to all the terms, conditions, and specifications of the bid documents without material deviation or qualification. A material deviation or qualification is one which, in SBM's opinion, would:
- 2.4.6.2.1. detrimentally affect the scope, quality, or performance of the goods, services or supply identified in the specifications;
- 2.4.6.2.2. significantly change SBM's or the bidder's risks and responsibilities under the contract; or
- 2.4.6.2.3. affect the competitive position of other bidders presenting responsive bids, if it were to be rectified.
- 2.4.6.3. Reject a non-responsive bid offer, and not allow it to be subsequently made responsive by correction or withdrawal of any material deviation or qualification.
- 2.4.6.4. SBM reserves the right to accept a bid offer which does not, in SBM's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the bid documents.
- 2.4.7. Arithmetical errors, omissions and discrepancies
- 2.4.7.1. Check the responsive bids for:
- 2.4.7.1.1. the gross misplacement of the decimal point in any unit rate;
- 2.4.7.1.2. omissions made in completing the Price Schedule; or
- 2.4.7.1.3. arithmetic errors in:
- 2.4.7.1.3.1. line-item totals resulting from the product of a unit rate and a quantity in the Price Schedule; or
- 2.4.7.1.3.2. the summation of the prices; or
- 2.4.7.1.3.3. calculation of individual rates.
- 2.4.7.2. SBM must correct the arithmetical errors in the following manner:

2.4.7.2.1.	Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
2.4.7.2.2.	If pricing schedules apply and there is an error in the line-item total resulting from the product of the unit rate and the quantity, the line-item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line-item total as tendered shall govern, and the unit rate shall be corrected.
2.4.7.2.3.	Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the bidder's addition of prices, the total of the prices shall govern and the bidder will be asked to revise selected item prices (and their rates if Price Schedules apply) to achieve the tendered total of the prices.
2.4.7.2.4.	Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.
2.4.7.2.5.	Consider the rejection of a bid offer if the bidder does not correct or accept the correction of the arithmetical error in the manner described above.
2.4.8.	Clarification of a bid offer
2.4.8.1.	SBM may, after the closing date, request additional information or clarification from bidders, in writing on any matter affecting the evaluation of the bid offer or that could give rise to ambiguity in a contract arising from the bid offer, which written request and related response shall not change or affect their competitive position or the substance of their offer. Such request may only be made in writing by the person named in the bid or delegated officials using any means as appropriate.
2.4.9.	Evaluation of bid offers
2.4.9.1.	General
2.4.9.1.1.	Adjust each responsive bid offer to a comparative price and evaluate them using the bid evaluation methods and associated evaluation criteria and weightings that are specified in the bid conditions.
2.4.9.1.2.	The Municipal Manager or Director will appoint three independent evaluators (Technical Committee as per approved Bid Committee delegations) to score functionality. The individual scores must then be interrogated by the members of the Bid Evaluation Committee. The individual scores must then be added together and averaged to determine the final score.
2.4.9.2.	Decimal places
2.4.9.2.1.	Score financial offers, preferences (BEE and locality) and functionality, as relevant, to two decimal places.

2.4.9.3.	Scoring of bids (price and preference).
2.4.9.3.1.	Points for price will be allocated in accordance with the formula set out in this clause based on the bid sum / amount as set out in the Price Schedule (Part D: 21).
2.4.9.3.2.	Points for preference (90/10 preference point system) will be allocated in accordance with the provisions of Preference Schedule (Part B: 6. MBD 6.1) and the table in this clause.
2.4.9.3.3.	The terms and conditions of Preference Schedule as it relates to preference shall apply in all respects to the bid evaluation process and any subsequent contract.
2.4.9.3.4.	The preference points will be allocated as included above.
2.4.9.4.	Risk Analysis
2.4.9.4.1.	Notwithstanding compliance with regard to any requirements of the bid, SBM will perform a risk analysis in respect of the following:
2.4.9.4.1.1.	reasonableness of the financial offer;
2.4.9.4.1.2.	reasonableness of unit rates and prices;
2.4.9.4.1.3.	the bidder's ability to fulfil its obligations in terms of the bid document, that is, that the bidder can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, capacity, experience, reputation, personnel to perform the contract, etc.; SBM reserves the right to consider a bidder's existing contracts with SBM in this regard; and
2.4.9.4.1.4.	any other matter relating to the submitted bid, the bidding entity, matters of compliance, verification of submitted information and documents, etc.
2.4.9.4.2.	The conclusions drawn from this risk analysis will be used by SBM in determining the acceptability of the bid offer.
2.4.9.4.3.	No bidder will be recommended for an award unless the bidder has demonstrated to the satisfaction of SBM that he/she has the resources and skills required.
2.4.10.	Negotiations with preferred bidders
2.4.10.1.	SBM may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:
2.4.10.1.1.	does not allow any preferred bidder a second or unfair opportunity;

2.4.10.1.2.	is not to the detriment of any other bidder; and
2.4.10.1.3.	does not lead to a higher price than the bid as submitted.
2.4.10.2.	If negotiations fail to result in acceptable contract terms, the Municipal Manager (or his delegated authority) may terminate the negotiations and cancel the bid or invite the next ranked bidder for negotiations. The original preferred bidder should be informed of the reasons for termination of the negotiations.
2.4.10.3.	Minutes of any such negotiations shall be kept for record purposes.
2.4.10.4.	The provisions of this clause will be equally applicable to any invitation to negotiate with any other bidders.
2.4.11.	Acceptance of bid offer
2.4.11.1.	Notwithstanding any other provisions contained in the bid document, SBM reserves the right to:
2.4.11.2.	Accept a bid offer(s) which does not, in SBM's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the bid document.
2.4.11.3.	Accept the whole bid and SBM is not obliged to accept the lowest or any bid.
2.4.11.4.	Accept the bid offer(s), if in the opinion of SBM, it does not present any material risk and only if the bidder(s):
2.4.11.4.1.	is not under restrictions, has any principals who are under restrictions, or is not currently a supplier to whom notice has been served for abuse of the supply chain management system, preventing participation in the employer's procurement;
2.4.11.4.2.	can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
2.4.11.4.3.	has the legal capacity to enter into the contract;
2.4.11.4.4.	is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing, complies with the legal requirements, if any, stated in the bid data; and
2.4.11.4.5.	is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

- 2.4.11.5. If an award cannot be made in terms of anything contained herein, the Employer reserves the right to consider the next ranked tenderer(s).
- 2.4.11.6. Not to make an award, or revoke an award already made, where the implementation of the contract may result in reputational risk, harm or contravention of any legislation, policies or good business practice that comes to the attention of SBM which facts have not be known or could not have been foreseen during or after the tender process.
- 2.4.12. Prepare contract documents
  - 2.4.12.1. If necessary, revise documents that shall form part of the contract and that were issued by SBM as part of the bid documents to take account of:
    - 2.4.12.1.1. notices or addenda issued during the bid period;
    - 2.4.12.1.2. inclusion of some of the returnable documents; and
    - 2.4.12.1.3. other revisions agreed between SBM and the successful bidder.
  - 2.4.12.2. Complete the schedule of deviations attached to the form of offer and acceptance, if any.
- 2.4.13. Notice to successful and unsuccessful bidders
  - 2.4.13.1. Before accepting the bid of the successful bidder SBM shall notify the successful bidder in writing of the decision of SBM's Municipal Manager to award the bid to the successful bidder. No rights shall accrue to the successful bidder in terms of this notice. Rights will only accrue after appeals, if any received, considered and the Appeal Authority has made a final decision.
  - 2.4.13.2. SBM shall, at the same time as notifying the successful bidder of the Municipal Manager's decision to award the bid to the successful bidder, also give written notice to the other bidders informing them that they have been unsuccessful and their right to appeal in terms of Section 62 of the Municipal Systems Act.
- 2.4.14. Provide written reasons for actions taken
  - 2.4.14.1. Provide upon request written reasons to bidders for any action that is taken in applying these Conditions of Bid, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of bidders or might prejudice fair competition between bidders.
- 2.4.15. Enquiries
  - 2.4.15.1. Enquiries in connection with this bid, prior to the bid closure date, regarding the Supply Chain Management related aspects, may be addressed to Ms. Hermie Meeding, telephone 022 701 6916 or Mr. A Plaatjies, telephone 022 701 6866. Enquiries regarding the specifications may be addressed to [IPP@sbm.gov.za](mailto:IPP@sbm.gov.za).

2.4.16. Submission of Invoices

2.4.16.1. Please complete form below.

**TAX INVOICE**

Where the value of an intended contract will exceed R 1 000 000.00 (R1 million) it is the bidder's responsibility to be registered with the South African Revenue Services for VAT purposes in order to be able to issue tax invoices.

The successful bidder(s) to ensure compliance with Section 20(4) of the Value Added Tax (VAT) Act, 89 of 1991.

In terms of Section 20(4) of the Act, the TAX INVOICE(S) received from registered Vat vendors MUST bear the following information:

- The words "TAX INVOICE" in a prominent place;
- Name, address and VAT registration number of the supplier;
- The name and address: Saldanha Bay Municipality, Private Bag X12, Vredenburg, 7380;
- The Saldanha Bay Municipality VAT registration number: 41001113150;
- Unique VAT invoice number and date of issue;
- Accurate description of goods and/or services;
- Quantity or volume of goods or services supplied; and
- Price and VAT amount and percentage (%).

Failure to comply with abovementioned will result in payments not been made timeously.

Also take note that Saldanha Bay Municipality will not be liable for any late payments as a result of invalid Tax Invoice submitted by suppliers

I hereby declare compliance with Section 20(4) of the Value Added Tax (VAT) Act, 89 of 1991 and that I am duly authorised to sign on behalf of the company

\_\_\_\_\_  
**PRINT NAME**

\_\_\_\_\_  
**SIGNATURE**

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

**PART B: COMPULSORY RETURNABLE DOCUMENTS (SCM RELATED)****3. MBD 1: Invitation to bid**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF SALDANHA BAY MUNICIPALITY</b>				
<b>SUPPLIER INFORMATION</b>				
NAME OF BIDDER				
POSTAL ADDRESS OF BUSINESS				
STREET ADDRESS OF BUSINESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
FACSIMILE NUMBER	CODE		NUMBER	
E-MAIL ADDRESS				
VAT REGISTRATION NUMBER				
TAX COMPLIANCE STATUS	TCS PIN		OR	CSD No
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE OR SWORN AFFIDAVIT [TICK APPLICABLE BOX]	YES OR NO		CONTRIBUTOR FACTOR (1 – 10)	
<b>DOCUMENTS REQUIRED AS PRESCRIBED TO CLAIM PREFERENCE POINTS. IF DOCUMENTS ARE NOT PROVIDED AS REQUESTED 0 POINTS WILL BE ALLOCATED.</b>				
ORIGINAL OR ORIGINAL CERTIFIED B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE ISSUED BY A SANAS ACCREDITED AGENCY OR EME OR QSE SWORN AFFIDAVIT OR A CERTIFIED COPY THEREOF				
MUNICIPAL ACCOUNT OR LEASE AGREEMENT IN THE NAME OF THE BUSINESS OR AN AFFIDAVIT FROM THE OWNER OF THE PROPERTY WHERE OF BUSINESS				
<b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED?</b>	YES OR NO (Provide proof)		<b>ARE YOU A FOREIGNER BASED SUPPLIERS FOR THE GOODS / SERVICES / WORKS OFFERED?</b>	YES OR NO (If yes, answer B3)
CRS no	TOTAL BID PRICE (Brought forward from MBD 7.1)			<b>R See pricing schedule</b>
SIGNATURE OF BIDDER			DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED				
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
DEPARTMENT			DEPARTMENT	
CONTACT PERSON			CONTACT PERSON	
TELEPHONE NUMBER			TELEPHONE NUMBER	
E-MAIL ADDRESS			E-MAIL ADDRESS	

**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. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER 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 THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE 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 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE BELOW.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.7 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 ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? | YES/NO |
| 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?                       | YES/NO |
| 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?      | YES/NO |
| 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?           | YES/NO |
| 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?       | YES/NO |

**IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS 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. NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

**SBM RESERVES THE RIGHT TO ACCEPT ALL, SOME, OR NONE OF THE BIDS SUBMITTED EITHER WHOLLY OR IN PART — AND IT IS NOT OBLIGATED TO ACCEPT THE LOWEST BID.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: .....

**4. MBD 4: Declaration of interest**

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

3.1	Full Name of bidder or his / her representative:	
3.2	Identity number:	
3.3	Position occupied in the Company (director, trustee, shareholder <sup>2</sup> )	
3.4	Company Registration Number:	
3.5	Tax Reference Number:	
3.6	VAT Registration Number:	
3.7	The names of all directors / trustees / shareholders / members, their individual identity numbers and state employee numbers (where applicable) must be indicated in paragraph 4 below.	
3.8	Are you presently in the service of the state*	<b>YES / NO</b>
	If yes, furnish particulars.	
3.9	Have you been in the service of the state for the past twelve months?	<b>YES / NO</b>
	If so, furnish particulars.	
3.10	Do you, have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?	<b>YES / NO</b>
	If so, state particulars.	

3.11	Are you aware of any relationship (family, friend, other) between the bidder and any person in the service of the state who may be involved with the evaluation and or adjudication of this bid?	<b>YES / NO</b>
	If so, state particulars.	
3.12	Are any of the company's directors, managers, principal shareholders or stakeholders in service of the state?	<b>YES / NO</b>
	If so, state particulars.	
3.13	Is any spouse, child or parent of the company's directors, trustees, managers, principal shareholders or stakeholders in service of the state?	<b>YES / NO</b>
	If so, furnish particulars.	
3.14	Do you or any of the directors, trustees, managers, principal shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?	<b>YES / NO</b>
	If so, furnish particulars.	
4.	Full details of directors / trustees / members / shareholders:	

**COMPLETION OF THE FOLLOWING INFORMATION IS COMPULSORY:**

Full Name	Identity Number	Individual Tax Number for each Director	State Employee Number

**CERTIFICATION**

**I CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT. I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

<b>NAME OF ENTERPRISE</b>			
<b>CAPACITY</b>		<b>DATE</b>	
<b>NAME (PRINT)</b>		<b>SIGNATURE</b>	

<sup>1</sup>MSCM Regulations: "in the service of the state" is defined as follows:

- (a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) an executive member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

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

**5. MBD 5: Declaration for procurement above R10 million**

**For all procurement expected to exceed R10 million (VAT included), bidders must complete the following questionnaire:**

1.	Are you by law required to prepare annual financial statements for auditing?	YES / NO
1.1	If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.	
1.2	If no, submit management accounts for the business.	
2.	Do you have any outstanding undisputed commitments for municipal services towards a municipality or any other service provider in respect of which payment is overdue for more than 30 days?	YES / NO
2.1	If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.	
2.2	If yes, provide particulars.	
3.	Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?	YES / NO
3.1	If yes, furnish particulars	
4.	Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?	YES / NO
4.1	If yes, furnish particulars	

**CERTIFICATION**

**I, THE UNDERSIGNED (NAME)** \_\_\_\_\_

**CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.**  
**I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

<b>SIGNATURE</b>		<b>DATE</b>	
<b>POSITION</b>		<b>NAME OF BIDDER</b>	

## 6. MBD 6.1: Preference points claim form

### PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 AND PREFERENTIAL PROCUREMENT POLICY OF COUNCIL: 90/10 PREFERENCE POINT SYSTEM

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE BID, PREFERENTIAL PROCUREMENT REGULATIONS, 2022 AND PREFERENTIAL PROCUREMENT POLICY OF COUNCIL.**

#### 1. GENERAL CONDITIONS

##### 1.1 The following preference point system is applicable to invitations to bid:

- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included)

##### 1.2 Points for this bid (even in the case of a bid for income-generating contracts) shall be awarded for:

- a) Price; and
- b) Specific Goals (B-BBEE status level contribution and Locality).

##### 1.3 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	90
SPECIFIC GOALS	10 (5 BBBEE and 5 Locality)
<b>TOTAL POINTS FOR PRICE AND SPECIFIC GOALS</b>	<b>100</b>

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

##### 1.4.1 B-BBEE

Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African National Accreditation System (SANAS), or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

##### 1.4.2 Locality

###### 1.4.2.1. Where the tenderer is the owner of the property

The municipal account must be registered in the trading name of owner of the property, for example:

- Partnership (Lead company according to agreement).
- Joint Venture (Lead company according to agreements and where daily operations are done).
- Close Corporation (name of the CC).
- Public Company "Limited or Ltd" (name of the company).
- Private company / Proprietary company / (Pty) Ltd (name of the company).
- Non-Profit Company "NPC" (name of the company).
- State Owned Company "SOC" (name of the SOC).

- In the case of a One-person business / sole proprietor the account must either be in the trading name or in the owner's name.
- In the case of a Private Company (Pty) Ltd. (small businesses') which trades from the residential address of the Director, the municipal account can be in the name of the Director if he/she is the owner of the residential property. This is applicable in cases where the company has only 1 Director. If more than 1 Director, the other directors must also reside at the same address and such proof must be submitted in the form of an Affidavit.

#### 1.4.2.2. Where the tenderer is not the owner of the property

Sole propriety (residential):

- If the municipal account is not registered in the name of the Sole Propriety, a valid Lease Agreement to be submitted.

OR

- If no valid Lease Agreement exist, an affidavit from the owner of the property must be submitted.
- The owner of the property must confirm the following:
  - That the sole propriety is conducting business from the said address as indicated in the bid documents.
  - What are the conditions/agreement for conducting business from premises.
  - For example: declares that no written lease agreement exists, a verbal lease agreement exist, sole supplier does not have any obligation to contribute to any payment of municipal accounts; sole propriety not liable for any rent payments, etc.
  - The ID numbers of both the owner of property and the sole propriety must reflect on the affidavit.
  - NB: A Detailed affidavit must be submitted. Not the affidavit that only indicates the following "I don't own any buildings and therefore does not have any municipal accounts"

Note: Affidavits valid for a period of 3 months

Close Corporation, Public Company, Personal Liability Company, (Pty) Limited, Non-Profit Company, State Owned Companies - A valid Lease Agreement must be submitted:

- If a valid Lease Agreement does not exist, an affidavit from the owner of the property must be submitted.
- The owner of the property must confirm the following:
  - That the tenderer/supplier is conducting business from the said address as indicated in the bid documents.
  - What are the conditions/agreement for conducting business from premises.
  - For example: declares that no written lease agreement exists, a verbal lease agreement exist, sole supplier does not have any obligation to contribute to any payment of municipal accounts; Sole supplier not liable for any rent payments, etc.
  - The ID numbers of both the owner of property, the Director (Authorised to represent the entity or sign documents on behalf of entity) and/or the supplier company registration number must reflect on the affidavit.
  - If the property is in the name of a Trust, an affidavit must be obtained from the Trustee(s).
  - NB: A Detailed affidavit must be submitted. Not the affidavit that only indicates the following "I don't own any buildings and therefore does not have any municipal accounts"

#### 1.4.2.3. Sub-Leasing vs Apartments (block of buildings) owned by one (1) person / director which also operates more than 1 business from the same premises

- If any Sub Leasing exist, a valid Sub Lease agreement must be submitted.
- In instances where a director owns an apartment (block of buildings) and runs more than one business from it,

this block is registered in the name of a trust or one (1) of the business's he owns. When a tenderer submits a bid, is not the one (1) owning the business, the same information as per 9.2.2 above must be submitted.

Note: The residential or business address of the tenderer or sole propriety is tested, therefore the postal address on the municipal account cannot be used to claim points for locality. Please ensure that the residential address on the municipal account agrees to the address as recorded in the compulsory documents to be completed and / attachments and / CSD, CIPC, if necessary.

**A SCORE OF 0 (ZERO) WILL BE ALLOCATED IF COMPULSORY DOCUMENTS NOT DULY COMPLETED AND SIGNED AND / IF INSUFFICIENT PROOF SUBMITTED AT THE CLOSING TIME AND DATE.**

- 1.5 The municipality reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the municipality.

## 2. DEFINITIONS

- (a) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **"bid"** 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 bidding process or any other method envisaged in legislation;
- (e) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (f) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (g) **"bid 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
- (h) **"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 THE 90/10 PREFERENCE POINT SYSTEMS

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

$$90/10 \quad P_s = 90 \left( 1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

$P_s$	=	Points scored for price of bid under consideration
$P_t$	=	Price of bid under consideration
$P_{min}$	=	Price of lowest acceptable bid

#### 4. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

##### 4.1 POINTS AWARDED FOR PRICE THE 90/10 PREFERENCE POINT SYSTEMS

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

$$90/10 \quad P_s = 90 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- $P_s$  = Points scored for price of bid under consideration  
 $P_t$  = Price of bid under consideration  
 $P_{max}$  = Price of highest acceptable bid

#### 5. POINTS AWARDED FOR SPECIFIC GOALS

In terms of the Preferential Procurement policy of Council section 6(2) and 8(2), preference points must be awarded for specific goals stated in the bid. For the purposes of this bid the bidder will be allocated points based on the goals stated in table 1 and 2 below as may be supported by proof/ documentation stated in the conditions of this bid:

##### 5.1 B-BBEE

B-BBEE Status Level of Contributor	Number of Points for Preference (90/10)
1	5
2	4.5
3	3
4	2.5
5	2
6	1.5
7	1
8	0.5
Non-compliant contributor	0

##### 5.2 LOCALITY

Locality of supplier	Number of Points for Preference (90/10)
Within the boundaries of Saldanha Bay Municipality	5
Within the boundaries of the West Coast District	2.5
Within the boundaries of the Western Cape	1
Outside the boundaries of the Western Cape or failure to provide proof	0

**6. DECLARATION**

Bidders who claim points in respect of B-BBEE and Locality must complete the following:

**6.1 B-BEE-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

B-BBEE Status Level of Contribution: \_\_\_\_\_ (maximum of 5 points)

**6.2 LOCALITY CLAIMED IN TERMS OF PARAGRAPH 1.4 AND 5.2**

LOCALITY: \_\_\_\_\_ (maximum of 5 points)

**7. DECLARATION WITH REGARD TO COMPANY / FIRM**

7.1 Name of company / firm: \_\_\_\_\_

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

7.3 VAT registration number: \_\_\_\_\_

7.4 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]

**7.5 MUNICIPAL INFORMATION**

Municipality where business is situated: \_\_\_\_\_

Street address of business:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Registered municipal account number: \_\_\_\_\_

**NOTE: MUNICIPAL INFORMATION PROVIDED MUST BE ALIGNED TO PARAGRAPH 1.4 AND 5.2**

7.6 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 bid, 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 5, 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 bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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.

.....

**SIGNATURE(S) OF BIDDER(S)**

**SURNAME AND NAME:** .....

**DATE:** .....

**ADDRESS:** .....

.....

.....

**7. MBD 8: Bidder's past practices****DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors/members listed on the National Treasury's database as a company or person prohibited from doing business with the public sector?  <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</b>	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/members 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)?  <b>(To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).</b>	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/members convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Does the bidder or any of its directors/members owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.5.1	If so, furnish particulars:		

**CERTIFICATION**

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

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

\_\_\_\_\_

Signature

\_\_\_\_\_

Position

\_\_\_\_\_

Date

\_\_\_\_\_

Name of Bidder

**DECLARATION OF MUNICIPAL ACCOUNTS OF COMPANY AND DIRECTORS**

Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?

Yes  
☐

No  
☐

The Bidder must affix proof of Municipal Accounts or valid lease agreements of the company as well as Directors and also complete the addresses of Directors below. If the Bidder has more than 12 Directors, a schedule with addresses must also be attached to the bid document.

**Director 1 Address:**

**Director 2 Address:**

**Director 3 Address:**

\_\_\_\_\_

\_\_\_\_\_

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**Director 4 Address:**

**Director 5 Address:**

**Director 6 Address:**

\_\_\_\_\_

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**Attach page if space insufficient.**

**8. MBD 9: Certificate of independent bid determination****CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> 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).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
  - a) take all reasonable steps to prevent such abuse;
  - b) reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
  - c) cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
4. This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_  
(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Municipality / Municipal Entity)

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

I certify, on behalf

of: \_\_\_\_\_ that:

\_\_\_\_\_  
(Name of Bidder)

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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.

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 consortium<sup>3</sup> 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. 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.

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

11. 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.
12. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

Note: Where the entity bidding is a partnership/joint venture/consortium, each party to the partnership/joint venture/consortium must sign a declaration in terms of the Municipal Finance Management Act, Act 56 Of 2003, and attach it to this schedule.

**9. Conflict of Interest**

1. The bidder shall declare whether it has any conflict of interest in the transaction for which the bid is submitted. (Please mark with X)

YES		NO	
-----	--	----	--

- 1.1.If yes, the bidder is required to set out the particulars in the table below:


2. The bidder shall declare whether it has directly or through a representative or intermediary promised, offered or granted:

2.1.any inducement or reward to the SBM for or in connection with the award of this contract; or

2.2.any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the supply chain management policy. (Please mark with X)

YES		NO	
-----	--	----	--

If yes, the bidder is required to set out the particulars in the table below:


***Should the bidder be aware of any corrupt or fraudulent transactions relating to the procurement process of Saldanha Bay Municipality, please contact the following:***

***Mr M Hermanus, telephone 022 – 701 7000, email marius.hermanus@sbm.gov.za***

The bidder hereby certifies that the information set out in this schedule and/or attached hereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in steps being taken against the bidder, the bid being disqualified, and/or (in the event that the bidder is successful) the cancellation of the contract, restriction of the bidder or the exercise by the employer of any other remedies available to it.

<b>SIGNATURE</b>		<b>DATE</b>	
<b>POSITION</b>		<b>NAME OF BIDDER</b>	

**10. Central Supplier Database (CSD)**

Paragraph 14(1)(a) of the Municipal Supply Chain Management Policy states that the municipality must keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements. Saldanha Bay Municipality has decided to accept an invitation from Provincial Treasury to join the Western Cape Supplier Database (WCSD) with the view of using one centralized database. However, on 01 July SBM will make use of the Centralised Supplier Database. This decision was taken based on the advantages it holds for our suppliers as well as our organization's procurement processes. All prospective providers of municipal goods and/or services are hereby requested to register their business with the CSD.

**The usage of the Central Supplier Database came into effect on 01 July 2016. REGISTRATION WILL BE COMPULSORY IN ORDER TO CONDUCT BUSINESS WITH SALDANHA BAY MUNICIPALITY. The database will be used to verify the accreditation of a supplier before an award can be made.**

**All prospective suppliers should be aware of the amended codes of good practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act as issued by the Minister of Trade and Industry (Gazette No.36928) on 11 October 2013.**

**11. Information to be provided by Bidder**

The following information shall be provided with the Bid:

- a) The various technical details and data required by the Technical Data Sheets and information required in the Returnable Schedules.
- b) Project Proposal detailing the project implementation timeline i.e. design, construction and commissioning of the proposed plant to be implemented.
- c) The information requested in Table 1 of the specification:

Table 1: Project generation information (as applicable)

Project Name:	
Generation Plant Location:	
Contracted Capacity: [MW]	
Plant peak power rating: [MW]	
Maximum Export Capacity (as defined in the Distribution Agreement or the Transmission Agreement, as the case may be): [MW]	
Proposed power plant technology	
Planned voltage connection level:	
Planned connection point (i.e. the name of the substation or distribution line into which the Project is intended to connect, as well as supply area)	

This must be supported by a site development plan.

**The lead time between signing of the PPA and the power plant achieving Commercial Operation are**

**.....Calendar Days to a maximum of 1 095 days – 3 years (completed by bidder).**

- d) Expertise of key personnel: Schedule 1 is to be completed, indicating the number of years of relevant work experience.

- e) Past projects of the company: Schedule 2 of past projects by the company of a similar nature on Energy Procurement Programmes, including for each project the start and end date, the location, the name and contact details of the client, a short description of the work undertaken and the rand value of the project.

**NOTE: THIS PART MUST BE COMPLETED FOR EACH PLANT AND ATTACHED AS ADDENDUM.**

SIGNED ON BEHALF OF BIDDER: .....

**12. Schedule 1: Expertise of key personnel**

Key Personnel	Name of team member	Qualification(s)
Lead PM		

**Corresponding Relevant Experience: Lead PM**

Project/ Programme Title	Description (Including plant type and capacity)	Role on Project or Programme	Project Status (e.g. Financial close, operational, feasibility, design, etc.)	Start Date (YYYY-MM-DD)	End Date (YYYY-MM-DD)	No. of Months	Plant Capacity (MW)	Reference Contact Details
Total number of years of relevant experience								

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

Key Personnel	Name of team member	Qualification(s)
Commercial Lead		

Corresponding Relevant Experience: Commercial Lead								
Project/ Programme Title	Description (Including plant type and capacity)	Role on Project or Programme	Project Status (e.g. Financial close, operational, feasibility, design, etc.)	Start Date (YYYY-MM-DD)	End Date (YYYY-MM-DD)	No. of Months	Plant Capacity (MW)	Reference Contact Details
Total number of years of relevant experience								

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

Key Personnel	Name of team member	Qualification(s)
Technical Lead		

Corresponding Relevant Experience: Technical Lead								
Project/ Programme Title	Description (Including plant type and capacity)	Role on Project or Programme	Project Status (e.g. Financial close, operational, feasibility, design, etc.)	Start Date (YYYY-MM-DD)	End Date (YYYY-MM-DD)	No. of Months	Plant Capacity (MW)	Reference Contact Details
Total number of years of relevant experience								

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

13. Schedule 2: Track record and experience of company, consortium or joint venture

Evidence of successful participation in completed energy procurement programs, as the seller of energy						
Name of project	Rand Value	Project duration (start and end date)	Location	Project Description (Including plant type and capacity)	Project Status (e.g. Financial close, operational, feasibility, design etc.)	Client Contact Details
<div><b>SIGNED ON BEHALF OF BIDDER:</b> .....</div> <div>Evidence of full development and establishment of utility scale power plant</div>						

**TENDER NO: 50/23/24**

<b>Name of project</b>	<b>Rand Value</b>	<b>Project duration</b> (start and end date)	<b>Location</b>	<b>Project Description</b> (Including plant type and capacity)	<b>Project Status</b> (e.g. Financial close, operational, feasibility, design etc.)	<b>Client Contact Details</b>

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

**Evidence of the successful operations and maintenance of utility scale power plant**

<b>Name of project</b>	<b>MW</b>	<b>Project duration</b> (start and end date)	<b>Location</b>	<b>Project Description</b> (Including plant type and capacity)	<b>Project Status</b> (e.g. Financial close, operational, feasibility, design etc.)	<b>Client Contact Details</b>

**SIGNED ON BEHALF OF BIDDER:** .....**Bidder must attach copy of this page and attach and cross reference if the provided space is not sufficient.**

#### **14. Schedule 3: Financial Model (15 years)**

All Bidders are required to prepare and submit a Financial Model for their bid to be compliant. The Financial Model should be prepared in Microsoft Excel format and must be submitted both in hard copy and electronic format. The Financial Model must not incorporate password protection and should not contain any hard coded data within the formulae. Inputs should be set out in separately identifiable input sheets in Microsoft Excel.

The Bidder is required to provide a Financial Model that has been independently audited or prepared by a suitably qualified professional firm of auditors and/ or accountants. In the event that a Project consists of more than one Financing Facility, the Bidder is required to ensure that the Financial Model provides a detailed breakdown per Facility. The Bidder is required to make clear reference to the Financial Model in the letters of support provided by the Equity Finance and Debt Finance providers, that are supporting the Bid Response.

The inputs and assumptions used in the Financial Model shall be aligned with all the inputs in the bid document and in the PPA.

##### Model Structure and Requirements:

- a) The Financial Model must be prepared using 1 July 2025 as the base date and 30 June 2040 as end date.
- b) The Financial Model should be expressed in South African Rand in nominal terms.
- c) The Financial Model should be prepared on a monthly basis for the Construction Period and an annual basis for the Operating Period using 1 July to 30 June year conventions.
- d) The Financial Model should provide a Statement of Financial Position, Statement of Financial Performance and Cash Flow Statement for the full term of the PPA.
- e) All assumptions made in preparing the Financial Model, along with instructions on how to operate the Model, must be described in detail in a separate document that will form part of the Financial Model.

##### Key Model Information and Outputs:

The Financial Model should present, as a minimum, the following information, where relevant:

- a) The Revenue for each Billing Period / Financial year where the charges agree with the bid document, the pricing schedule in the bid document and the PPA.
- b) Projected Energy Generation profiles (P90 profiles should be provided where applicable) aligning to SBM's minimum utilisation requirement and expected utilisation forecasts.
- c) Detailed of funding information.
- d) Detailed capital expenditure breakdown for each energy source technology.
- e) Debt schedules for each credit facility (including interest paid, fees, margins, repayment profiles, tenors, maximum facility amounts, cover ratios, and any other relevant information as would normally be provided for transactions of this nature).

- f) Where Bidders propose fixing interest rates, the costs of the proposed interest rate hedging arrangements must be provided clearly in their Financial Model.
- g) Total equity including any standby and/or subordinated facilities.
- h) Dividend pay-outs, including a breakdown of equity stakeholders and dividends paid to each on an annual basis.
- i) Total operating cost and the detail maintenance cost and assumptions, including replacement schedule.
- j) Rehabilitation Reserve, Decommissioning Costs, and Decommissioning Reserve, as applicable.
- k) Cash Flow Cascade in order of seniority (which is consistent with the funding term sheets).
- l) A Fixed Assets schedule in respect of both book and tax values.
- m) Separately identified foreign denominated goods or services.
- n) Projected project IRR before financing and tax.
- o) Equity IRR.
- p) Base cost return on equity for the entire duration of the PPA.,
- q) NPV of the total project cost (discounted to the base date using a rate of 12%).
- r) Interest cover ratio.
- s) Debt service coverage ratio (DSCR).
- t) Loan life cover ratio (LLCR).
- u) Any other ratios or financial covenants that are required to be met in the Financing Agreements.
- v) Risk pricing.

NOTE: THE AUDITOR SHALL PROVIDE A LETTER ON THEIR LETTERHEAD AS PART OF THE BIDDING DOCUMENTS TO PROVIDE ASSURANCE THAT ALL THE "KEY MODEL INFORMATION AND OUTPUTS" LISTED ABOVE HAVE BEEN APPROPRIATELY INCLUDED IN THE FINANCIAL MODEL. THE PARTNER/ DIRECTOR OF THE FIRM MUST SIGN THE LETTER AND MUST BE ABLE TO EXPLAIN ANY CALCULATIONS OR ASSUMPTIONS TO THE BID EVALUATION COMMITTEE OF THE MUNICIPALITY, IF REQUIRED.

## **PART C: CONDITIONS OF CONTRACT**

### **15. General Conditions of Contract (GCC OF 2010)**

#### **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 supplies 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 supplies 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, maintenance and other such obligations of the supplier covered under the contract.

1.25 "Written" or "in writing" means handwritten 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, 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 supplies, 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 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za).

## **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.

## **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 in SCC.

## **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 supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 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 supplies 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 supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies 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 supplies 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 supplies 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 supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the supplier's cost and risk.

Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to

substitute the rejected supplies, purchase such supplies 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 23 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 and 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, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

## **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 in the SCC.

## **12. Transportation**

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

### 13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (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 in SCC, 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 in SCC.
- 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 in SCC 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 in SCC, 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 in SCC.

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 in SCC.

## **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 in SCC or in the purchaser's request for bid validity extension, as the case may be.

## **18. Contract amendments**

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

## **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 these 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 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 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 supplies are required, or the supplier's services are not readily available.
- 21.5 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 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies 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 intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, 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 Accounting Officer / Authority 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. Anti-dumping 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 favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies 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 alternative 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 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

- 27.5 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.

**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 in SCC.

**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 the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

### **33. National Industrial Participation (NIP) Programme**

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

### **34 Prohibition of Restrictive practices**

34.1 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 (or bid rigging).

34.2 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 the Competition Act No. 89 of 1998.

34.3 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.

## 16. Special Conditions of Contract

The following Special Conditions of Contract, referring to the National Treasury – Conditions of Contract (revised July 2010), are applicable to this Contract:

### 1. Definitions

*Add Clause:*

"Deemed Energy Payment" means an amount (excluding VAT) that shall be due and payable by the Buyer to the Seller for the Deemed Energy during a specified period pursuant to the provisions of clause 15 (Consequences of a System Event), which payment shall be calculated in accordance with Schedule 6 (Deemed Energy Payment) with reference to the Commercial Energy Rate, and dependent on the period in respect of which such payment is due and payable.

*Delete Clause 1.15 Delete Clause 1.19 and substitute with the following:*

1.19. The word 'Order' is to be replaced everywhere it occurs in the GCC with the words 'Purchase Order' which means the official purchase order authorised and released on the purchaser's Munsoft System or other means best suitable for the type of procurement as determine by SBM.

*Delete Clause 1.21 and substitute with the following:*

1.21. 'Purchaser' means the Saldanha Bay Municipality. The address of the Purchaser is 12 Main Road, Vredenburg, 7380.

*Delete Clause 1.24 and substitute with the following:*

- The goods or services that the bidder must deliver is ENERGY in the measured form of kWh (Energy Charge). Also refer to the Pricing Schedule (Schedule 22).

*Clause 1.25:*

1.25. Paragraph 2.3.17.2 and 2.3.17.3 in the Conditions of Bid supersedes the requirements in Clause 1.25.

*Add the following after Clause 1.25:*

- 1.26. 'Supplier' means any provider of goods and / or services with whom the contract is concluded
- 1.27. 'Intellectual Property' means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectual property rights which subsist in computer software, computer programs, websites, documents,

information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

### 3. General Obligations

*Delete Clause 3.2 in its entirety and replace with the following clauses:*

- 3.2. The parties will be liable to each other arising out of or in connection with any breach of the obligations detailed or implied in this contract, subject to clause 28.
- 3.3. All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms of this contract and shall carry individually the minimum levels of insurance stated in the contract, if any.
- 3.4. The parties shall comply with all laws, regulations and bylaws of local or other authorities having jurisdiction regarding the delivery of the goods and give all notices and pay all charges required by such authorities.
  - 3.4.1. The parties agree that this contract shall also be subject to SBM's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, save that if the Employer adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this bid, such clause shall also be applicable to that contract. Please refer to this document contained on SBM's website.
  - 3.4.2. Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by SBM of any other remedies available to it as described in the SCM Policy.
- 3.5. The supplier shall:
  - 3.5.1. Arrange for the documents listed below to be provided to the Purchaser prior to the issuing of the order or best suitable arrangements for procurement of goods or services provide documents as required.
    - a) Proof of Insurance (Refer to Clause 11) or Insurance Broker's Warrantee
    - b) Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer (Refer to Clause 11)
    - c) Initial delivery programme
    - d) Other requirements as detailed in the bid documents

- 3.5.2. Only when notified of the acceptance of the bid by the issuing of the order, the supplier shall commence with and carry out the delivery of the goods or service in accordance with the contract, to the satisfaction, of the purchaser
- 3.5.3. Provide all of the necessary materials, labour, plant and equipment required for the delivery of the goods including any temporary services that may be required
- 3.5.4. Insure his workmen and employees against death or injury arising out of the delivery of the goods
- 3.5.5. Be continuously represented during the delivery of the goods by a competent representative duly authorised to execute instructions;
- 3.5.6. In the event of a loss resulting in a claim against the insurance policies stated in clause 11, pay the first amount (excess) as required by the insurance policy
- 3.5.7. Comply with all written instructions from the purchaser subject to clause 18
- 3.5.8. Complete and deliver the goods within the period stated in clause 10, or any extensions thereof in terms of clause 21
- 3.5.9. Make good at his own expense all incomplete and defective goods during the warranty period
- 3.5.10. Pay to the purchaser any penalty for delay as due on demand by the purchaser. The supplier hereby consents to such amounts being deducted from any payment to the supplier.
- 3.5.11. Comply with the provisions of the OHAS Act & all relevant regulations.
- 3.5.12. Comply with all laws relating to wages and conditions generally governing the employment of labour in the Saldanha Bay Municipal area and any applicable Bargaining Council agreements.
- 3.5.13. Deliver the goods in accordance with the contract and with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.
- 3.6. The purchaser shall:
  - 3.6.1. Issue orders for the goods required under this Contract. No liability for payment will ensue for any work done if an official purchase order has not been issued to the supplier.
  - 3.6.2. Make payment to the supplier for the goods as set out herein.
  - 3.6.3. Take possession of the goods upon delivery by the supplier.

- 3.6.4. Regularly inspect the goods to establish that it is being delivered in compliance with the contract.
- 3.6.5. Give any instructions and/or explanations and/or variations to the supplier including any relevant advice to assist the supplier to understand the contract documents.
- 3.6.6. Grant or refuse any extension of time requested by the supplier to the period stated in clause 10.
- 3.6.7. Inspect the goods to determine if, in the opinion of the purchaser, it has been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended.
- 3.6.8. Brief the supplier and issue all documents, information, etc. in accordance with the contract.

5. Use of contract documents and information; inspection, copyright, confidentiality, etc.

*Add the following after clause 5.4:*

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

The ownership of data and factual information collected by the supplier and paid for by the purchaser shall, after payment, vest with the purchaser

#### 5.6. Publicity and publication

The supplier shall not release public or media statements or publish material related to the services or contract within two (2) years of completion of the services without the written approval of the purchaser, which approval shall not be unreasonably withheld.

#### 5.7. Confidentiality

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

#### 5.8. Intellectual Property

- 5.8.1. The supplier acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Employer.
- 5.8.2. The supplier hereby assigns to the Employer, all Intellectual Property created, developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.
- 5.8.3. The supplier shall, and warrants that it shall:
- 5.8.3.1. not be entitled to use the Employer's Intellectual Property for any purpose other than as contemplated in this contract;
  - 5.8.3.2. not modify, add to, change or alter the Employer's Intellectual Property, or any information or data related thereto, nor may the supplier produce any product as a result of, including and/or arising from any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Employer;
  - 5.8.3.3. not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Employer;
  - 5.8.3.4. comply with all reasonable directions or instructions given to it by the Employer in relation to the form and manner of use of the Employer Intellectual Property, including without limitation, any brand guidelines which the Employer may provide to the supplier from time to time;
  - 5.8.3.5. procure that its employees, directors, members and contractors comply strictly with the provisions of clauses 5.8.3.1 to 5.8.3.3 above;
  - 5.8.3.6. unless the Employer expressly agrees thereto in writing after obtaining due internal authority.
- 5.8.4. The supplier represents and warrants to the Employer that, in providing goods, services or both, as the case may be, for the duration of the contract, it will not infringe or make unauthorised use of the Intellectual Property rights of any third party and hereby indemnifies the Employer from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorised use by the supplier of any third party's Intellectual Property rights.
- 5.8.5. In the event that the contract is cancelled, terminated, ended or is declared void, any and all of the Employer's Intellectual Property, and any and all information and data related thereto, shall be immediately handed over to the Employer by the supplier and no copies thereof shall be retained by the supplier unless the Employer expressly and in writing, after obtaining due internal authority, agrees otherwise.

## 7. Performance Security as specified in the PPA.

A Performance Security will be provided by the preferred bidder when signing the PPA and remain valid till COD. The preferred bidder shall provide SBM with a single Performance Security (Bank guarantee in Rands) in an amount equal to R3 million.

## 8. Inspections, tests and analyses

*Delete Clause 8.2 and substitute with the following:*

8.2. If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisation acting on behalf of the purchaser.

## 9. Packaging

*Delete clause 9.*

## 10. Delivery and documents

*Delete clauses 10.1 and 10.2 and replace with the following:*

10.1. Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The time for delivery of the goods shall be the date as stated on the order. Orders for the supply and delivery of goods may be raised up until the expiry of a bid. All orders, other than for the supply and delivery of goods, must be completed prior to the expiry of the contract period.

10.2. The purchaser shall determine, in its sole discretion, whether the goods have been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended. When the purchaser determines that the goods have been satisfactorily delivered, the purchaser must issue an appropriate certification, or written approval, to that effect. Invoicing may only occur, and must be dated, on or after the date of acceptance of the goods.

## 11. Insurance

*Add the following after clause 11.1:*

11.2. Without limiting the obligations of the supplier in terms of this contract, the supplier shall effect and maintain the following additional insurances, but not limited to, and will include any additional legislative prescripts, if applicable:

- a) Public liability insurances, in the name of the supplier, covering the supplier and the purchaser against liability for the death of or injury to any person, or loss of or damage

to any property, arising out of or in the course of this Contract, in an amount not less than twenty million Rands (R20 million) for any single claim;

- b) Motor Vehicle Liability Insurance, in respect of all vehicles owned and / or leased by the supplier, comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity;
- c) Registration / insurance in terms of the Compensation for Occupational Injuries and Disease Act, Act 130 of 1993. This can either take the form of a certified copy of a valid Letter of Good Standing issued by the Compensation Commissioner, or proof of insurance with a license d compensation insurer, from either the bidder's broker or the insurance company itself (see Proof of Insurance / Insurance Broker's Warranty section in document for a pro forma version).

In the event of under insurance or the insurer's repudiation of any claim for whatever reason, SBM will retain its right of recourse against the supplier.

- 11.3. The supplier shall be obliged to furnish SBM with proof of such insurance as SBM may require from time to time for the duration of this Contract. Evidence that the insurances have been effected in terms of this clause, shall be either in the form of an insurance broker's warranty worded precisely as per the pro forma version contained in the Proof of Insurance / Insurance Broker's Warranty section of the document or copies of the insurance policies.

#### 14. Spare Parts

*Delete Clause 14*

#### 15. Warranty

*Add to Clause 15.2:*

- 15.2. Refer to PPA for warranties & performance.

#### 16. Payment

*Delete Clause 16.1 in its entirety and replace with the following:*

- 16.1. A monthly payment cycle will be the norm. All invoices will be paid within 30 days of receiving the relevant invoice. The supplier may submit a fully motivated application regarding more frequent payment to the Purchaser, Manager: Expenditure, for consideration. Requests for more frequent payments will be considered at the sole discretion of the Purchaser and is not a right in terms of this contract.

*Delete Clause 16.2 in its entirety and replace with the following:*

- 16.2. The supplier shall furnish the purchaser's Accounts Payable Department with an original tax invoice, clearly showing the amount due in respect of each and every claim for payment. Invoices to be submitted to the following email-address: creditors@sbm.gov.za

*Add the following after clause 16.4*

- 16.5. Notwithstanding any amount stated on the order, the supplier shall only be entitled to payment for goods actually delivered in terms of the Project Specification and Drawings, or any variations in accordance with clause 18. Any contingency sum included shall be for the sole use, and at the discretion, of the purchaser.

SBM is not liable for payment of any invoice that pre-dates the date of delivery of the goods.

## 17. Prices

*Add the following after clause 17.1*

- 17.2. If, as a result of an award of a contract beyond the original bid validity period, the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original bid validity period, then the contract may be subject to contract price adjustment for that period beyond such twelve (12) months. An appropriate contract price adjustment formula based on CPI will be utilized.

- 17.3. If, as a result of any extension of time granted the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original bid validity period, then contract price adjustment may apply to that period beyond such twelve (12) months. An appropriate contract price adjustment formula.

- 17.4. The prices for the goods delivered and services performed shall be subject to contract price adjustment and the following conditions will be applicable:

Refer to schedule 21.

## 18. Contract Amendments

*Delete the heading of clause 18 and replace with the following:*

## 18. Contract Amendments and Variations

*Add the following to clause 18.1:*

Variations means changes to the goods, extension of the duration or expansion of the value of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior approval by the purchaser's delegated authority. Should the supplier deliver any goods not

described in a written instruction from the purchaser, such work will not become due and payable until amended order has been issued by the purchaser.

## 20. Subcontracts

*Add the following after clause 20.1:*

- 20.1. The supplier shall be liable for the acts, defaults and negligence of any subcontractor, his agents or employees as fully as if they were the acts, defaults or negligence of the supplier.
- 20.2. Any appointment of a subcontractor shall not amount to a contract between SBM and the subcontractor, or a responsibility or liability on the part of SBM to the subcontractor and shall not relive the supplier from any liability or obligation under the contract.

## 22. Penalties

*Delete clause 22.1 and replace with the following:*

- 22.1. Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods 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 and or invoke performance security (if applicable) as a penalty, a sum as stated herein for each day of the delay until actual delivery or performance.

The penalty for this contract shall be an amount as defined in the PPA.

- 22.2. The purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price and or invoke performance security (if applicable), financial penalties as contained on the Preference Schedule relating to breaches of the conditions upon which preference points were awarded.

## 23. Termination for default

*Delete the heading of clause 23 and replace with the following:*

## 23. Termination

*Add the following to the end of clause 23.1:*

if the supplier fails to remedy the breach in terms of such notice

*Add the following after clause 23.7:*

- 23.8. In addition to the grounds for termination due to default by the supplier, the contract may also be terminated:

- 23.8.1. Upon the death of the supplier who was a Sole Proprietor, or a sole member of a Close Corporation, in which case the contract will terminate forthwith.
  - 23.8.2. The parties by mutual agreement terminate the contract.
  - 23.8.3. If a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the Municipal Manager follows the processes as described in the SCM Policy (available on SBM website: [www.sbm.gov.za](http://www.sbm.gov.za)).
  - 23.8.4. Not to make an award, or revoke an award already made, where the implementation of the contract may result in reputational risk, harm or contravention of any legislation, policies or good business practice that comes to the attention of SBM which facts have not been known or could not have been foreseen during or after the tender process.
- 23.9. If the contract is terminated in terms of clause 23.8, all obligations that were due and enforceable prior to the date of the termination must be performed by the relevant party.

## 26. Termination for insolvency

*Delete clause 26.1 and replace with the following:*

- 26.1. The purchaser may make either of the following elections to ensure its rights are protected and any negative impact on service delivery is mitigated:
  - 26.1.1. accept a supplier proposal (via the liquidator) to render delivery utilising the appropriate contractual mechanisms; or
  - 26.1.2. terminate the contract, as the liquidator proposed supplier is deemed unacceptable to the purchaser, at any time by giving written notice to the supplier (via the liquidator).
- 26.2. 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. Limitation of Liability

*Delete clause 28. and replace with the following:*

- b) The supplier shall 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.; and the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the sums insured in terms of clause 11 in respect of insurable events, or where no such amounts are stated,

to an amount equal to twice the contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment or any loss of income, loss of production or loss of profits.

*Add the following after clause 28.1:*

28.2. Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shall be solely liable for and hereby indemnifies and holds harmless the purchaser against all claims, charges, damages, costs, actions, liability, demands and/or proceedings and expense in connection with:

- a) personal injury or loss of life to any individual;
- b) loss of or damage to property;

arising from, out of, or in connection with the performance by the supplier in terms of this Contract, save to the extent caused by the gross negligence or wilful misconduct of the purchaser.

28.3. The supplier and/or its employees, agents, concessionaires, suppliers, sub-contractors or customers shall not have any claim of any nature against the purchaser for any loss, damage, injury or death which any of them may directly or indirectly suffer, whether or not such loss, damages, injury or death is caused through negligence of the purchaser or its agents or employees.

28.4. Notwithstanding anything to the contrary contained in this Contract, under no circumstances whatsoever, including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall any party or its servants (in whose favour this constitutes a stipulatio alteri) be liable for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever, whether or not the loss was actually foreseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, including but not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss of contracts.

28.5. Each party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amounts payable.

### 31. Notices

*Delete clauses 31.1 and 31.2 and replace with the following:*

31.1. Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and hand delivered to the addresses

specified in the contract and may be given as set out hereunder and shall be deemed to have been received when:

- a) hand delivered to the Office of Municipal Manager and/ Supplier (whichever is applicable) – on the 3 (third) working day of delivery thereof.

### 32. Taxes and Duties

*Delete the final sentence of 32.3 and replace with the following:*

In this regard, it is the responsibility of the supplier to submit documentary evidence in the form of a valid Tax Compliance Status PIN number issued by SARS to SBM at the Supplier Management Unit located on 15 Main Road, Investment Centre, Vredenburg (Tel 022 – 701 6866).

*Add the following after clause 32.3:*

32.4. The VAT registration number of the Saldanha Bay Municipality is 4100113150.

### ADDITIONAL CONDITIONS OF CONTRACT

*Add the following Clause after Clause 34:*

### 35. Reporting Obligations.

- 35.1. The supplier shall complete, sign and submit with each delivery note, all the documents as required in the Specifications. Any failure in this regard may result in a delay in the processing of any payments.

### 36. Conflict between bid contract conditions and PPA

In the event of a conflict between the conditions of bid stated herein and the PPA, the provisions of the PPA will prevail.

### 37. Meaning of "goods"

Any reference to goods / services / works shall be deemed to be a reference to Energy, as defined. "Energy" means electrical energy generated by a Supplier and measured in MWh.

### 38. Suspensive nature of award

The contract award will be suspensive upon the successful outcome of the following:

- A MFMA Section 33 process;
- All project specific authorisations being obtained, including all required agreements with Eskom as it pertains to grid connection and wheeling, where applicable.

**39. Negotiability of the PPA**

The PPA annexed to this bid document will be binding, subject to certain clauses pertaining to the operation thereof, being negotiated and agreed to between the parties based on the this bid document.

**40. Levy on External Revenue**

The appointed bidder will be required to pay a levy of 1% plus VAT of its Gross Electricity Revenue that are generated in the Saldanha Bay municipal area, excluding the Electricity Revenue to the municipality. The levy is payable to Saldanha Bay municipality 4 months after the end of the bidder's financial year. It will be calculated as follows:

Total Gross Electricity Revenue generated in the Saldanha Bay municipal area less Electricity Revenue to Saldanha Bay municipality, multiply by 1% plus VAT.

**17. Authority to sign bid****TYPE OF ENTERPRISE (Please indicate with an "X" and complete the indicated section below)**

1. Company (Pty) Ltd. & Ltd.	Please complete <b>section 1</b> below	
2. Close Corporation (CC)	Please complete <b>section 2</b> below	
3. Sole Proprietor	Please complete <b>section 3</b> below	
4. Partnership	Please complete <b>section 4</b> below	
5. Consortium, Club, Trust, etc.	Please complete <b>section 5</b> below	
6. Joint Venture	Please complete <b>section 6</b> below	

**NOTE: AGREEMENTS MUST BE PROVIDED FOR ITEM 4 – 6.**

**1. COMPANIES - (PTY) LTD. & LTD.**

1.1. If a bidder is a **COMPANY ((Pty) Ltd. OR Ltd.)**, 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.

1.2. A valid resolution must be signed by:

- 1.2.1. Majority directors; or
- 1.2.2. Chairman of the Board; or
- 1.2.3. Company Secretary

**PARTICULARS OF RESOLUTION BY THE BOARD OF DIRECTORS OF THE COMPANY**

<b>Date resolution was taken</b>			
<b>Resolution signed by (name and surname)</b>			
<b>Capacity</b>			
<b>Name and surname of delegated authorised signatory</b>			
<b>Capacity</b>			
<b>Specimen signature</b>			
<b>Full name and surname of ALL director(s)</b>			
<b>Is a copy of the resolution attached?</b>	<b>YES</b>		<b>NO</b>

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

**2. CLOSE CORPORATION (CC)**

2.1. 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.

2.2. A valid resolution must be signed by:

2.2.1. Majority members; or

2.2.2. Member with majority shareholding but only if such shareholding is more than 50%;  
or

2.2.3. Company Secretary.

**PARTICULARS OF RESOLUTION BY THE MEMBERS OF THE CLOSE CORPORATION**

<b>Date resolution was taken</b>			
<b>Resolution signed by (name and surname)</b>			
<b>Capacity</b>			
<b>Name and surname of delegated authorised signatory</b>			
<b>Capacity</b>			
<b>Specimen signature</b>			
<b>Full name and surname of ALL director(s) / member (s)</b>			
<b>Is a copy of the resolution attached?</b>	<b>YES</b>		<b>NO</b>

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

**3. SOLE PROPRIETOR (SINGLE OWNER BUSINESS) & NATURAL PERSON**

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

**OR**

I, \_\_\_\_\_, the undersigned, hereby confirm that I am submitting this bid in my capacity as natural person.

SIGNATURE:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

**4. 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:	

**5. CONSORTIUM / CLUB / TRUST / ETC.**

We, the undersigned consortium partners, hereby authorize \_\_\_\_\_

(Name of entity) to act as lead consortium partner and further authorize

Mr / Ms \_\_\_\_\_

to sign this offer as well as any contract resulting from this bid and any other documents and correspondence in connection with this bid and / or contract for and on behalf of the consortium.

**The following particulars in respect of each consortium member must be provided and must be signed by each member:**

Full Name of consortium member	Role of consortium member	% Participation	Signature
SIGNED ON BEHALF OF PARTNERSHIP:		DATE:	
PRINT NAME:			
WITNESS 1:		WITNESS 2:	

**6. JOINT VENTURE**

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

**1. LEAD PARTNER (Whom the Municipality shall hold liable for the purpose of the bid)**

Name of firm			
Address			
		Tel. No.	
Signature		Designation	

**2. 2<sup>nd</sup> PARTNER**

Name of firm			
Address			
		Tel. No.	
Signature		Designation	

**3. 3<sup>rd</sup> PARTNER**

Name of firm			
Address:			
		Tel. No.	
Signature		Designation	

**4. 4<sup>th</sup> PARTNER**

Name of firm			
Address:			
		Tel. No.	
Signature		Designation	

**NOTE: A copy of the Joint Venture Agreement indicating clearly the percentage contribution of each partner to the Joint Venture, is to be submitted with the bid.**

**A board resolution, authorising each signatory who signed above to do so, is to be submitted with the bid.**

**18. Contract form: Purchase of goods/works/services (MBD7)**

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS. NOTE: THIS FORM WILL ONLY BE SIGNED BY THE PURCHASER AFTER AWARD AND APPEAL/S HAVE BEEN DEALT WITH.**

**PART 1 (TO BE FILLED IN BY THE BIDDER)**

1. I hereby undertake to supply all or any of the goods and/or works or to render services described in the attached bidding documents to (name of institution)..... in accordance with the requirements and 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 time of 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)
    - Technical Specification(s)
    - Preference claims in terms of the Preferential Procurement Regulations 2001
    - Declaration of interest
    - 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 goods and/or works 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 .....

DATE .....

**WITNESSES**

1. ....

2. ....

**PURCHASE OF GOODS/WORKS/SERVICES****PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as .....  
accept your bid under reference number .....dated.....for the supply of goods/works indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note (goods or works) or after receipt of an invoice (services).

TO BE COMPLETED: GOODS

ITEM NO.	PRICE (VAT INCL)	DELIVERY PERIOD	POINTS CLAIMED FOR BEE	POINTS CLAIMED FOR RDP GOALS (Locality)

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

SIGNED AT .....ON.....

NAME (PRINT) .....

SIGNATURE .....

**WITNESSES**

1. ....

2. ....

**Schedule of Deviations (TO BE FILLED IN BY THE SALDANHA BAY MUNICIPALITY)****Notes:**

1. The extent of deviations from the bid documents issued by the Saldanha Bay Municipality before the bid closing date is limited to those permitted in terms of the conditions of bid.
2. A bidder'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 bid 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 bid documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1 Subject .....

Details .....

.....

2 Subject .....

Details .....

.....

3 Subject .....

Details .....

.....

4 Subject .....

Details .....

.....

By the duly authorised representatives signing this agreement, the Saldanha Bay Municipality and the bidder agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to this bid document and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the bidder and the Saldanha Bay Municipality 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 bid documents and the receipt by the bidder of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

## **PART D: SPECIFICATIONS AND PRICING SCHEDULE**

### **19. Specifications**

#### **19.1. Dispatchable Independent Power Producers program for SBM**

##### **19.1.1. Background**

The Saldana Bay Municipality has identified that the reliability and security of Energy and Power supply to Saldana Bay, including the Port and Industrial Development Zone area, as one of the most significant risks to the local community, to business stability, to economic development, and to sustainable growth and job creation.

SBM is heavily reliant on energy supply and power generated by Eskom to support the demand for Electricity to the Saldana Bay Municipal – “Electrical Power Supply” system and all the loads that the system supports. Without a reliable and secure supply of Energy and Electrical Power, Saldana Bay will not thrive and may suffer from a significant loss of revenue associated with the retail and supply of power, or may fail to be an attractive and feasible destination to business and urban investors.

For more than a decade (from circa mid 2008 up to date, 2022) South Africa, including the Saldanha Bay Municipality, has been exposed to interrupted electrical energy and power supply.

The Saldanha Bay Municipality holds the constitutional right and responsibility for local energy supply and there is an imperative requirement to put measures in place to mitigate this current and continuing energy supply risk situation and to enhance energy security through various means including the direct procurement of electricity.

Therefore, the Saldanha Bay Municipality is seeking competitive proposals from potential independent power producers to provide electricity from power generation plants, comprising of dispatchable and load tracking power generation technologies for a period of 15 years. The intention is to award a single PPA under this bid. The solution proposed under this bid must ensure that SBM electricity supply is uninterrupted.

Bidders should take note that any adjudication or award processes pursuant to this bid are contingent upon the necessary regulatory conditions being in place to make the generation and sale of energy in terms of the bid lawful, possible and financially viable for SBM. In addition, the regulatory framework for any additional energy available for purchase by other institutions must be in place, compliant to National legislation and to the satisfaction of SBM.

**19.1.2. Scope of work**

SBM is seeking competitive proposals/bid offers from independent power producers for power generation projects able to supply SBM with dispatchable, load tracking energy. The successful provider must be able to increase the supply as the demand grows taking load following tendencies into consideration. These projects may be located either within or outside of SBM's boundary. Projects may connect directly to the SBM grid at pre-defined locations as indicated on the electrical network and voltage levels as provided by SBM. Energy may be wheeled across the Eskom grid and/or neighboring municipality(ies) grid, however the solution should ensure that SBM electricity supply is uninterrupted for the duration of the PPA. Bidders are to ensure all required agreements with Eskom and/or the relevant municipality(ies) are in place prior to signing of the PPA. SBM will allow a maximum of 6 months after PPA signing for bidders to reach financial close, unless extended upon approval by SBM.

Bidders are invited to submit a detailed solution, taking into consideration the connection cost estimates as provided by SBM and/or external grid owners. All successful bidders, after final evaluation, will be required to conclude a 15-year PPA with SBM.

**19.1.3. Functional requirements**

Each proposal needs to confirm, demonstrate, and quantify that it meets the following functional requirements:

- a) That the proposed technical solution utilises a proven technology that has been implemented successfully at utility scale;
- b) That the maximum instantaneous generation project can be accommodated by the grid capacity at the chosen points of connection, as determined by SBM.

Refer to Annexure B: Saldanha Bay Electrical Network (Information will be provided in electronic format)

- c) The total generation downstream of an Eskom in-take feed must not result in export of electricity into Eskom's grid during all foreseen network conditions.
- d) Bidders must clearly demonstrate access to the required land (letter of intent) for the establishment of the proposed power plant.
- e) Bidders must clearly demonstrate that either the required permits and authorisations have been obtained or is in the process of being obtained (including Environmental Authorisation and Water Use Rights, where required). Below is a list of approved EIA's in Saldanha Bay area:

<b><u>Description</u></b>	<b><u>MW</u></b>	<b><u>Farm detail</u></b>	<b><u>Registration nr</u></b>
Vortum solar park	400 MW	Remainder of portion 4, Remainder of portion 9, and portion 11 of the farm Langeberg, Uyekraal 189 Malmebury RD	14/12/16/3/3/2/2020
Soventix South Africa	75 MW	Waschklip 183 near Langebaan	12/12/20/2126
SPV Renfields	150 MWP	Near Hopefield	14/12/16/3/3/2/2053
Boulders Wind Energy	140MW	Vredenburg	14/12/16/3/3/3/3
Honingklip	150MW	Farm Heuningklip, 1076 portion 0, Vredenburg	14/12/16/3/3/2/1031
Dunes		Portion 2 of Farm Ongegund No 132 Malmesbury	12/12/20/2626
AcerlorMittal Gas To Power	1500MW	RE 129 of farm Yzervarkensrug, Portion 2 of farm Kackalskloof 195, Saldanha	14/12/16/3/3/2/910
Vortum Thermal power	400MW	Adjacent to Vortum Solar park	14/12/16/3/3/2/2020/AM1

Note: The list is to be used solely as guidance to bids and SBM does not guarantee any availability or consent to use the EIA's. It will be the sole responsibility of the Bidder to establish contact with the holder thereof.

- f) Proposals may consist of a number of component power generation plants that may use multiple technologies and may be located at different sites. Component plant(s) owned by SBM or any other municipality may not be included and will result in bid rejection.
- g) The contracted output of the power plant(s) must be available 24 hours per day. The dispatch regime is described in the PPA.

- h) The successful bidders must finance all aspects of each project proposal including design, procurement, construction, grid connection, commissioning, operation, maintenance and decommissioning as appropriate for each of the proposed plants.
- i) The power generation project must enhance energy security and details of annual supply characteristics (energy, capacity, time of supply, dispatchability) must be provided.
- j) All dispatchable generation technologies will be considered, which may be comprised of hybrid solutions such as solar PV paired with battery storage, Gas to power, etc.
- k) All technologies being proposed must have been operated at utility scale within the previous 5 years. Proof of operation must be provided in the bid proposal submissions. Refer to Schedule 12-15.

**Component plants are defined as power generation plants that consist of a singular power generation technology, i.e. only solar PV or wind power or gas-to-power.**

#### **19.1.4. Site Location and Access**

The generation plant may connect to SBM network, alternatively to the Eskom Distribution/Transmission network. In cases of the power plant being connected to the Eskom network, the point of delivery for the wheeled energy needs to be specified.

The following information must be supplied at the bidding stage as a minimum, to be read in conjunction with the schedules provided in this bid document.

#### **Project generation information (to be populated in corresponding schedule)**

- Project Name
- Generation Plant Location, with corresponding GIS coordinates
- Contracted Capacity [MW]
- Plant peak power rating [MW]
- Maximum Export Capacity (as defined in the Distribution Agreement or the Transmission Agreement, as the case may be: [MW]
- Proposed power plant technology
- Planned voltage connection level
- Planned connection point (i.e. the name of the substation or distribution line into which the Project is intended to connect, as well as supply area)

This must be supported by a Site Development Plan (to scale) making reference to the above points

A project timeline including authorisations and license approval stages, construction and commissioning must be provided with the submission. Failure to submit these may result in bid rejection.

Bidders will be provided a time frame not exceeding three (3) years / 36 months to design, construct and commission the plant from date of signed PPA.

Each Bidder shall provide SBM, at the time of bid submission, with a single Bid Guarantee (in Bank Guarantee Rands) in an amount of R700 000 (Seven hundred thousand Rand) for the Project offering (Bid response). This Bid Guarantee must remain valid until PPA signing (Part E: 23).

**Additional project readiness details (to be populated in corresponding schedule)**

- Period to COD after notice to proceed granted/PPA signed (calendar days)
- Status of Generation Fuel supply agreements, if applicable:
- Status of Environmental Authorisation, if applicable;
- Copy of evidence of land ownership/lease agreement, i.e main land parcel required for siting of power plant
- Status of permits and authorisations - details of both those granted and outstanding with associated estimated timeframes provided: e.g. wayleaves, servitudes, grid code compliance, rezoning, WULA, etc.
- Status of required agreements, including grid access agreements with the applicable municipality and/or Eskom

**19.1.5. Authorisations and licenses**

The Bidder is required, within the scope of the proposed project, to assess what authorisations and licenses are necessary for all aspects of the proposed facility, including but not necessarily limited to environmental, air quality, waste, water, electricity generation and land use authorisations and licenses, and to set these out in the bid.

The Bidder must set out in the bid the anticipated processes and timeframes for the obtaining of all such authorisations and licenses. Any award made in terms of this bid will be subject to termination in the event of any such authorisations or licenses being refused or becoming unobtainable for any reason.

**19.1.6. Plant location and local participation**

Bidders shall provide detailed information about the location of the plant, including physical address and/or GPS coordinates which must be supported by a Site Development Plan (to scale).

**19.2. Trade names or proprietary products**

Bid specifications may not make any reference to any particular trademark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

**BIDDERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADE MARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS "OR EQUIVALENT"**

**19.3. Other notes**

Link to EIA and IMIS viewer will be provided at the compulsory clarification meeting.

## 20. Pricing Schedule

### 20.1 Completion of Pricing Schedule

**BIDDERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADEMARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS 'OR EQUIVALENT'**

SBM does not guarantee a minimum off-take level, however the intended utilization factor of the power plant will form part of the PPA negotiations and agreements. SBM will do the appropriate comparative calculations to ensure maximum financial benefit derived from the utilization of the power plant.

SBM shall only pay to the Bidder the Deemed Energy Payment, in terms of clause 9.3 of the PPA, for all Deemed Energy accruing in each Billing Period calculated in terms of clause 11 and 15 of the PPA relating to consequences of a System Event, and Schedule 6 (Deemed Energy Payment) attached to the PPA. Notwithstanding any other provision in this Agreement and/or the PPA, SBM's liability for the Deemed Energy Payment during any System Event shall be governed and limited by SBM's real-time electrical demands during the System Event. Specifically, the Deemed Energy Payment shall be calculated based on SBM's actual electrical load at the time of the System Event, ensuring that SBM is only liable for the Deemed Energy corresponding to the units of energy that would have been consumed under normal operating conditions given SBM's real-time electrical demand. This limitation shall apply to all Billing Periods affected by a System Event, and no additional liability shall accrue to SBM for Deemed Energy beyond SBM's real-time electrical demand during such events.

Bidders are to specify the technology program into which their offering will be made. If more than one technology is used it will be evaluated as a hybrid solution.

Tables below needs to be completed, as appropriate, where only one technology solution will be utilized to generate electricity.

Please define your technology or technologies below (note all bids will be evaluated as a whole as one solution):

Technology description	Percentage of the solution

**Energy Charge** is the total energy consumed in the billing period, measured in kWh

**Utilisation** is an indication percentage of time that the contracted power is used.

<b>Energy Utilisation Factor Range (%)</b>	<b>Energy Charge (c/kWh) (VAT excl)</b>	<b>Energy Charge (c/kWh) (VAT)</b>	<b>Energy Charge (c/kWh) (VAT incl)</b>
100% load following of SBM.			

Evaluation will be done based on the energy usage of SBM for the 2023/24 financial year as per Annexure B.

Please be reminded that the solution must be proven and reliable. Technical solution must be able to meet SBM's energy requirement no matter what the weather and/or other condition including nighttime. Proof of the technology and/or solution with reference to utility scale will be required.

A typical dispatch profile corresponding to each technology type (as described above) will be used to determine the cost impact over the PPA term, specifically as compared to prevailing Eskom tariffs. This analysis will form the basis for price comparison and ranking of bids.

## 20.2 Pricing Instructions:

- State the rates and prices in Rand unless instructed otherwise in the bid conditions.
- Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful bidder, such duties, taxes and levies being those applicable 14 days before the closing time stated in the General Bid Information.
- All prices tendered must include all expenses, disbursements and costs (e.g. transport, accommodation etc.) that may be required for the execution of the bidder's obligations in terms of the Contract, and shall cover the cost of all general risks, liabilities and obligations set forth or implied in the Contract as well as overhead charges and profit (in the event that the bid is successful). All prices tendered will be final and binding.
- All prices shall be tendered in accordance with the units specified in this schedule.
- The successful bidder is required to perform all tasks listed against each item. The bidder must therefore bid prices/rates on all items as per the section in the Price Schedule. **An item against which no rate is/are entered, or if anything other than a rate or a nil rate (for example, a zero, a dash or the word "included" or abbreviations thereof) is entered against an item, it will also be regarded as a nil rate having been entered**

**against that item, i.e. that there is no charge for that item. The Bidder may be requested to clarify nil rates, or items regarded as having nil rates; and the Employer may also perform a risk analysis with regard to the reasonableness of such rates.**

- f) Bidders' bid prices must include for all cabling and associated work including the jointing of the cables up to the circuit breaker bushings of the point of connection as well as any infrastructure upgrades as required by SBM to accommodate connection of the bidder's generation facility.
- g) Prices will increase on the anniversary of the effective date of the contract every year in line with the national Consumer Price Index (CPI). and will be adjusted in accordance with the applicable schedule in the accompanying PPA (Schedule 1 Part 3).

**PART E: OTHER****21. Price adjustments**

- 21.1. The Contract Price Adjustment mechanism and/or provisions contained in this schedule is compulsory and binding on all bidders.
- 21.2. Failure to complete this schedule or any part thereof may result in the bid offer being declared non- responsive.
- 21.3. Bidders are not permitted to amend, vary, alter or delete this schedule or any part thereof unless otherwise stated in this schedule, failing which the bid offer shall be declared non-responsive.
- 21.4. Bidders are not permitted to offer firm prices except as provided for in the Price Schedule, and if the bidder offers firm prices in contravention of this clause the bid offer shall be declared non- responsive.
- 21.5. Any claim for an increase in the Contract price shall be submitted in writing to the:  
Director: Energy and Electro-Technical Services or persons included in the bid document two (2) months prior to the month upon which the price adjustment would become effective.
- 21.6. SBM reserves the right to withhold payment of any claim for contract price adjustment while only provisional figures are available and until the final (revised) figures are issued by the relevant authority.
- 21.7. When submitting a claim for contract price adjustment a supplier shall indicate the actual amount claimed for each item. A mere notification of a claim for contract price adjustment without stating the new price claimed for each item shall, for the purpose of this clause, not be regarded as a valid claim.
- 21.8. SBM reserves the right to request the supplier to submit auditor's certificates or such other documentary proof as it may require in order to verify a claim for contract price adjustment. Should the supplier fail to submit such auditor's certificates or other documentary proof to SBM within a period of 30 (thirty) days from the date of the request, it shall be presumed that the supplier has abandoned his claim.
- 21.9. The effective date of any price increases granted will be the date on which the abovementioned documentation/claim is submitted or, by agreement between the Contractor and SBM, a subsequent date on which the price increase will be effective.
- 21.10. In instances where the Contractor's price claimed is less than entitled, the lesser price will be accepted.
- 21.11. SBM reserves the right to apply the indices available at the date of the claim

submitted by the Contractor.

#### 21.12. Process that will be followed:

21.12.1. Contractor submits all the documentation indicated above prior to the effective date of the

variation.

21.12.2. SBM will consider the variation and based on the documentary evidence, the municipality may approve the variation.

21.12.3. Letters authorising the price variation will be communicated to the contractor indicating the effective date

21.12.4. All purchase orders from the effective date will be generated at the approved contract price. Purchase orders placed prior to the effective date will not be varied.

#### 21.13. Price Adjustment Mechanism:

21.14. The Contract Price as per GCC shall remain Firm for the first 12 months from date of tender close and no claims for contract price adjustment will be considered for the first 12 months' subject to the provisions in the price schedule (linked to CPI).

21.14.1 Contract Price Adjustment will be applicable as from commencement of the 13 month. Contractors shall be entitled to claim contract price adjustment as follows:

The year-on-year rate will be subject to adjustment annually based on the average percentage of 12 months as published by STATSSA: Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates) as follows:

From start of contract to the end of June (1<sup>st</sup> year of contract) the contract price adjustment in accordance with the Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates) will be calculated on a pro-rata basis.

Contract price adjustments will thereafter be effective 1 July annually. Subject to the contract price adjustment in accordance with the Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates). Base month for the price adjustment shall be three (3) calendar months prior to 1 July the previous year. The end month shall be three (3) calendar months prior to 1 July in the current year (year in which price escalations is to take effect).

The average CPI will be calculated, the base month to the end month (both included) divided by the number of months.

Example:

The claim will be based on the average between the “base month” and the “end month” e.g.:  $7+6+9+6 = 28$  ( $28/4$ ) = 7 therefore the claim will be 7%.

Note:

Energy charges for projects comprising of hybrid technologies (BESS + RE) will be considered for the above CPI-related contract price adjustment (CPA).

Energy charges for thermal generation projects/ technologies will be subjected to CPA as per the agreed methodology in the PPA and approved by the Director: Electro-Technical Services (Also see Clause 16 of the Special Conditions of Contract).

Indices to be utilized will be based on fuel.

The above will be calculated on based on the term of 15 years.

**22. Bid Guarantee****GUARANTOR DETAILS AND DEFINITIONS**

"Guarantor": .....

Physical address of Guarantor: .....

"Supplier": .....

"Contract Sum" The accepted bid amount (INCLUSIVE OF VAT) of

R .....

Amount in words:

.....  
"Guaranteed Sum" means: The maximum amount of

R .....

Amount in words:

.....  
"Contract" means: The agreement made in terms of the Form of Offer and Acceptance for

Bid no : .....

and such amendments or additions to the contract as may be agreed in writing between the parties. BID 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 Guarantee up to and including the termination of the award and/ conclusion of the PPA and/ the date of payment in full of the Guaranteed Sum, whichever occurs first.

3. The Guarantor hereby acknowledges that:
  - 3.1 any reference in this Guarantee to "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 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 SBM the sum due and payable upon receipt of the documents identified in 4.1 to 4.2:
  - 4.1 A copy of a first written demand issued by SBM to the Supplier stating that payment of a sum which is due and payable to SBM due to negligence, misrepresentation and or cancellation for whatever reason by the Supplier, after award up and until the conclusion of the PPA, has not been made by the Supplier in terms of the Contract and failing such payment within seven (7) calendar days, SBM intends to call upon the Guarantor to make payment in terms of 4.2;
  - 4.2 A first written demand issued by SBM to the Guarantor at the Guarantor's physical address with a copy to the Supplier stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum has still not been paid.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to SBM the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from SBM to the Guarantor at the Guarantor's physical address calling up this Guarantee, such demand stating that:
  - 5.1 the sum is due and payable by the Supplier due to action/s or omission/s by the Supplier in terms of 4; or
  - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Supplier and that the 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, SBM shall upon the termination date of the award, submit an expense account to the Guarantor showing how all monies received in terms of this Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Guarantee shall bear interest at the prime overdraft rate of SBM's bank compounded monthly and calculated from the date payment was made by the Guarantor to SBM 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. SBM shall have the absolute right to arrange its affairs with the Supplier in any manner which SBM may deem fit and the Guarantor shall not have the right to claim his release from this Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
10. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
11. This 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.
12. This 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.
13. Where this Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at .....

Date .....

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

Capacity .....

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

Capacity .....

Witness signatory (1) .....

Witness signatory (2) .....

**23. Performance Security (to be provided to SBM at signing of PPA or as agreed during final negotiations and conclusion of PPA)**

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor": .....

Physical address of Guarantor: .....

"Supplier": .....

"Contract Sum" The accepted bid amount (INCLUSIVE OF VAT) of

R .....

Amount in words:

.....

"Guaranteed Sum" means: The maximum amount of

R .....

Amount in words:

.....

"Contract" means: The agreement made in terms of the Form of Offer and Acceptance for

Bid no .....: .....

and such amendments or additions to the contract as may be agreed in writing between the parties. PERFORMANCE SECURITY

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 conclusion of the PPA between the parties up and until cancellation and/ termination or COD whichever date occurs first.
3. The Guarantor hereby acknowledges that:

- 16.1 any reference in this Guarantee to "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.
- 16.2 its obligation under this Guarantee is restricted to the payment of money.
17. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay SBM the sum due and payable upon receipt of the documents identified in 4.1 to 4.2:
- 17.1 A copy of a first written demand issued by SBM to the Supplier stating that payment of a sum which is due and payable to SBM due to negligence, misrepresentation and or cancellation for whatever reason by the Supplier, after signing of the PPA up and until COD, has not been made by the Supplier in terms of the Contract and failing such payment within seven (7) calendar days, SBM intends to call upon the Guarantor to make payment in terms of 4.2;
- 17.2 A first written demand issued by SBM to the Guarantor at the Guarantor's physical address with a copy to the Supplier stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum has still not been paid.
18. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to SBM the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from SBM to the Guarantor at the Guarantor's physical address calling up this Guarantee, such demand stating that:
- 18.1 the sum is due and payable by the Supplier due to action/s or omission/s by the Supplier in terms of 4; or
- 18.2 a provisional or final sequestration or liquidation court order has been granted against the Supplier and that the Guarantee is called up in terms of 5; and
- 18.3 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.
19. 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.
20. Where the Guarantor has made payment in terms of 5, SBM shall upon the termination date of the Contract, submit an expense account to the Guarantor showing how all monies received in terms of this Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Guarantee shall bear interest at the prime overdraft rate of SBM's bank compounded monthly and calculated from the date payment was made by the Guarantor to SBM until the date of refund.
21. 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.

22. SBM shall have the absolute right to arrange its affairs with the Supplier in any manner which SBM may deem fit and the Guarantor shall not have the right to claim his release from this Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
23. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
24. This 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.
25. This 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.
26. Where this Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at .....

Date .....

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

Capacity .....

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

Capacity .....

Witness signatory (1) .....

Witness signatory (2) .....

**24. Omissions, alterations and additions**

**25. Schedule of Variations from Special Conditions of Contract**

1. Bidders may provide a 2.5% discount for payment made within 30 days of receipt of invoice. Bidder should note that this discount is optional and has no influence on the evaluation or adjudication of bids.
2. Please complete the following should your company BE WILLING TO PROVIDE the 2.5% deduction for payment within 30 days as per clause 1 above:

YES, my company IS WILLING TO HAVE THE 2.5% taken from payment made within 30 days.

Bidder's signature \_\_\_\_\_ for acceptance of the 2.5% discount.

(Only if bidder wishes to provide the 2.5% discount)

**26. List of other documents attached by Bidder**

The bidder has attached to this schedule, the following additional documentation:

	Date of Document	Title of Document or Description (refer to clauses / schedules of this bid document where applicable)
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		

Attach additional pages if more space is required.

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

**27. Record of Addenda to Bid Documents**

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

	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.

**28. Annexures**

Annexure A: Energy usage over past three years (request electronically)

Annexure B: Saldanha Bay Electrical Network (request electronically)

Annexure C: Technical standards and legislative codes

Annexure D: Load profile factors (request electronically)

Annexure E: Draft Power Purchase Agreement

**Note: Clause 36 of the Special Condition of Contract**

In the event of a conflict between the conditions of bid stated herein and the PPA, the provisions of the PPA will prevail.

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