

## TDR250/2021/2022

# ESTABLISHMENT OF A DATA CENTRE AT THE JOINT OPERATIONS AND DISASTER MANAGEMENT CENTRE FOR MOSSEL BAY MUNICIPALITY

CLOSING DATE: 03 DECEMBER 2021	CLOSING TIME: 12:00
--------------------------------	---------------------

NAME OF BIDDER\* : .....

ADDRESS\* : .....

: .....

: .....

: .....

TEL NUMBER\* : .....

FAX NUMBER\* : .....

E-MAIL\* : .....

CENTRAL SUPPLIER DATABASE REG NO\* : .....

B-BBEE LEVEL OF CONTRIBUTION\* : .....

TENDER AMOUNT (VAT INCLUDED) \* : .....

(\* - TO BE COMPLETED BY BIDDER)

Prepared by:  
Mossel Bay Municipality  
PO Box 25  
Mossel Bay  
6500

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## SECTION 1.1: INVITATION TO TENDER

**CLOSING TIME: 12:00**

**CLOSING DATE: 03 DECEMBER 2021**

### **TDR250/2021/2022: ESTABLISHMENT OF A DATA CENTRE AT THE JOINT OPERATIONS AND MANAGEMENT CENTRE FOR THE MOSSEL BAY MUNICIPALITY**

Tenders are hereby invited from service providers/contractors for the Establishment of a Data Centre at the Joint Operations Management Centre for the Mossel Bay Municipality.

Tenders must be submitted on the original documents and remain valid for ninety (90) days after the closing date of the tender. Enquiries pertaining to the specifications can be addressed to Mr André Fraser at telephone (044) 606-5050 or e-mail at [afraser@mosselbay.gov.za](mailto:afraser@mosselbay.gov.za). Enquiries pertaining to the completion of the documents can be addressed to Ms Unchin Kannemeyer at telephone (044) 606-5192 or e-mail at [ukannemeyer@mosselbay.gov.za](mailto:ukannemeyer@mosselbay.gov.za).

A set of tender documents can be obtained at a non-refundable cost of R254.80 per set from Ms Unchin Kannemeyer who may be contacted at telephone (044) 606-5192 **OR** it can be obtained on our website at [www.mosselbay.gov.za/procurement/tenders-available](http://www.mosselbay.gov.za/procurement/tenders-available), free of charge. Payments must be made at the cashiers at the **Mossel Bay Municipality's Main Building, 101 Marsh Street on the Lower Ground Floor (seaside)** prior to collecting the tender document and proof of payment must be submitted when collecting the tender document from the Supply Chain Management Offices, 101 Marsh Street, Mossel Bay.

Fully completed tender documents must be placed in a sealed envelope and placed in the **tender box at the Entrance of the Mossel Bay Town Hall, 101 Marsh Street, Mossel Bay by not later than 12:00 on Friday, 03 December 2021** or be mailed to reach the **Tender Box, Mossel Bay Municipality, PO Box 25, Mossel Bay, 6500** before the specified closing date and time. The envelopes must be endorsed clearly with the number, title and closing date of the tender as above.

The tender is subject to functionality criteria.

Bids will be pre-evaluated on the following functionality criteria and bids that score less than 60 out of 90 points will be considered as non-responsive:

Functionality criteria and weight:

1. Company (or JV) Experience (**Establishing of Data Centres**) carrying a weight of 30 points.
2. References Related to **Establishing of Data Centres** carrying a weight of 15 points.

Responsive bids will then be evaluated on the 80/20 or 90/10 Preference Points system as prescribed by the Preferential Procurement Regulations, 2017.

Receipts will be issued on request only for tenders handed in during office hours from Mondays to Fridays. Receipts will not be issued for tenders placed in the tender box after hours or which are received by mail.

The tender box will be emptied just after 12:00 on the closing date as above, hereafter all bids will be opened in public. Late tenders or tenders submitted by e-mail or fax will under no circumstances be accepted.

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

It is expected of all Bidders who are not yet registered on the Central Supplier Database to register without delay on the prescribed form. The Municipality reserves the right not to award tenders to Bidders who are not registered on the Database.

**MR C PUREN**  
**ACTING MUNICIPAL MANAGER**

## **SECTION 1.2: TENDER CONDITIONS AND INFORMATION**

### **1.2.1 General and Special Conditions of Contract**

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

### **1.2.2 Acceptance or Rejection of a Tender**

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

### **1.2.3 Validity Period**

Bids shall remain valid for ninety (90) days after the tender closure date.

### **1.2.4 Cost of Tender Documents**

Payment for tender documents, if specified, must be made by a crossed cheque payable to the Municipality of Mossel Bay. These costs are non-refundable.

### **1.2.5 Registration on Central Supplier Database**

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

### **1.2.6 Completion of Tender Documents**

(a) The original tender document must be completed fully in black ink and signed by the authorised signatory to validate the tender. Section 5: DECLARATION must be completed and signed by the authorised signatory and returned. Failure to do so will result in the disqualification of the tender.

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

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

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

(e) The tender document as provided by the Municipality's Supply Chain Management Section will be the prevailing document in the event of an inconsistency between the completed submitted tender document by a bidder and the tender document provided by the Municipality.

## **1.2.7 Compulsory Documentation**

### **1.2.7.1 Tax Clearance Certificate**

(a) A copy of a Tax Compliance Status Pin and a Tax Compliance Certificate, printed from the South African Revenue Service (SARS) website, must accompany the bid documents. The onus is on the bidder to ensure that their tax matters with SARS are in order.

(b) In the case of a Consortium/Joint Venture every member must submit a separate Tax Compliance Status Pin and a Tax Compliance Certificate, printed from the SARS website, with the bid documents.

(c) If a bid is not supported by a Tax Compliance Status Pin and a Tax Compliance Certificate as an attachment to the bid documents, the Municipality reserves the right to obtain such documents after the closing date to verify that the bidder's tax matters are in order. If no such document can be obtained within a period as specified by the Municipality, the bid will be disqualified.

(d) The Tax Compliance Status Pin will be verified by the Municipality on the SARS website.

## **1.2.8 Other Documentation**

### **1.2.8.1 Construction Industry Development Board (CIDB) (If applicable)**

When applicable, the bidder's CIDB registration number must be included with the tender. The Municipality will verify the bidder's CIDB registration during the evaluation process.

### **1.2.8.2 Municipal Rates, Taxes and Charges**

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

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

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

## **1.2.9 Authorised Signatory**

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

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

(c) If such a copy of the Resolution does not accompany the bid document of the successful bidder, the Municipality reserves the right to obtain such document after the closing date to verify that the signatory is in order. If no such document can be obtained within a period as specified by the Municipality, the bid will be disqualified.

#### **1.2.10 Site / Information Meetings**

(a) Site or information meetings, if specified, are compulsory. Bids will not be accepted from bidders who have not attended compulsory site or information meetings. Bidders that arrive 15 minutes or more after the advertised time the meeting starts will not be allowed to attend the meeting or to sign the attendance register. If a bidder is delayed, he must inform the contact person before the meeting commence and will only be allowed to attend the meeting if the chairperson of the meeting as well as all the other bidders attending the meeting, give permission to do so.

(b) All partners or the leading partner of a Joint Venture must attend the compulsory site or information meeting.

#### **1.2.11 Samples**

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

#### **1.2.12 Quantities of Specific Items**

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

#### **1.2.13 Submission of Tender**

(a) The tender must be placed in a sealed envelope, or envelopes when the two-envelope system is specified, clearly marked with the tender number, title as well as closing date and time and placed in the **tender box at the Entrance of the Mossel Bay Town Hall, 101 Marsh Street, Mossel Bay Municipality by not later than 12:00 on Friday, 03 December 2021.**

OR

- be mailed to reach the **Tender Box, Mossel Bay Municipality, PO Box 25, Mossel Bay, 6500** before the specified closing date and time.

(b) Faxed, e-mailed and late tenders will not be accepted. Tenders may be delivered by hand, by courier, or posted at the bidder's risk and must be received by the deadline specified above, irrespective of how they are sent or delivered.

#### **1.2.14 Expenses Incurred in Preparation of Tender**

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

#### **1.2.15 Contact with Municipality after Tender Closure Date**

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

#### **1.2.16 Opening, Recording and Publications of Tenders Received**

(a) Tenders will be opened on the closing date immediately after the closing time specified in the tender documents. If requested by any bidder present, the names of the bidders, and if practical, the total amount of each bid and of any alternative bids will be read out aloud.

(b) Details of tenders received in time will be recorded in a register which is open to public inspection.

(c) Faxed, e-mailed and late tenders will not be accepted.

#### **1.2.17 Evaluation of Tenders**

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

#### **1.2.18 Procurement Policy**

Bids will be awarded in accordance with the Preferential Procurement Regulations, 2017 pertaining to the Preferential Procurement Policy Framework Act, No 5 of 2000 and its amendments as well as the Municipality's Supply Chain Management Policy.

#### **1.2.19 Contract**

(a) The successful bidder will be expected to sign the agreement in Section 6 of this bid document. The signing of both Parts of Section 6 of this bid document signifies the conclusion of the contract. The Municipality, at its discretion, may request the signing of an additional Service Level Agreement which, together with the signed tender document, will constitute the full agreement between the Municipality and the successful bidder.

#### **1.2.20 Subcontracting**

(a) The Contractor shall not subcontract the whole of the Contract.

(b) Except where otherwise provided by the Contract, the Contractor shall not subcontract any part of the Contract without the prior written consent of the Municipality, which consent shall not be unreasonably withheld.

(c) The contractual relationship between the Contractor and any subcontractors selected by the Contractor in consultation with the Municipality in accordance with the requirements of and a procedure contained within the Scope of Work, shall be the same as if the Contractor had appointed the subcontractor in terms of paragraph (b) above.



(d) Any consent granted in accordance with paragraph (b) or appointment of a subcontractor in accordance with paragraph (c) shall not imply a contract between the Municipality and the subcontractor, or a responsibility or liability on the part of the Municipality to the subcontractor and shall not relieve the Contractor from any liability or obligation under the Contract and he shall be liable for the acts, defaults and neglects of any subcontractor, his agents or employees as fully as if they were the acts, defaults or neglects of the Contractor, his agents or employees.

(e) The Contractor shall not be required to obtain such consent for –

- (i) the provision of labour, or
- (ii) the purchase of materials which are in accordance with the Contract, or
- (iii) the purchase or hire of Construction Equipment.

#### **1.2.21 Language of Contract**

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

#### **1.2.22 Extension of Contract**

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

#### **1.2.23 Stamp and Other Duties**

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

#### **1.2.24 Wrong Information Furnished**

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

#### **1.2.25 Past Practices**

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

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

(c) The bid of any bidder may be rejected if it is or has been found that that bidder or any of its directors offered, promised or granted any official or any of his/her close family members, partners or associates any reward, gift, favour, hospitality or any other benefit in any improper way, with this or any past tender.

#### **1.2.26 Validity of BEE certificates:**

- 1. If the certificate was issued by a verification agency the following must be on the face of the certificate:**

SANAS logo, unique BVA number, must be an original certificate or certified copy of the original, the name and physical location of the bidder, the registration number and, where applicable, the VAT number of the bidder, the date of issue and date of expiry of the certificate, the certificate number for identification and reference, the scorecard that was used (for example EME, QSE or Generic), the name and / or logo of the Verification Agency, the certificate must be signed by the authorized person from the Verification Agency and the B-BBEE Status Level of Contribution obtained by the bidder.

- 2. If certificate was issued by an Auditor/ Accounting Officers:**

The Accounting Officer's or Registered Auditor's letter head with full contact details, the Accounting Officer's or Registered Auditor's practice numbers, the name and the physical location of the bidder, the registration number and, where applicable, the VAT number of the bidder, the date of issue and date of expiry, the B-BBEE Status Level of Contribution obtained by the measured entity, the total black shareholding and total black female shareholding, the B-BBEE Status Level of Contribution obtained by the bidder and must be an original certificate or certified copy of the original.

- 3. If the certificate was issued by registered auditors approved by IRBA**

Clearly identify the B-BBEE approved registered auditor by the auditor's individual registration number with IRBA and the auditor's logo, clearly record an approved B-BBEE Verification Certificate identification reference in the format required by the SASAE, reflect relevant information regarding the identity and location of the measured entity, identify the Codes of Good Practice or relevant Sector Codes applied in the determination of the scores, record the weighting points (scores) attained by the measured entity for each scorecard element, where applicable, and the measured entity's overall B-BBEE Status Level of Contribution, reflect that the B-BBEE Verification Certificate and accompanying assurance report issued to the measured entity is valid for 12 months from the date of issuance and reflect both the issuance and expiry date, and the B-BBEE Status Level of Contribution obtained by the bidder and must be an original certificate or certified copy of the original.

- 4. A sworn affidavit prescribed by the B-BBEE Codes of Good Practice.**

**FAILURE TO COMPLY WITH THE ABOVEMENTIONED WILL RESULT IN NO PREFERENCE POINTS BEING AWARDED**

#### **1.2.27 Letter of Good Standing from the Commissioner of Compensation**

(a) A valid Letter of Good Standing from the Compensation Commissioner or a copy thereof, must accompany the bid documents unless the bidder is registered on the Central Supplier Database and they have a valid Letter of Good Standing from the Compensation Commissioner or a copy thereof for the bidder on record. The onus is on the bidder to ensure that the Municipality has a valid Letter of Good Standing from the Compensation Commissioner or a copy thereof on record.

(b) In the case of a Consortium/Joint Venture every member must submit a separate valid Letter of Good Standing from the Compensation Commissioner or a copy thereof with the bid documents unless the member is registered on the Central Supplier Database and they have a valid Letter of Good Standing from

the Compensation Commissioner or a copy thereof on record for all members of the Consortium/Joint Venture.

(c) If a bid is not supported by a valid Letter of Good Standing from the Compensation Commissioner or a copy thereof, either as an attachment to the bid documents or on record in the case of suppliers registered on the Central Supplier Database, the Municipality reserves the right to obtain such document after the closing date. If no such document can be obtained within a period as specified by the Municipality, the bid will be disqualified.

(d) If a bid is accompanied by proof of application for valid Letter of Good Standing from the Compensation Commissioner, the original or copy thereof must be submitted on/or before the final date of award.

(e) Should a bidder's Letter of Good Standing from the Compensation Commissioner expires during the contract period, a valid certificate must be submitted within an agreed upon time.

(f) The right is reserved to not award a tender if a valid Letter of Good Standing from the Compensation Commissioner or a certified copy thereof is not submitted within the requested time.

#### **1.2.28 Negotiations**

Should the tender prices be higher than the available funds of the client, the client reserves the right to negotiate with the successful bidder to limit the work in accordance with the tender specifications in order not to exceed the available budget.

#### **1.2.29 Joint Ventures**

The Joint venture agreement must be submitted as part of the bid documents;

- (a) No amendments to Joint venture agreement may be made without the prior approval of the Municipality; if not accepted by the Municipality and the Joint venture continue without approval the Joint venture contract can be cancelled as if poor performance had taken place;
- (b) Joint venture will only qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits, together with the submission of the bid, their B-BBEE status level certificate issued in the name of the Joint venture.
- (c) All members of the Joint venture must submit, with the bid documents:
  - a valid tax clearance certificate or SARS tax pin, individually;
  - an agreement that clearly provides clarity of Profit and liability sharing; and
  - a resolution taken by the board of directors of the Joint venture and other information that agrees with the Joint venture agreement as detailed on pages 72-74.
- (d) For the evaluation of functionality regarding a Joint venture refer to the functionality section.

#### **1.2.30 Enquiries**

Enquiries in connection with this tender, prior to the tender closure date, may be addressed to Mr André Fraser at telephone (044) 606-5050 or e-mail at [afraser@mosselbay.gov.za](mailto:afraser@mosselbay.gov.za).

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### 1.3 GENERAL CONDITIONS OF CONTRACT

#### 1. Definitions

1. The following terms shall be interpreted as indicated:

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

## **2. Application**

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

## **3. General**

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

## **4. Standards**

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

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

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

## **6. Patent Rights**

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

## **7. Performance security**

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

## **8. Inspections, tests and analyses**

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

- 8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal, the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.
- 9. Packing**
- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.
- 10. Delivery and documents**
- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.
- 11. Insurance**
- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.
- 12. Transportation**
- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified.
- 13. Incidental Services**
- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
  - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts**
- 14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and;
  - (b) in the event of termination of production of the spare parts: (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty**
- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.
- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.
- 18. Variation orders**
- 18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.
- 21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties**
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

**23. Termination for default**

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:  
(a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2; (b) if the supplier fails to perform any other obligation(s) under the contract; or (c) if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:  
(i) the name and address of the supplier and / or person restricted by the purchaser;  
(ii) the date of commencement of the restriction  
(iii) the period of restriction; and  
(iv) the reasons for the restriction. These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.
- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website

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

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

**25. Force Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure. 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable 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 Notwithstanding any reference to mediation and/or court proceedings herein, (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and  
(b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.
- 28. Limitation of Liability**
- 28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6; (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language**
- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law**
- 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.
- 31. Notices**
- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties**
- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.
- 32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.
- 33. Transfer of contracts**
- 33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser
- 34. Amendment of contracts**
- 34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.
- 35. Prohibition of restrictive practices**
- 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.
- 35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998. 35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

## SECTION 1.4: SPECIAL CONDITIONS OF CONTRACT

### 1.4.1 DESCRIPTION OF THIS PROJECT

- (a) The Municipality of Mossel Bay is currently in the process of establishing a Joint Operations and Disaster Management Centre that will be accommodating various compliments of municipal departments and community safety organisations. A long-standing requirement of a suitable Data Centre for the municipal systems Disaster Recovery site, is now also being addressed with the building and equipping of this Data Centre within this new Joint Operations and Disaster Management Centre. Certain aspects of the Data Centre room are done and dealt with through the civil tender process of the erection and modification of the Joint Operations and Disaster Management Centre. Therefor you will notice that certain aspects are not included in this tender as it normally would have been.

(b) **Joint Operations Centre Address**

- **Address:** 17<sup>th</sup> Avenue, Mossel Bay, 6506
- **GPS Co-ordinates:** Latitude: 34°11'22.36"S      Longitude: 22° 7'55.25"E

### 1.4.2 TENDER REQUEST

- 1.4.2.1 Mossel Bay Municipality hereby invites written submissions from suitably qualified institutions to equip, install and implement the entire server room to comply with a 2-hour fire rating based on internationally accepted standards.

- 1.4.2.2 The prospective service provider is required to do a submission in respect of the scope of work set out below:

- (a) Supply, Install and commission new raised flooring;
- (b) Supply, Install and commission new UPS;
- (c) Supply, Install and commission new environmental monitoring system;
- (d) Supply, Install and commission new server cabinets;
- (e) Supply FortiGate or similar approved firewall hardware;
- (f) Supply, Install and commission electrical reticulation in server room and connection of ups power;
- (g) Supply, Install and commission CO2 fire extinguisher and all needed signage for a Data Centre;
- (h) Provide on completion a 2-hour fireproof certificate for the Data Centre;
- (i) Provide a detailed drawing and plan of the new construction including that of the electrical work done;
- (j) Move the current server cabinets at the DR site to the new Data Centre.

### 1.4.3 Functionality

- (a) Tenders will be evaluated on the functionality criteria as set out below. Bidders that score less than **30 out of 45 points** for these criteria will be regarded as non-responsive and will not be evaluated on price and B-BBEE. Unclear, vague, fragmented or incomplete information provided will result in no points being allocated.
- (b) Bidders must ensure that relevant information is submitted. If information is not submitted or referred to as an attachment, no points will be awarded.
- (c) The following criteria will be used to calculate points for the functionality of tenders and bidders should ensure that they submit all information in order to be pre-evaluated on the criteria mentioned below:

NR	CRITERIA	MAXIMUM POINTS	BIDDER SCORE
1	Company (or JV) Experience ( <b>Establishing of Data Centres</b> )	30	
2	References Related to <b>Establishing of Data Centres</b>	15	
<b>TOTAL</b>		<b>45</b>	

Functionality criteria are further divided as follows and points will be awarded as indicated below:

#### **Criterion 1: Company (or JV) Experience**

- (a) A maximum of **30** points will be awarded at the sole discretion of the Municipality's Bid Evaluation Committee based on the information provided. Please note that this section refers to the Company's and its legacy firms past experience. Meaning this section takes into consideration that the company as an entity has gained relevant experience in the past and showcase that the company is in the business of said Scope of Works.
- (b) Relevant experience is defined as the accumulation of knowledge or skill that results from direct participation in relevant/similar events or activities and/or as determined by the Mossel Bay Municipality.

<b>Experience required:</b> Successfully completed projects related to <b>Establishing of Data Centres</b>	<b>Maximum points</b>	<b>Bidder Score</b>
1 year but up to 3 year's total relevant experience in <b>Establishing of Data Centres</b>	<b>15</b>	

More than 3 years, but up to 5 years total relevant experience in <b>Establishing of Data Centres</b>	20	
More than 5 years total relevant experience in <b>Establishing of Data Centres</b>	30	
<b>Total</b>		

- (c) In order to claim points for the above, bidders must submit sufficient information as well as documentary proof of experience relating to **Establishing of Data Centres**, by means of **completion certificates and appointment letters**.
- (d) Points will only be awarded for **relevant & completed experience** obtained relevant to the Tender Scope of Works. To be able to gain points the Tenderer must submit proof that the company has obtained the relevant experience for this Tender's Scope of Works & Specifications, and not only parts thereof. If experience is listed, please ensure it is applicable and relevant to the whole of this Tender and not only to parts thereof, otherwise the Bidder will not be awarded the necessary points. **Tenderers to provide enough experience to score the total points as prescribed e.g. in order to claim 30 points, relevant projects should be listed for projects that was done in the last five (5) years or longer.**

NB: If no information is provided below OR referred to as an additional attachment **NO POINTS WILL BE AWARDED**.

Employer/Client	Nature of work/Scope of work (A full breakdown of the scope to be submitted)	Value of Work (incl. VAT)	Start and completion date (month and year) Duration
			Start Completion Duration
			Start Completion Duration
			Start Completion Duration
			Start Completion Duration

Employer/Client	Nature of work/Scope of work (A full breakdown of the scope to be submitted)	Value of Work (incl. VAT)	Start and completion date (month and year) Duration
			Start Completion Duration
			Start Completion Duration
			Start Completion Duration
			Start Completion Duration
			Start Completion Duration

## **Criterion 2: References related to Experience in Construction of Data Centres**

Please note that this section refers to the Company's and its legacy firms' references related to the experience. It also takes into account that the references are related & relevant to **Establishing of Data Centres**.

Bidders should provide copies of three (3) reference letters, on an official letterhead of the reference, in relation to the experience gained on projects relevant to **Establishing of Data Centres**.

The following detail should be included in the reference letter:

- Detail of the work that have been successfully completed (**Establishing of Data Centres**).
- Was the work completed within the contractual time frame.
- Was the work completed within the Contract Price / Amount /Budget / Project programme/schedule. Meaning did the contractor keep to his budget and Scope of Works and not overspend without provisional approval and keep to the programme/schedule?
- Compliance with the Occupational Health & Safety regulations on the project.
- General performance on the project.

The letter should also include who the contact person is with all his/her detail.

OR

Bidders can provide their references with the attached questionnaire (see attachment A), which have to be completed and signed by the references.

The Municipality/Consultant reserves the right to validate and verify the information from the references or to ask more questions or proof to satisfy the evaluation process.

Please note that points will not overlap, meaning points are awarded only once per reference/company/entity *per project experience*. Please refrain from submitting multiple references from the same company on the same project.

Please note it is the duty of the Bidder to ensure that the references given are relevant to the Scope of Works.

- Reference Scoring: A maximum of **15** points will be awarded at the sole discretion of the Municipality's Bid Evaluation Committee based on the information provided and will be split as follows.
- In order to claim points, bidders must submit, with the tender document, three reference letters or questionnaires to which the abovementioned Experience have been provided.
- These references letters or questionnaires must be current/most recent, relevant and related to the Experience submitted. **The letters must not be older than five (5) years.**
- It is the bidders' responsibility to ensure that the details provided are correct, before submitting his tender, and that the references will be available and be able to provide additional feedback, if necessary.
- If the references are unable to validate, verify or provide additional information on the projects, no points will be awarded for that particular reference.
- 5 points will be awarded for each reference letter or questionnaire which is positive and relevant to the Scope of Works of this contract, subject to the final discretion of the Bid Evaluation Committee.

NB: If no reference letters or questionnaires are attached **NO POINTS WILL BE AWARDED. COMPLETION CERTIFICATES AND/OR APPOINTMENT LETTERS WILL NOT BE ACCEPTED FOR THIS CRITERIA.**

# ATTACHMENT A

Question to Reference	Reference's Response
1. Detail of the work that have been successfully completed projects relating to <b>Establishing of Data Centres.</b>	<p>.....</p> <p>.....</p> <p>.....</p>
2. Was the work completed within the contractual time frame?	<p>Yes .....</p> <p>No.....</p> <p>If No, please state why:</p> <p>.....</p>
3. Was the work completed within the contract amount?	<p>Yes .....</p> <p>No.....</p> <p>If No, please state why:</p> <p>.....</p>
4. Did the contractor comply with the Occupational Health & Safety regulations on site?	<p>Yes .....</p> <p>No.....</p> <p>If No, please state why:</p> <p>.....</p>
5. In general were you satisfied with their performance - thus would you recommend them for this Tender considering all of above?	<p>Yes .....</p> <p>No.....</p> <p>If No, please state why:</p> <p>.....</p>

.....  
NAME OF REFERENCE

.....  
SIGNATURE

.....  
CONTACT PERSON & TELEPHONE NUMBER

.....  
DATE

<p style="text-align: center;"><b>STAMP OF REFERENCE</b></p>
--

Bidder's Tip: Put yourself in the Municipality's shoes and score yourself to make sure you obtain the points you deserve and as stipulated above. If we ask for proof, ensure that the proof is given otherwise those points will not be allocated.

## **JOINT VENTURES**

The evaluation of functionality regarding a Consortium or Joint venture, will be performed as follows:

For company experience the evaluation is based on the experience of the partner with the highest/longest experience record;

For the evaluation of the project team, if applicable, at least one of the Project leaders must be an employee with the leading partner of the consortium or joint venture. The leading partner of the consortium or joint venture is determined by the shareholding regarding the liability, which is included in the consortium or joint venture agreement.

If required for the evaluation of the financial ratings, if not issued for the consortium or joint venture specifically, the rating of the leading partner will be use in the assessment.

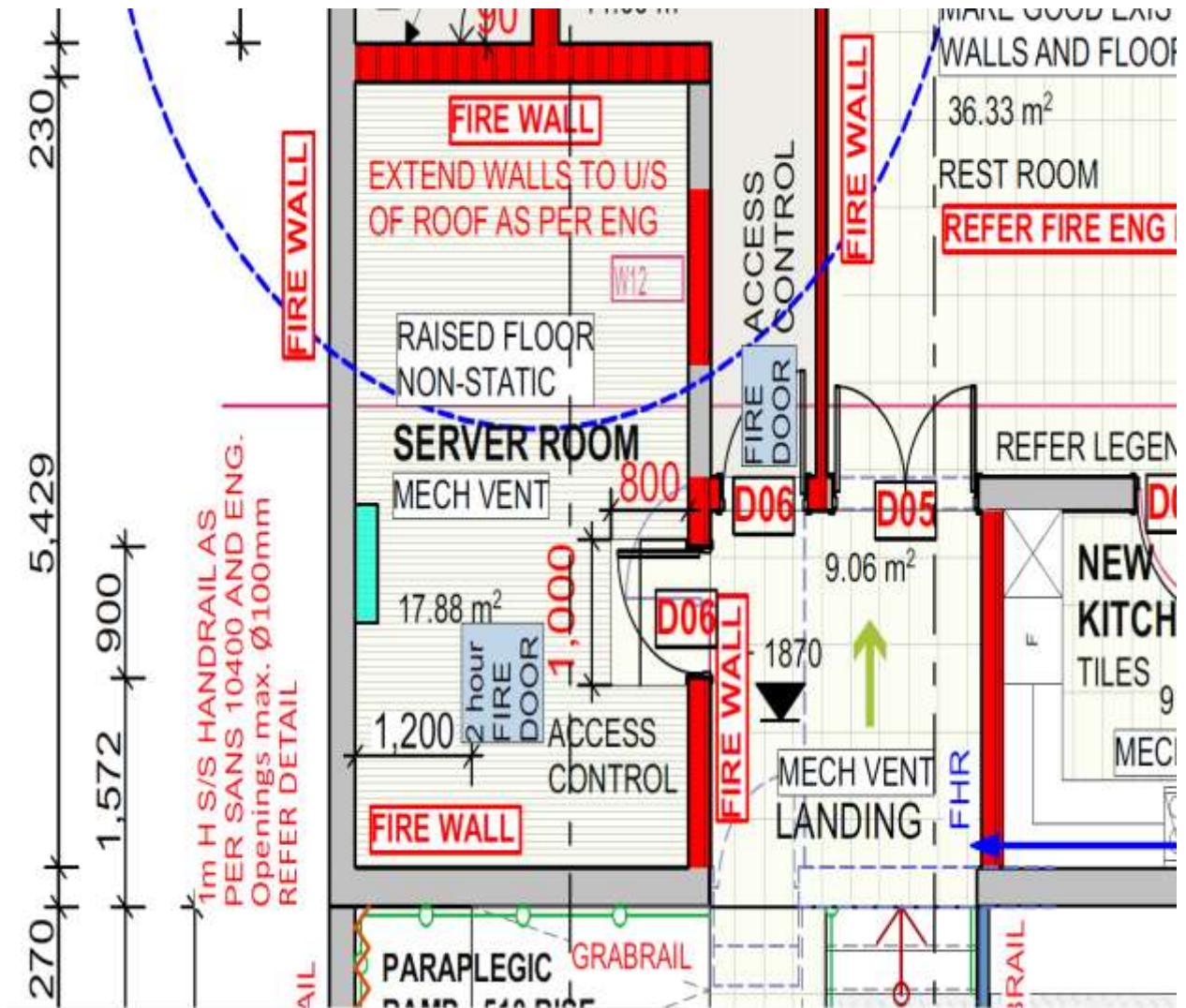
The designated Project leaders, if applicable, may not be changed without the prior approval of the accounting officer or his/her nominated person once the bid was awarded.



## SECTION 2.1: SPECIFICATIONS

<b>RAISED ACCESS FLOORING</b>
Install new access floor 300mm high- HPL Covering
Install a step at Entrance
Install Stair nosing with rubber non slip finish
Install Cadesda tiles or similar approved Grey with no slip finish for Entrance
Supply Double suction Cup lifter
Cut cable entry holes 120mm x 120mm
<b>FORTIGATE FIREWALL</b>
FG-200E-BDL-950-36 FortiGate-200E Hardware plus 3 Year 24x7 Forti Care and FortiGuard Unified Threat Protection (UTP)
<b>ROOM ALERT RE 12E SERVER ROOM ALERT ENVIRONMENTAL MONITORING SYSTEM</b>
Room Alert 12E (POE - 1U Rack, Standard) Environmental Monitoring System with Temperature Sensing
External Digital Temperature and Humidity Sensor with 7.5m Cable
Power Outage Sensor
Room Alert Push Notification Software and App
Labour to Install and Commission System
<b>ELECTRICAL RETICULATION IN SERVER ROOM AND CONNECTION OF UPS POWER</b>
Electrical Connection of UPS to New DB in Server Room
Supply and Install 32 Amp Hubble Plugs (Female) from Dedicated 32 Amp Circuit Breakers in UPS DB (A and B Feed for Racks)
Supply and Install 32 Amp Male Socket Plugs for Dedicated Power Supply to Racks
Power Strips (PDU) for Cabinets (2 per Cabinet)
Dedicated Power Plugs (Red Plugs) Under Raised floor
Installation of Dedicated Earth (Earth Spike, cable and trunking) for Earthing Cabinets (1 Ohm)
Issue Certificate of Compliance for Electrical Work

<b>SERVER ROOM AND BUILDING DEDICATED CIRCUITS: JUPITER 30kVA - 3Ph On-Line UPS with Large Battery Capacity</b>
JUPITER 30kVA - Three Phase On-Line Double Conversion UPS with Large Charger
12V100A/H Batteries for One to Two Hours Battery Back-Up Time
Battery Cabinet and DC Cabling and DC Isolator
Delivery to Site
Installation and Commissioning of UPS and Batteries excluding electrical cabling
<b>FIRE ALARM AND SUPPRESSION SYSTEM</b>
Signage
5kg handheld CO2 Fire Extinguishers and Backing Boards
Labour to Install and Commission System
<b>SERVER CABINET SYSTEM</b>
Supply and Install Cattex or similar approved 48U (600mm x 1050mm) Server Cabinet with perforated doors and Fans
Blanking Plates as required
Move Installation of Existing Cabinets
<b>PROJECT MANAGEMENT, LOGISTICS AND TRAINING</b>
Project Management
Travelling
Training of implemented systems



## SECTION 2.2: PRICING DATA

Pricing Instructions mean the criteria as set out below, read together with all Parts of this contract document, which it will be assumed in the contract that the tenderer has taken into account when developing his prices.

- 2.2.1 The short descriptions and category number given in the pricing schedule below are brief descriptions used to identify the activities for which prices are required.
- 2.2.2 While it is entirely at the tenderer's discretion as regards to the pricing schedule below, guideline tariffs of fees or indicative time based fee rates are gazetted annually, which are useful documents that will give tenderers some idea of industry norms against which they may compare their rates, sums, percentage fees and/or prices as applicable.
- 2.2.3 For the purpose of the pricing schedule, the following words shall have the meanings hereby assigned to them:
  - Unit: The unit of measurement for each item.
  - Quantity: The number of units of work for each item.
  - Rate: The agreed payment per unit of measurement.
  - Amount: The product of the quantity and the agreed rate for an item.
- 2.2.4 A rate, sum, percentage fee and/or price as applicable, is to be entered against each item in the pricing schedule. An item against which no price is entered will be considered as a no offer and will not be evaluated.
- 2.2.5 The rates, sums, percentage fees and prices in the pricing schedule are to be fully inclusive prices described under the several items. Such prices and rates are to cover all costs and expenses that may be required in and for the execution of the work described, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract Data, as well as overhead charges and profit.
- 2.2.6 Where quantities are given in the pricing schedule, these are provisional and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in the pricing schedule. In respect of time based services, the allocation of staff must be agreed with the employer before such services are rendered.
- 2.2.7 All rates, sum, percentage fees or prices (as applicable) tendered in the pricing schedule shall be final and binding throughout the period of the contract.
- 2.2.8 Prices should be inclusive of VAT and all other costs to execute the project.
- 2.2.9 Only firm pricing will be accepted, non-firm prices (including prices subject to rates of exchange variations) will not be considered.
- 2.2.10 Bidders are required to comply with the prescribed pricing schedule below. No pricing schedules other than the pricing schedule as stated will be accepted and **failure to adhere to this section will be seen as submitting a non-responsive bid.**
- 2.2.11 Alternative bidders may be appointed, depending on the responsiveness of the bids received.

Nr	Description	Total Amount (inclusive of VAT)
1.	Raised access flooring	
2.	FortiGate firewall	
3.	Room alert re 12e server room alert environmental monitoring system	
4.	Electrical reticulation in server room and connection of ups power	
5.	SERVER ROOM AND BUILDING DEDICATED CIRCUITS: JUPITER 30kva - 3Ph On-Line UPS with Large Battery Capacity	
6.	Fire alarm and suppression system	
7.	Server cabinet system	
8.	Project management, logistics and training	
Total Amount (inclusive of VAT)		

**SECTION 3.1: MBD1: BID FOR THE REQUIREMENTS OF THE MUNICIPALITY OF MOSSEL BAY  
PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE MOSSEL BAY MUNICIPALITY</b>					
BID NUMBER:	<b>TDR250/2021/2022</b>	CLOSING DATE:	<b>03 DECEMBER 2021</b>	CLOSING TIME:	<b>12:00</b>
DESCRIPTION	<b>ESTABLISHMENT OF A DATA CENTRE AT THE JOINT OPERATIONS AND MANAGEMENT CENTRE FOR THE MOSSEL BAY MUNICIPALITY</b>				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT:

<b>The Tender Box</b> <b>Mossel Bay Municipality</b> <b>P O Box 25</b> <b>MOSSEL BAY</b> <b>6500</b>					
<b>Or</b>					
<b>deposited in the tender box situated at the Entrance of the Mossel Bay Town Hall, 101 Marsh Street, Mossel Bay</b>					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		<b>OR</b>	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		<input type="checkbox"/> Yes <input type="checkbox"/> No

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

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE	R
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	SCM	CONTACT PERSON	Mr André Fraser
CONTACT PERSON	Ms Unchin Kannemeyer	TELEPHONE NUMBER	(044) 606-5050
TELEPHONE NUMBER	(044) 606-5192	FACSIMILE NUMBER	N/A
FACSIMILE NUMBER	N/A	E-MAIL ADDRESS	afraser@mosselbay.gov.za
E-MAIL ADDRESS	ukannemeyer@mosselbay.gov.za		

**PART B**  
**TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>										
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – (NOT TO BE RE-TYPED) OR ONLINE</b></p> <p>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.</p>										
<b>2. TAX COMPLIANCE REQUIREMENTS</b>										
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>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.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>										
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>										
<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</td> <td style="width: 30%; text-align: right;"> <input type="checkbox"/> YES   <input type="checkbox"/> NO         </td> </tr> <tr> <td>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?</td> <td style="text-align: right;"> <input type="checkbox"/> YES   <input type="checkbox"/> NO         </td> </tr> <tr> <td>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</td> <td style="text-align: right;"> <input type="checkbox"/> YES   <input type="checkbox"/> NO         </td> </tr> <tr> <td>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?</td> <td style="text-align: right;"> <input type="checkbox"/> YES   <input type="checkbox"/> NO         </td> </tr> <tr> <td>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?</td> <td style="text-align: right;"> <input type="checkbox"/> YES   <input type="checkbox"/> NO         </td> </tr> </table> <p><b>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.</b></p>	3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO									

**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.**

SIGNATURE OF BIDDER: .....

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

DATE: .....



## SECTION 4.1 MBD4: 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 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 or 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 / shareholder's members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.
  - 3.8 Are you presently in the service of the state? **YES / NO**
    - 3.8.1 If so, furnish particulars.  
.....

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

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

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

3.9.1 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? **YES / NO**

3.10.1 If so, furnish the following particulars:

.....

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

3.11.1 If so, furnish particulars

.....

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

3.12.1 If so, furnish particulars.

.....

3.13.1 Are any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in service of the state? **YES / NO**

3.13.2 If so, furnish particulars.....

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

3.14.1 If yes, furnish particulars:.....

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

Full Name	Identity Number	State Employee Number	Income Tax Number

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**SECTION 4.2: 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 during the past three years.  
.....  
.....  
.....
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 to be sourced from outside the Republic and, if so, what portion and whether any portion of payment from the municipality entity is expected to be transferred out of the Republic? **YES/NO**
- 4.1 If yes, furnish particulars.  
.....  
.....  
.....

### **SECTION 4.3 MDB 6.1: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017**

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

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

---

#### **1. GENERAL CONDITIONS**

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

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

1.2 The value of this bid is estimated to not exceed R50 000 000 or to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 or 90/10 preference point system shall be applicable; or

1.3 Points for this bid shall be awarded for:

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

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

	<b>POINTS</b>	<b>POINTS</b>
<b>PRICE</b>	80	90
<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	20	10
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

## 2. DEFINITIONS

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

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

**80/20**

**or**

**90/10**

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

Where

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

$P_{\min}$  = Price of lowest acceptable bid

#### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

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

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

#### 5. BID DECLARATION

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

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

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

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

#### 7. SUB-CONTRACTING

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

(*Tick applicable box*)

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

- 7.1.1 If yes, indicate:

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

**(Tick applicable box)**

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

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

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

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

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]



**8.7 MUNICIPAL INFORMATION**

**Municipality where business is situated:** .....

**Registered Account Number:** .....

**Stand Number:**.....

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

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

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

**WITNESSES**

- 1. ....
- 2. ....

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

**DATE:** .....

**ADDRESS:** .....

.....

.....

**SECTION 4.4: MUNICIPAL RATES AND SERVICES**

Names of Directors/Partners/Senior Managers	Physical residential address of the Director/Partner/Senior Manager	Residential Municipal Account number(s)	Name of Municipality

**NB: Please attach copy/copies of Municipal Account(s)**

**DECLARATION**

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

#### SECTION 4.5: AUTHORITY FOR SIGNATORY

We, the undersigned, hereby authorize Mr / Mrs ..... acting in his/her capacity

as ..... of the business trading as ..... to sign all

documentation in connection with Tender .....

NAME OF MEMBERS / DIRECTORS	SIGNATURE	DATE

Note: If bidders attached a copy of their Authorised Signatory is it not necessary to complete this form.

#### SECTION 4.6: MBD8: 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. wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector?</p> <p><b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the audi alteram partem rule was applied).</b></p> <p><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p><b>The Register Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>

4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court 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 owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

### CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME) .....CERTIFY THAT THE**

**INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.**

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

## **SECTION 4.7     MBD 9: 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 (MBD9) must be completed and submitted with the bid:

<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.

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

**TDR250/2021/2022: ESTABLISHMENT OF A DATA CENTRE AT THE JOINT OPERATIONS AND MANAGEMENT  
CENTRE FOR THE MOSSEL BAY MUNICIPALITY**

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or 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. 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

<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.



## SECTION 5: DECLARATION

1. I hereby declare that I have read, understood, agree and comply with all of the sections below, if included, that it shall be deemed to form and be construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Technical Specification(s);
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations, 2017;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
2. I confirm that I am duly authorised to sign this document.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

### WITNESSES

1 .....

2. ....

DATE: .....

**SECTION 6: CONTRACT FORM: PART 1 (TO BE FILLED IN BY THE BIDDER)****MBD 7.1**

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

1. 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 for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations, 2017;
  - Declaration of interest;
  - Declaration of bidder's past SCM practices;
  - Certificate of Independent Bid Determination
  - Special Conditions of Contract;
- (ii) General Conditions of Contract; and
- (iii) Other (specify)

2. 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.

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 fulfilment of this contract.

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

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

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

**WITNESSES**

1 .....

3. ....

DATE: .....

**SECTION 6: CONTRACT FORM: PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as **Director: Corporate Services**  
accept your bid under reference number **TDR250/2021/2022** 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.

ITEM NO	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

--

WITNESSES

1. ....

2. ....

DATE .....

## **MOSSEL BAY MUNICIPALITY**

### **HEALTH AND SAFETY SPECIFICATIONS**

**HEALTH AND SAFETY SPECIFICATION FOR PRINCIPAL CONTRACTORS (for works where Mossel Bay Municipality appoints the contractor as the principal contractor for construction work)**

#### **1. GENERAL**

##### **1.1 Application**

This Health & Safety Specification applies to all contractors who carry out work at MOSSEL BAY Municipality's premises, where the contractor is appointed principal contractor under the Occupational Health and Safety Act 85 Of 1993.

##### **1.2 Definitions**

In this Health & Safety Specification:

- 1.2.1 Competent person has the meaning given in the Construction Regulations 2014 promulgated GNR 84 of 07 February 2014.
- 1.2.2 Contractor means a person, corporation or other entity that carries out work for MOSSEL BAY MUNICIPALITY.
- 1.2.3 Employee includes a person engaged by the Contractor as a sub-contractor and a person employed or engaged by a sub-contractor.
- 1.2.4 OHS Act means the Occupational Health and Safety Act 85 of 1993.
- 1.2.5 OHS Regulation means the Occupational Health and Safety Regulation promulgated under the Occupational Health and Safety Act 85 of 1993.
- 1.2.6 Work Cover means the cover under the Compensation for Injuries and Diseases Act 130 of 1993.

##### **1.3 Comply with Statutory Laws**

- 1.3.1 The Contractor must comply with, and must ensure that its employees and visitors comply with, all relevant and applicable laws, codes, standards, guidelines, rules, policies and procedures relating to health and safety in the work-place.

#### **2 WORKING AT MOSSEL BAY MUNICIPALITY'S PREMISES**

##### **2.1 Hazard Identification and Risk Assessment**

Before carrying out any work at MOSSEL BAY Municipality's premises the Contractor must, in consultation with MOSSEL BAY MUNICIPALITY:

- 2.1.1 identify any foreseeable hazard associated with the place of work and the work to be carried out by the Contractor, that has the potential to harm the health or safety of any person,
- 2.1.2 assess the risk of harm to the health or safety of any person arising from any hazard identified, and
- 2.1.3 eliminate any reasonably foreseeable risk to the health or safety of any person arising from any hazard identified or, if it is not reasonably practicable to eliminate the risk, develop measures or procedures to effectively control the risk.

## **2.2 Review of Risk Assessments and Control Measures**

- The Contractor must review a risk assessment, and any measures adopted to control the risk, whenever:
- 2.2.1 there is evidence that the risk assessment is no longer valid, or
  - 2.2.2 injury or illness results from exposure to a hazard to which the risk assessment relates, or
  - 2.2.3 a significant change is proposed in the place of work, the scope of work or in work practices or procedures to which the risk assessment relates.

## **2.3 Competence of Employees**

- The Contractor must ensure that each employee:
- 2.3.1 has the necessary skills, knowledge, qualifications, training, competence and experience, and
  - 2.3.2 has appropriate verbal and written language skills and the necessary literacy, to carry out the work, including qualifications, certification and competencies required under the OHS Act 85 Of 1993 and the OHS Regulations.

## **2.4 Medical Fitness of Employees**

- The Construction regulations stipulate that all employees on site must be medically fit to perform their duties.
- 2.4.1 The principal contractor must ensure that all employees are medically fit for work and must be able to provide proof of medical certificates in the form of Annexure 3 or company specific document. The medical certificates must be issued by an Occupational Health Practitioner registered with the Health Professional Council of South Africa (HPCSA) or a person who holds a qualification in Occupational Health recognised as such by the South African Medical and Dental Council as referred to in the Medical, Dental and Supplementary Health Service Professions Act, 1974(Act No. 56 of 1974) or the South African Nursing Council as referred to in the Nursing Act, 1978(Act No. 50 of 1978).
  - 2.4.2 The principal contractor must ensure that all employees on site being exposed to or coming into contact with pathogens and hazardous biological agents by working at waste transfer stations and refuse removal must be inoculated against Hepatitis A and B to contain the contraction of occupational diseases by being exposed to hazardous biological agents. The principal contractor shall keep proof of inoculations of employees on file and it shall be made available upon request.

## **2.5 Supervision of Employees**

- 2.5.1 The Contractor must ensure that the Contractor's employees are adequately supervised by a competent person while carrying out work at MOSSEL BAY Municipality's premises.

## **2.6 Personal Protective Equipment**

- The Contractor must ensure that each person carrying out work at or visiting MOSSEL BAY Municipality's premises:
- 2.6.1 Is provided with, and wears at all times if necessary, all the appropriate personal protective equipment including if required, but not limited to:
    - (a) head protection (safety helmet),
    - (b) protective footwear (lace-up with steel toe protector),
    - (c) hearing protectors (including ear plugs, ear canal caps, ear muffs and hearing protective helmets),
    - (d) eye protection equipment (including safety glasses or goggles (with sun protection where necessary), wide-vision goggles, face shield and hood),
    - (e) respiratory protection (including particulate respirator, gas filter respirator and supplied air respirator),
    - (f) hand protection (including safety gloves),
    - (g) wet weather clothing and footwear,
    - (h) sun protection cream when exposed to excessive sun,
    - (i) high visibility safety clothing or safety vests when working close to moving traffic or construction vehicles.

- (j) Is informed of any limitations of the equipment, and
- (j) Is provided with the instruction and training necessary to ensure that the equipment controls the risk for which it is provided.

## **2.7 Contractor's Plant and Equipment**

The Contractor must:

- 2.7.1 Comply with, and ensure that all plant complies with, the requirements of the applicable OHS Regulations, including in particular the requirements of:
  - (a) Design, manufacture and registration of plant,
  - (b) Supply of plant, and
  - (c) Working with plant,
- 2.7.2 Ensure that all hazards arising from the installation, commissioning, erection and use of plant, and the systems of work associated with plant, are identified and the consequent risks assessed and eliminated or controlled,
- 2.7.3 Ensure that all plant is properly inspected, maintained, repaired and cleaned by a competent person in accordance with the requirements of the OHS Regulation and manufacturers' procedures, specifications or instructions, ensure that each employee who will be operating plant:
  - (a) holds any licence or certificate necessary to operate the plant, and
  - (b) has been provided with adequate information and training in the inspection, use, operation, maintenance and care of the plant.

## **2.8 Certification of Employees**

The Contractor must ensure that:

- 2.8.1 each employee who will be carrying out scheduled work under the Construction regulations holds a recognised qualification or a certificate of competency issued by an approved training authority
- 2.8.2 each employee who will be carrying out formwork and scaffolding or who will be operating or using explosive-powered tools holds a certificate of competency.
- 2.8.3 each employee who will be operating a construction vehicle or mobile plant must be in possession of a certificate of competency issued by an approved accredited training authority.

## **2.9 Signs**

- 2.9.1 The Contractor must place or erect signs stating the Contractor's name and contact telephone numbers (including an after-hours emergency telephone number) on each construction site for which the Contractor is appointed principal contractor. The signs must be clearly visible from outside the site.

# **3. CONSTRUCTION WORK**

## **3.1 Contractor Health & Safety Plan**

- 3.1.1 The Principal Contractor must ensure that where construction work carried out under the requirements of the Construction Regulations, a Health & Safety Plan (HSP) is prepared. The Contractor must ensure that the HSP is provided to MOSSEL BAY MUNICIPALITY for review and approval before work commences.

## **3.2 Site-specific Health & Safety Plan**

The Contractor must ensure that a Site-specific Health & Safety Plan is prepared for each place of work at which construction work is to be carried out. In particular, the Contractor must ensure that:

- 3.2.1 the Health & Safety Plan is prepared in accordance with the OHS Act 85 of 1993 and Regulations and the Health & Safety Specification,

- 3.2.2 the Health & Safety Plan is maintained and kept up to date during the course of the work in relation to which the Contractor has been appointed principal contractor, and
- 3.2.3 the Health & Safety Plan is kept at the construction site and is made available for inspection by any person working at or about to commence working at the site, an employee member of an OHS committee, an OHS representative, a person elected by the persons employed at the site to represent a group of employees on health and safety matters or (if the employees agree) an appropriate representative of an industrial organisation of employees.

### **3.3 Safe Work Method Statements**

- 3.3.1 The Contractor must ensure that safe work method statements (whether prepared by the Contractor or its sub-contractors) are prepared in accordance with the Construction Regulations in order to manage high risk activities and signed off by the Contractor.

### **3.4 Sub-Contractors**

The Contractor must ensure that:

- 3.4.1 a copy of the Site-specific Contractor's Health & Safety Plan is provided to each sub-contractor before the sub-contractor commences work at the construction site,
- 3.4.2 if any change is made to the Health & Safety Plan, a copy of any part that has been changed and that is relevant to a sub-contractor is provided to the sub-contractor as soon as practicable after the change is made,
- 3.4.3 each sub-contractor, before commencing work at the site, provides the Contractor with a written safe work method statement for the work to be carried out by the sub-contractor,
- 3.4.4 each sub-contractor is directed to comply with:
  - (a) the safe work method statement that the sub-contractor has provided, and
  - (b) the requirements of the OHS Act and the OHS Regulation,
- 3.4.5 the sub-contractor's activities are monitored to the extent necessary to determine whether the sub-contractor is complying with:
  - (a) the safe work method statement, and
  - (b) the requirements of the OHS Act and the OHS Regulation, and
- 3.4.6 if the sub-contractor is not complying, the sub-contractor is directed to take action immediately to comply with the safe work method statement or the requirements of the OHS Act and the OHS Regulation, or both, and
- 3.4.7 if a risk to the health or safety of a person arises because of the non-compliance, the sub-contractor is directed to stop work immediately and not to resume work until the safe work method statement or those requirements, or both, are complied with, unless an immediate cessation of work is likely to increase the risk to health and safety, in which event the sub-contractor must be directed to stop work as soon as it is safe to do so.

### **3.5 Induction Training**

- 3.5.1 Before the Contractor commences carrying out construction work at MOSSEL BAY MUNICIPALITY's premises the Contractor must ensure that each person who will be carrying out construction work has been inducted by the contractor and record thereof to be recorded in a register as proof.

#### **3.5.2 Provision of Further OHS Induction Training**

The Contractor must:

- (a) identify any change in the construction site, and in the activities performed by each person carrying out construction work at the site, that might affect the health or safety of any person on the site, and
- (b) if any such change is identified, ensure that each person carrying out work at the site undergoes such work activity based health and safety induction training or site-specific health and safety induction training as is necessary to enable the person to carry out that work safely despite the change.

### **3.5.3 Visitors**

The Contractor must ensure:

(a) that each visitor is provided with all information, instruction, training and personal protective equipment necessary to ensure the visitor's health and safety while at the site.

### **3.6 Safety briefings ('Toolbox Talks')**

The Contractor must:

- 3.6.1 conduct safety briefings ('Toolbox Talks' or pre-work briefings) weekly or before the commencement of each week to discuss the work and deal with problems to be addressed by persons working at the construction site (including hazards associated with the site and the work to be carried out and existing and proposed measures or procedures to control any reasonably foreseeable risk to the health or safety of any person),
- 3.6.2 conduct a safety briefing whenever the Contractor identifies any change in the construction site, and in the activities performed by each person carrying out construction work at the site, that might affect the health or safety of any person on the site,
- 3.6.3 ensure that each person working at the construction site attends any safety briefing, and
- 3.6.4 keep a record of each safety briefing including:
  - (a) the date, time and location of the safety briefing,
  - (b) the specific topics and issues discussed, and
  - (c) the names and signatures of the attendees.

### **3.7 Site Access**

- 3.7.1 The Contractor must ensure that vehicular and pedestrian access to and exit from the construction site is strictly controlled in accordance with appropriate procedures. In particular, the Contractor must ensure that procedures to control and prevent unauthorised entry to the site require:
  - (a) all employees and visitors to sign a visitors' book on entering the site,
  - (b) all visitors to be accompanied at all times by a person who has been provided with OHS induction training.

### **3.8 Hazardous Substances and Dangerous Goods**

- 3.8.1 The Contractor must ensure that a register containing details of all hazardous substances and dangerous goods being used, stored or handled at each place of work at which work in relation to which the Contractor has been appointed principal contractor is carried out is kept and maintained at the place of work while work is being carried out.
- 3.8.2 The disposal of any hazardous substances by contractors must be carried out according regulatory requirements. Proof of the safe disposal of substances needs to be submitted by the contractor upon request by any interested and effected parties.
- 3.8.3 The Contractor must ensure that Material Safety Data Sheets are available for all hazardous substances used, stored or handled at each place of work for information and training of personnel.
- 3.8.4 The Contractor must submit an Emergency Response Plan and Procedure to the Client to address any spillage of hazardous substances and dangerous goods and include traffic management plan to manage traffic control should such incident occur on a public road.

### **3.9 Asbestos Containing Materials**

- 3.9.1 All materials containing asbestos must be handled as per prescriptions stipulated in the Asbestos Regulations 2001.
- 3.9.2 A plan of work for all Asbestos related works must be completed by the contractor and approved by an Accredited Inspection Authority. This plan of works must be submitted to Department of Labour 14 days prior to work commencing on site.



- 3.9.3 All employees exposed to working conditions and elements containing Asbestos must be trained in handling Asbestos containing materials and proof of such training must be provide by the contractor. Training to be conducted by an accredited training institution.
- 3.9.4 All personnel on site shall wear the required personal protective equipment at all times while handling asbestos and the applicable equipment must also be handled as such.

### **3.10 Confined Spaces**

- 3.10.1 The contractor must ensure that all persons on site conform to the stipulations for working in confined Spaces as specified in terms of General Safety Regulation 5 and that everyone on site adhere to these stipulations at all times.

### **3.11 Compliance with OHS Act & Regulations**

The tendered sum shall include full compensation to the Contractor for compliance with all the requirements of the OHS Act and Regulations at all times for the full duration of the contract. Please note that the Contractor must supply proof that the following conditions of the OHS Act and applicable Regulations has been complied with before construction can start:

- 3.11.1 Submission of site-specific Health & Safety Plan to the Engineer/Client Agent appointed for the project and proof of approval of the submitted Health & Safety Plan;
- 3.11.2 Notification of Construction Work to Department of Labour;
- 3.11.3 Notification to any other authority as may be required;

### **3.12 COVID-19 Coronavirus Workplace Measures**

- 3.12.1 The latest COVID-19 pandemic brought about changes in legislation and therefore construction project need to cater for all requirements in terms of the precautionary measures in the workplace to address regulatory matter regarding this virus. The virus is classified as Group IV Hazardous Biological Agent and must be treated as such making the Hazardous Biological Agents Regulations critically important and must be applied in conjunction with all other relevant legislation.
- 3.12.2 In reference to Government Gazette No. 43257 dated 29 April 2020 COVID-19 Occupational Health & Safety Measures in Workplaces (C19 OHS) directive must be adhered to at all times.
- 3.12.3 The contractor must have a policy regarding the measures that will be implemented on site in terms of COVID-19 and the policy requires must be enforced.
- 3.12.4 Risk assessments must be conducted covering all COVID-19 related matters and employees trained on the contents thereof. These risk assessments must be conducted separately and does not form part of other risk assessments conducted for construction activities.
- 3.12.5 Screening in terms of COVID-19 must be conducted and results duly recorded for record purposes.
- 3.12.6 Procedures must be developed and communicated on how the contractor intends to handles possible infections at the workplace as this is a highly contagious occupational disease.
- 3.12.7 All applicable legislation must still be adhered to and these COVID-19 related regulations is not a substitute to other regulations.
- 3.12.8 Social Distancing must be implemented and enhanced in the workplace.
- 3.12.9 Sanitizer consisting of 70% alcohol must be made freely available for all persons on site at all times as well as visitors. Valid Material Safety Data Sheets to be provided for alcohol-based sanitiser that will be used on site.
- 3.12.10 The contractor to provide each employee on site with a mask and no person must be allowed to enter if not wearing a mask and it must be worn at all times.

### **3.13 Audits and Reviews**

- 3.13.1 The Contractor acknowledges and agrees that MOSSEL BAY MUNICIPALITY, may carry out periodic or occasional audits, inspections and reviews of the Contractor's and the Contractor's sub-contractors' safety management systems, plans, practices and performance, using audit and review frameworks established by the client or agent.
- 3.13.2 The Contractor will be required to submit a corrective action plan to MOSSEL BAY MUNICIPALITY on any non-conformances detected during an audit in writing within 5 days.

**Any transgression of the OHS Act 85 of 1993 and Regulations found upon inspection on site will result in OHS penalty of R 2,000.00 per incident/day/site due to negligence of the Contractor, which will be deducted from payment certificates submitted by the Contractor.**

## **ADDENDUM 2: CONTRACTOR MEMORANDUM OF AGREEMENT**

### **MEMORANDUM OF AGREEMENT**

Entered into by and between

#### **MOSSEL BAY MUNICIPALITY**

(hereinafter referred to as "the Municipality")  
of the one part

and

---

(hereinafter referred to as "the Contractor")  
of the other part

WHEREAS the Municipality manages Construction, Installation and Maintenance work on equipment and other infrastructure belonging to the Municipality

AND WHEREAS the Contractor has agreed to carry out the physical execution of such types of Construction, Installation and / or Maintenance work as agreed between the Municipality and the Contractor from time to time.

#### **NOW THEREFORE THE PARTIES AGREE AS FOLLOWS**

The Contractor undertakes to provide the labour, transport, machinery, instruments and material to carry out the Construction, Installation and / or Maintenance work, subject to the following terms and conditions:

#### **1. DEFINITIONS**

For the purpose of this Agreement, and Annexure A attached hereto, unless the context clearly indicates the contrary, the following words and expressions shall have the meaning hereby assigned to them:

- 1.1 "This Agreement" means this Agreement entered into between the parties and Annexure A hereto.
- 1.2 "The Municipality" means Mossel Bay Municipality.
- 1.3 "The Contractor" means \_\_\_\_\_
- 1.4 "Due Date / Time" shall mean the date and time when the work should be completed in terms of the service levels agreed on between the Municipality and the Contractor.
- 1.5 "Effective Date" means the date on which this agreement comes into effect, which shall be the date of signing.
- 1.6 "Equipment" means all types of installed equipment (regardless of make, brand or age) installed in, on or upon the Sites.
- 1.7 "Designer" means the specific Designer contracted by the Municipality to manage Construction, Installation and/or Maintenance work on their behalf.
- 1.8 "Site/s" means any location where the Client Concerned have equipment or infrastructure installed.
- 1.9 "Operation Procedures" means the procedures contained in Annexure A hereto which the Contractor is obliged to follow when performing work on behalf of the company.

## **2. COMMENCEMENT AND DURATION**

- 2.1 Notwithstanding the date of signature of this agreement, this agreement shall commence on the Effective Date and shall, subject to a breach of any of the provisions hereof, continue in force for a ..... month/week period, subject to the right of either party to terminate this agreement on no less than 30 (thirty) days written notice to the other party, provided that:
  - 2.1.1 The duration of the contract may be extended for such a period of time as mutually agreed by the Municipality and the Contractor. Such extension will be noted in a formal letter from the Municipality, signed for acceptance by the Contractor.
  - 2.1.2 No contractor may start work without written authorization of the Municipality.

## **3. OBLIGATIONS OF THE CONTRACTOR**

- 3.1 The work undertaken in terms of this Agreement by the Contractor will be carried out in conformity with all the necessary specifications and requirements prescribed by the Municipality and the Clients Concerned from time to time in respect of Health, Safety, Environmental (HSE) and Technical standards and in strict compliance with:
  - 3.1.1 all and/or any current Statutory Act/s of Parliament of the Government of the Republic of South Africa and any Regulations promulgated under any such Act.
  - 3.1.2 all and/or any existing or new Municipal or Local or Statutory Authority laws, Bye-laws, regulations and or Notices and Proclamations; and
  - 3.1.3 all and/or any current requirements of, or directives received from, any Governmental departments or bodies or Statutory Authorities charged with the administration and/or enforcement of any Acts of Parliament, Municipal or Local or Statutory Authority's Law, Bye Laws regulations and/or Notices and Proclamations.
  - 3.1.4 The Occupational Health and Safety Act 85 of 1993 and OHS Regulations
  - 3.1.5 The Compensation for Occupational Injuries and Diseases Act (130 of 1993), be registered with the Compensation Commissioner and have a letter of good standing
  - 3.1.6 The Wiring regulation or Bye-Laws of the particular Municipality, Local and-or Statutory Authority prevailing in the area where any Site is situated and/or work carried out, or in the absence of such Laws, Bye Laws or Regulations, the Wiring Regulations as sanctioned by the SABS shall apply as the standard.
- 3.2 The Contractor undertakes that while its employees or agents are engaged in the carrying out of construction/installation/repair and/or maintenance work at any of the Sites, they will carry out their duties in such a way as to minimize any interference caused to the operations at the Sites.
- 3.3 The Contractor shall at the request of the Municipality remove from the sites any employee, agent and/or servant who, in the reasonable opinion of the Municipality constitutes a threat to the safe operation of the Site, and this shall not in any way affect the Contractor's obligations under this Agreement.
- 3.4 The Contractor undertakes to pay all its employees at least minimum wages and to comply with all conditions of employment laid down by law including registration in terms of the Workman's Compensation Act, Unemployment Insurance.
- 3.5 The Contractor shall preserve all manufacturer and supplier warranties and guarantees by complying with all pre-conditions relating to the installation, service and maintenance laid down by the manufacturers and suppliers of such equipment and shall, as far as reasonably possible, ensure that such manufacturers and suppliers honour their warranties and guarantees.
- 3.6 Where the Contractor fails to carry out any work within the specified period, the Municipality shall have the right to recover from the Contractor reasonable charges raised by a third party contracted by the Municipality to effect the work, provided that the Municipality shall before instructing such third party warn the Contractor that, in view of its failure to effect the service, a third party is to be instructed to do so unless the Contractor effects the service within a reasonable stipulated period.

- 3.7 It is noted that in terms of the OHS Act, contractors and their employees are not permitted to work under hazardous conditions or on equipment that is unsafe. Except where there is a contractual obligation to render the situation or equipment safe, contract employees will not be required or permitted to work in such situations. Delays and stoppages due to health and safety legal non adherences are the full responsibility of the contractor.
- 3.8 The Contractor will ensure that its personnel are properly and correctly trained and equipped with the appropriate tools, safety clothing and safety equipment and that they carry adequate and correct stock levels of spares and materials to be able to carry out the work safely and without unnecessary interruptions on the Site.
- 3.9 The contractor will carry a minimum guarantee of 12 months on all materials used and on all workmanship. In certain cases, longer guarantees will be required as specific in enquiry documentation.

## ANNEXURE A

### HEALTH, SAFETY AND ENVIRONMENTAL (HSE) RULES

#### 1. INTRODUCTION

Work on buildings and roofs can pose the normal dangers associated with work performed at elevated heights, including the dangers of workman falling from these heights and the dangers to other workers and the general public associated with falling objects.

1.1 Contractor's employees should also be made aware that safety is not only the responsibility of the employer, but that the OHS Act specifically makes provision for the responsibilities of employees. These responsibilities must be clearly understood by all Contractors' employees.

1.2 It is agreed and understood that the nature of the work may be such that a precise work specification is not always possible or practical. Notwithstanding the aforesaid circumstances all work shall be carried out in accordance with the best industry engineering practices and in accordance with the directions and to the satisfaction of the Municipality. Work of a construction nature will conform to the requirements of the Construction Regulations in conjunction with other OHS Act related Regulations and the contractor must provide evidence of the requirements prior to commencement of the contract.

1.3 The Contractor shall inform the Municipality of any hazardous situations that may arise from the work being performed.

1.4 Potential HSE risks associated with work includes but is not limited to those listed in the table below:

HAZARD	TYPICAL CAUSE	REASON	PRECAUTIONS
Fire/Explosion	Gasoline, Kerosene, LPG Diesel Oil	Products with low flash point cause explosive / flammable vapours	No smoking, open fires, machinery to cause sparks, except in demarcated areas
Asbestosis	Prolonged exposure and inhalation of asbestos fibres	Scarring of lung tissue from asbestos fibre inhalation	Wear approved breathing masks when working with asbestos products
Slippery Surfaces	Slippery Walk Ways & Stairways	Oil on slippery surfaces (Metal Walkways)	Wear safety shoes with correct soles
Soil, Pollution, Potential Fire Hazard	Damage to product lines, tanks: Spills	Accidental release of product from pipelines, tanks etc.	Extreme care when excavating/manoeuvring machinery close to lines or tanks. Disconnecting pipelines
Electrocution	Live High Voltage Cables/Switchgear	Accidental contact with live equipment causes serious burns or death	Extreme care when excavating, avoid unauthorised entry into substations, or tampering with cables: lock out systems
Poisoning	Toxic vapours in confined spaces	Inhalation of toxic vapours	Wear self-contained breathing apparatus, avoid unauthorised entry into confined spaces, ensure proper ventilation

HAZARD	TYPICAL CAUSE	REASON	PRECAUTIONS
Asphyxiation	Excess nitrogen or carbon dioxide	Lack of oxygen	Ventilate and refresh atmosphere (if oxygen level is below 19.5% wear breathing apparatus).
Vehicle Accidents	Collision	Vehicle driven without the necessary caution	Drive according to rules, taking into account site conditions, weather and visibility...
Falling from high equipment	Working in an elevated position	Not wearing a safety harness	Wear a safety harness
Crushing (broken limbs)	Disturbing stacked drums/pallets	Destabilising heavy containers causes uncontrolled movement	Avoid storage areas. Identify unsafe stacking.
Amputation of limbs (hands and fingers)	Contact with high speed rotating machinery	Rotating members grab hold of clothing, limbs, etc.	Lock-out rotating machinery before working on it.
Head injury	Objects falling from overhead	Accidental release of object	Wear hard hat on construction site, including visitors. Erect safety nets.
Damage to hearing	Noise from machines	Noise levels above 85 dB for extended periods	Wear hearing protection in demarcated areas, or next to noisy machines
Leg & Ankle Injuries	Objects in walkways, drains, trenches & pits	Stumbling over objects or falling into unprotected pits and drains	Clean up rubble, avoid pits and drains

## 2. GUIDANCE IN CASES OF UNCERTAINTY

- 2.1 If any uncertainty regarding the safety of site working conditions should arise, the Municipality's responsible person for the project, must be contacted immediately for guidance.

## 3. APPOINTMENT OF RESPONSIBLE PERSON

- 3.1 The Contractor's Responsible Person shall at all times have his / her written appointment as well as a copy of these rules close at hand whilst on the work site and shall be fully familiar with the requirements thereof.
- 3.2 The Contractor will allow the Municipality to examine the appointment letter of the Responsible Person during site inspections.
- 3.3 The Contractor will allow the Municipality to test the knowledge of the Contractor's personnel, including that of the Responsible Person, regarding these rules during site inspections.

#### **4. DEMARCATION OF WORK AREAS**

- 4.1 Work areas that pose a potential danger to people and public, must be visibly or structurally cordoned off with barriers, netting or wire-fencing with hazard tape applied in zig-zag formation. The method used must be suitable for the purpose, e.g. physical barriers or fences must be used to prevent people from falling into holes.
- 4.2 The barriers, netting and wire- fencing hazard tape must be neat and clearly visible.
- 4.3 Temporary lighting or effective reflectors shall be implemented if the danger exists that barriers become ineffective during poor visibility or darkness.
- 4.4 Clearly visible Safety Signs shall be installed by the contractor to alert third parties entering the work area of the dangers / hazards that exists in such a work area. These signs shall comply with SABS standards and shall be appropriate for the type of work performed in the work area.

#### **5 CONDUCT OF CONTRACTOR'S PERSONNEL**

- 5.1 The Contractor shall instruct its employees to comply with the following:
  - 5.1.1 Contractor's employees shall be alert and well rested before starting a new shift. Exhaustion can dull the senses and can lead to unnecessary errors and accidents.
  - 5.1.2 No one shall enter any part of the Municipality's premises, including the work site, other than for the purpose carrying out the work specified for the project.
  - 5.1.3 A Contractor may not commence with work on a site, before their presence has been notified to the person in charge of the site.
  - 5.1.4 All Contractor personnel needing access must be issued by the Contractor with a suitable form of identification.
  - 5.1.5 Smoking in buildings and in hazardous areas is strictly forbidden, except in the authorised smoking or other designated areas. Anybody found smoking outside the designated smoking rooms or designated areas may be immediately removed from the premises or dealt with according to disciplinary procedures.
  - 5.1.6 No fire or naked light, matches, cigarette lighters or any other apparatus which can cause ignition, shall be taken into a hazardous area.
  - 5.1.7 Personal protective equipment shall be used and worn in accordance with the safety regulations.
  - 5.1.8 Horseplay, fooling around, skylarking, practical joking, fighting or acting irresponsibly or in an undignified manner is prohibited. Good discipline must be maintained at all times.
  - 5.1.9 Running up and down stairs shall not be allowed.
  - 5.1.10 Workers shall be trained to refuse using defective or unsafe equipment.
  - 5.1.11 Stacked items shall be stable and stacked neatly at all times.
  - 5.1.12 Workers shall not clean dust from overalls or skin with compressed air.
  - 5.1.13 Access to and from the work area, must only be via recognised roads or access ways, and not over fences.
  - 5.1.14 Every contract employee must be familiar with the meaning of and obey safety signs / symbols.
  - 5.1.15 Maintenance work on electrically powered equipment, tools and machinery shall only be performed by suitably qualified personnel.
  - 5.1.16 The electrical supply to such equipment shall be switched off at the appropriate isolation switch during the time that protective covers are removed and while physical work is performed on any non-insulated electrical component parts.
  - 5.1.17 The isolation switch to such equipment shall preferably be locked during the time of the maintenance work and the key to such a lock shall be carried by the person performing the maintenance work.
  - 5.1.18 If it is not possible to lock the isolation switch, the person performing the maintenance work shall secure a clear "Men At Work" sign onto the isolation switch or onto the door or cover that covers such isolation switch.
  - 5.1.19 The person performing such maintenance work shall before commencing any physical work on



- non-insulated component parts; ensure that there is no electrical power present at such parts, by performing a test using a reliable instrument.
- 5.1.20 When new circuits are installed, the isolation switches and / or circuit breakers for such circuits shall be properly marked in accordance with good electrical reticulation practice and certificates of electrical compliance shall be issued to the Municipality.
  - 5.1.21 After completion of the maintenance work and before switching on the isolation switch for testing purposes, the person performing such work shall ensure that all electrical connections are tightly bolted or screwed to their counterparts, that the circuitry is correctly wired and that no short circuits exist.
  - 5.1.22 No unqualified or unauthorized person shall be allowed in close proximity to equipment with exposed uninsulated electrical component parts, while electrical tests are being performed. The person conducting such tests shall ensure that the test instruments used are reliable and safe and shall take extra care to prevent accidental contact with live electrical component parts.
  - 5.1.23 On completion of the work, all protective covers shall be properly secured and all protective doors locked.
  - 5.1.24 Contractor's employees must obey the barricaded areas and safety signs erected by other contractors.
  - 5.1.25 Certain facilities may be equipped with electrified security fences. These fences should be considered live at all times when working next to them.
  - 5.1.26 It is essential that good housekeeping be maintained throughout the period of any work both at the work site and in and around any temporary buildings. The working area is to be kept tidy at all times, escape and other access ways kept clear, safety and fire fighting equipment kept accessible and surplus/scrap material removed daily. Cleaning up only at the end of a job is not considered sufficient. Spillage of oil or chemicals shall be cleared up immediately in view of the hazards of fire, slippery surfaces, toxic substances, etc. Appropriate safety precautions shall be taken during the clearing up. Contractors may only use the toilet facilities provided.
  - 5.1.27 Refuse, especially flammable material (waste rags, waste paper etc.), may only be placed in suitably marked refuse bins. The use of flammable solvents and gasoline for cleaning purposes must be avoided.
  - 5.1.28 The Contractor's specific attention is drawn to the fact that undisturbed piles of rag or cloth or other media soaked in oil, grease or petrol can spontaneously ignite and must therefore be disposed of on a daily basis in the appropriate manner.
  - 5.1.29 The dumping of litter in storm water and sewer systems is prohibited.
  - 5.1.30 The removal and disposal of asbestos contained material has to be carried out by a contractor who can demonstrate to the Municipality that it is familiar with the safe handling of such products, and who have the necessary accreditation with local environment authorities.

## **6 RIGHT OF ACCESS**

- 6.1 The Company may refuse access to a work site by any one of the Contractors personnel who has proven by his / her action to have a disregard for any of the relevant HSE requirements. Such action by the Contractor shall not result in any claims on the Municipality by the Contractor.
- 6.2 Incidents involving serious misconduct includes, but is not limited to:
  - 6.2.1 Possession of illegal drugs, liquor or other intoxicating substances on the premises;
  - 6.2.2 Intoxication, and/or consumption of an intoxicating substance;
  - 6.2.3 Unauthorised possession of property of Mossel Bay Municipality;
  - 6.2.4 Fighting/assaulting of personnel;
  - 6.2.5 Possession of dangerous weapons;
  - 6.2.6 Violation of HSE rules as stipulated in this specification.

## **7 MAINTENANCE AND OPERATION OF EQUIPMENT, MACHINES INSTRUMENTS AND TOOLS**

- 7.1 The Contractor must ensure that all equipment, machines, instruments and tools used by the Contractor's personnel on a work site are maintained in a good, safe working order and suitable for the work to be performed and all personnel handling and/or operating same as adequately and appropriately trained to do so.
- 7.2 Test instruments must have valid and current calibration certificates.
- 7.3 All lifting gear and cranes provided by the contractor must be inspected and approved for safety the contractor's appointee or Responsible Person, before being used.
- 7.4 Scaffolding must be of a SABS Approved, robust design and may only be erected, modified and dismantled by a competent scaffold erector with a qualification issued by an accreditor training institution. A competent scaffold inspector must approve all scaffolding material and structures before being used. Toe boards should be fitted to all four sides. The platform boards should be secure, safe and not be cracked. Empty drums or ladders are not to be used as part of temporary platforms or staging.
- 7.5 Ladders may only be used for as a means of access for light duties of short duration and the ladder may not extend more than 3 meters above the safe surface, whilst the worker's mid thigh may not extend above the top tread.
- 7.6 Ladders must be fitted with non-slip feet, rungs should not be painted, free from dirt and the frame must be firm and in a good state of repair.
- 7.7 If the work area below and around scaffolding and ladders cannot be properly cordoned off, safety nets and/or suitable shields shall be erected below such scaffolding and ladders to protect the public and their property from falling objects when work is performed at elevated heights.
- 7.8 Contractors shall not allow unauthorized, untrained or unlicensed operators to operate equipment or vehicles in the facility.
- 7.9 No contractor vehicle, equipment or machine will be permitted onto the facility unless:
  - 7.9.1 Such vehicle is in a roadworthy condition, and in the case of equipment and machines, has been inspected and approved by the Contractor's Responsible Person.
  - 7.9.2 Contractor machines and equipment must display suitable identification, stating a re-inspection date. Contractors may be required to remove machines or equipment without valid identification from the facility premises.
  - 7.9.3 Contractor vehicles, equipment and machinery are subject to a visual road worthy check and/ or a safety inspection by the Municipality.
- 7.10 The following will be applicable to the Operation of vehicles:
  - 7.10.1 All drivers must hold and be able to produce a valid driver's license.
  - 7.10.2 Maximum speed limit inside the construction site is 30km/h, unless otherwise indicated.
  - 7.10.3 Always give way for emergency vehicles (fire, ambulance or rescue vehicles).
  - 7.10.4 Warning, safety and road signs must always be obeyed.
  - 7.10.5 Pedestrians have the right of way in the construction area.
  - 7.10.6 All passengers must be properly seated.
  - 7.10.7 Overloading of vehicles is not permitted.
  - 7.10.8 People and freight may not be transported together unless the freight has been secured and sufficient, safe seats separate from the freight, have been provided.
  - 7.10.9 Transporting passengers on cranes, forklifts, mechanical shovels or other equipment is prohibited, unless such vehicles are equipped with additional seating.
  - 7.10.10 Reckless driving or non-observance of these instructions may be cause for the withdrawal of the authorisation of the driver to operate within the construction site.
  - 7.10.11 The occupants of vehicles, whilst on Municipal related business, including journeys to and from work sites, must wear seat belts where fitted to any vehicle as a local legislative requirement.
  - 7.10.12 During excavations, the Contractor shall take extra care, by consulting site drawings, extrapolating positions from the positions of above ground equipment, etc., not to damage any

underground equipment.

- 7.10.13 If any such equipment is damaged during excavations, the necessary precautions shall be taken immediately to make the situation as safe as reasonably possible, and the relevant Municipal maintenance manager or standby contact person must be contacted immediately for advise on further action to be taken.

## **8 EMERGENCY AND FIRE DRILL PROCEDURES**

- 8.1 The Contractor shall check the emergency procedures and the location and condition of the emergency equipment. If the Contractor considers these to be unsatisfactory or not fully appropriate for the work, it shall take steps in consultation with the Municipality to improve them.
- 8.2 When an alarm is sounded for a fire or other emergency, the following action shall be taken:
- 8.2.1 Emergency alarm: Immediately secure/de-energise all equipment, move to the nearest safe emergency assemble point and wait for instructions from the facility manager.
  - 8.2.2 All work permits are invalidated by an emergency and have to be re-issued or re-authorised by the facility manager before work can recommence.
  - 8.2.3 Under no circumstances may water from the fire mains be used without permission from the facility manager.
  - 8.2.4 When performing hot work or other work that may cause a fire, the Contractor's shall make their own arrangements to have suitable and sufficient numbers of fire fighting equipment close at hand or use the Municipality's equipment having prior consent.
- 8.3 All emergency equipment for fighting of fire, ensuring the safety and security of personnel and facilities, may not be removed or obstructed.
- 8.4 Emergency alarms could be tested during emergency exercises. The contractor's supervisor will be informed prior to such exercises.

## **9 SAFETY EQUIPMENT AND PERSONAL PROTECTIVE EQUIPMENT**

- 9.1 The Contractor shall provide adequate and appropriate first aid equipment and other safety equipment of an approved type and quantity, as may be specified (or expected in accordance with good working practice), and shall maintain this equipment in a professional manner as dictated by legal and industry standards. In addition, the Contractor shall keep up-to-date records of all said equipment.
- 9.2 If there are more that 5 contractor employees on a work site, the contractor shall provide a properly equipped First Aid box on site. At least one employee per group of 10 shall have a valid First Aid Training certificate.
- 9.3 The contractor shall ensure that all contract personnel under his supervision have been trained in the proper use, maintenance and limitations of safety equipment.
- 9.4 Free access by all persons to all fire extinguishing and safety equipment must be maintained at all times.
- 9.5 The Contractor's Responsible Person must not require, or permit a contract employee to work unless the required safety equipment is used.
- 9.6 The Contractor shall supply its personnel and sub-contractor's personnel with adequate protective clothing and equipment as required in connection with the safe performance of the work. The personal protective clothing and other protective equipment shall be maintained in good condition, and shall be worn on all relevant occasions as indicated by notices, instructions, work permits, safety regulations and good practice.
- 9.6.1 Only SABS-approved safety shoes must be worn in operating and construction areas.
  - 9.6.2 Safety hats are to be worn at all sites where there is a possibility of head injuries.
  - 9.6.3 Gloves of a type approved, must be worn whenever handling hazardous chemical substances, or if there is a possibility of cutting the skin when abrasive or sharp materials are being man-handled.
  - 9.6.4 Hearing protection of a type approved, must be worn in all areas classified and demarcated as noise zones or when working with machinery that generates noise above 85dB(A) such compactors and jackhammers etc.

- 9.6.5 Safety glasses and face shields must be worn when involved in a concussive or abrasive operation likely to cause flying debris, or when gas or arc welding/cutting is being carried out, or when decanting or handling hazardous chemicals.
- 9.6.6 Sand blasting, grinding and disc cutting operations, should preferably be done using equipment and/or procedures that do not produce dust. In cases where this is not possible, SABS-approved respiratory equipment must be worn and the area must be enclosed to contain dust generation to a minimum.
- 9.6.7 Safety harnesses shall be used to secure workers to building structures when working at elevated heights (2 meters) and where a risk of falling from such heights is not protected by any other means.
- 9.6.8 The wearing of loose over-clothes, sandals and/or shorts in the facility's operational areas and for construction work, is prohibited. Long sleeve shirts and long trousers, preferably overalls, must be worn. Long hair constitutes a hazard around machinery and must be properly secured.

## **10 COMPENSATION FOR INJURY**

- 10.1 The Contractor must provide proof of registration with Compensation Fund (COIDA) by means of submitting a valid Letter of Good Standing to the Municipality.
- 10.2 It is the contractor's responsibility to forward any relevant accident / injury documentation and details to the commissioner on behalf of its employees.

## **11 REPORTING OF ACCIDENTS AND INCIDENTS**

- 11.1 Any incident, condition or act that could or could have caused injury, damage or loss or affect the environment must be reported to the Municipality. Such reports shall include but not be limited to the following:
  - 11.1.1 fatalities and lost-time injuries to its personnel or sub-contractor personnel;
  - 11.1.2 comparable injury to third parties;
  - 11.1.3 damage to plant or equipment;
  - 11.1.4 loss of containment;
  - 11.1.5 actual or potential damage to the environment;
  - 11.1.6 outbreak of fire.
- 11.2 The contractor is responsible for reporting, in terms of the OHS Act (85 of 1993), all "reportable incidents" to the Department of labour.
- 11.3 Immediate notification shall be followed by a full Incident Investigation Report to the Municipality's Responsible Person within 24 hours for serious accidents and 72 hours for minor accidents.

## **12 ENVIRONMENTAL AWARENESS**

- 12.1 The Contractor shall pay due regard to the environment by preserving air, water, soil, animal and plant life from adverse effects of the Contractor's activities, and minimise any nuisance which may arise from such operations. The Contractor must at all times adhere to the environmental laws and impact control guidelines and procedures published from time to time as follows:
  - 12.1.1 Ad-hoc dumping on any part of the facility is strictly prohibited.
  - 12.1.2 Liquid waste or sludge shall not be allowed to enter the facility storm water/sewer system.
  - 12.1.3 In the event of any product stored in tanks or pipelines being accidentally, or otherwise, released, the facility manager and the relevant Municipal maintenance manager must be informed without delay.
  - 12.1.4 Machinery to be used at the facility must be fitted with muffling devices to reduce the likelihood of noise pollution.

### **13 OCCUPATIONAL HEALTH AND HYGIENE**

- 13.1 The Contractor shall be responsible for the medical welfare of its own and sub-contractor personnel.
- 13.2 The Contractor shall ensure that all its personnel and sub-contractor's personnel are medically fit to perform their work. If requested by the Municipality, the Contractor shall provide medical certificates for its own and sub-contractor personnel.
- 13.3 The Contractor shall adhere to all applicable government regulations or the Municipality's guidelines for medical surveillance or industrial hygiene monitoring.
- 13.4 The Contractor shall ensure that its personnel and sub-contractor's personnel maintain the highest standards of hygiene.
- 13.5 If separate accommodation for Contractors personnel is provided (e.g. contractor's huts), the Contractor shall comply with the relevant legal standards for: sanitation, sewage, hygiene, water supply, sleeping quarters, food establishments, laundry and garbage disposal.
- 13.6 All contract personnel must eat meals in designated areas only. The storage or eating of food in work areas or workshops is strictly prohibited.

### **14 SPECIFIC UNDERTAKING BY CONTRACTOR'S MANAGEMENT**

- 14.1 We, representing the contractor, have read and understand the Health, Safety & Environmental requirements stated herein and we undertake to adhere to the letter and spirit of these rules. We undertake to train our employees and to enforce the implementation thereof at all levels in our organisation. We understand that the breach of the Health, Safety & Environmental rules will be considered as a serious breach of this agreement and that it can lead to the permanent cancellation of this agreement.



## **MOSSSEL BAY MUNICIPALITY**

### **AGREEMENT WITH MANDATORY**

Date: .....

**OCCUPATIONAL HEALTH & SAFETY ACT 85 OF 1993**  
**Section 37(1) & (2)**

**CONSTRUCTION REGULATIONS 2014**  
**Construction Regulation 5**

**AGREEMENT WITH MANDATORY IN TERMS OF SECTION 37(1) & (2)**

WRITTEN AGREEMENT ENTERED INTO AND BETWEEN

**Mossel Bay Municipality**  
(Hereinafter referred to as **Client** / Principal Contractor / Contractor)

AND

.....  
**Principal Contractor** / Contractor

## MOSSEL BAY MUNICIPALITY

CONTRACT NO / ORDER NO .....

### OHS MANDATORY FORM

(TO BE COMPLETED AND SIGNED BY ALL MANDATES)

### OCCUPATIONAL HEALTH & SAFETY ACT NO 85 OF 1993

**Note: Section 1(1)(xxviii) of the Act defines a “Mandatory” as including “an Agent, a Contractor or a Subcontractor for Work”.**

The Employer and the Contractor hereby agree, in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act, Act 85 of 1993, hereinafter referred to as “the Act”, the Contractor as an employer in its own right and in its capacity as Contractor the execution of the works, shall have certain obligations and that the following arrangements shall apply between them to ensure compliance by the Contractor with the provisions of the Act, namely:

- (i) The contractor undertakes to acquaint the appropriate officials and the employees of the Contractor with all relevant provisions of the Act, and the regulations promulgated in terms of the Act; and
- (ii) The Contractor undertakes that all relevant duties, obligations and prohibitions imposed in terms of the Act and regulations will be fully complied with; and
- (iii) The Contractor hereby accepts sole liability for such due compliance with the relevant duties, obligations and prohibitions imposed by the Act and regulations and expressly absolves the Employer and the Employer's Consulting Engineers from being obliged to comply with any of the aforesaid duties, obligations and prohibitions in respect of the work included in the Contract; and
- (iv) The Contractor shall be obliged to report forthwith to the Employer any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the Act and regulations pursuant to work performed on behalf of the Employer, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge.

.....  
WITNESS

.....  
FOR AND ON BEHALF OF MOSSEL BAY MUNICIPALITY

Signed at ..... on the ..... day of .....202\_.

## THE RESOLUTION TAKEN BY THE BOARD OF DIRECTORS OF A JOINT VENTURE

**RESOLUTION** of a meeting of the Board of Directors / Members / Partners of

---

NAME OF TENDERER (Must agree with bidder details)

Held at \_\_\_\_\_ on \_\_\_\_\_  
(Place) (Date)

**RESOLVED THAT:**

1. The enterprise submits a Tender to Mossel Bay Municipality in respect of the following:

**TDR250/2021/2022: ESTABLISHMENT OF A DATA CENTRE AT THE JOINT OPERATIONS AND MANAGEMENT CENTRE FOR THE MOSSEL BAY MUNICIPALITY**

(list all the legally correct full names and registration numbers, if applicable, of the Enterprises forming the Joint Venture).

\_\_\_\_\_ and  
  
\_\_\_\_\_ and  
  
\_\_\_\_\_ and  
  
\_\_\_\_\_ and  
  
\_\_\_\_\_ and  
  
\_\_\_\_\_ and



2. Mr./Mrs./Ms. \_\_\_\_\_

In his/her capacity as \_\_\_\_\_

and who will sign as follows: \_\_\_\_\_

(SPECIMEN SIGNATURE)

be, and is hereby, authorised to sign the Tender and all other documents and/or correspondence in connection with and relating to the Tender, as well as to sign any contract, and or all documentation resulting from the award of the Tender to the **Joint Venture** enterprise mentioned above.

3. The enterprise in the form of a joint venture accept jointly and several liability, with parties under item 1 above for the fulfilment of the obligations of the joint venture deriving from, and in any way connected with the contract to be entered with the Mossel Bay Municipality in respect of the project described above under item 1.

4. The **Joint Venture** enterprise chooses as its domicilium citandi et executandi for all purposes arising from the joint venture agreement and contract with the Mossel Bay Municipality in respect of the project under item 1:

(Physical Address) \_\_\_\_\_

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Note: The resolution **must be signed by all directors or members / partners** of the bidding enterprise. Should the space provided below not be enough for all the directors to sign, please provide a separate sheet in the same format below:

NB: **COMPULSARY TO BE COMPLETED** IN CASE OF JOINT VENTURE

NAME		ID NUMBER	DIRECTORS/OWNERS PERSONAL TAX NO	SIGNATURE
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

<b>Name of Joint Venture</b>	
<b>Names of Each Enterprise:</b>	
(1) Name and Address of Enterprise:	
(2) Name and Address of Enterprise:	
(3) Name and Address of Enterprise:	
Has an original valid Tax Clearance Certificate been submitted for each enterprise:	Yes <input type="checkbox"/> No <input type="checkbox"/>
CIDB Registration Number(s), if applicable:	

**Submit your Joint Venture Agreement together with this tender document. If no Joint Venture Agreement is submitted, the tender will be seen as non-responsive.**

**SIGNED ON BEHALF OF JOINT VENTURE \_\_\_\_\_**

## MOSSEL BAY MUNICIPALITY

### COMPULSARY DOCUMENTATION/CHECKLIST TO TENDER DOCUMENT

Please ensure that the following forms have been duly completed and signed and that all documents as requested, are attached to the tender document: (Failure to submit this documentation will result in the tender being non-responsive). **(To be completed and signed by the Bidder):**

Nr	Description	YES	NO
1.	Valid tax clearance certificate and PIN		
2.	Valid original OR valid copy of B-BBEE certificate or sworn affidavit as per legislation		
3.	Valid letter OR valid copy of Letter of Good Standing from the Compensation Commissioner		
4.	Copy of the latest (month prior to tender closure) <b><u>Municipal Accounts</u></b> of the following:		
	- Business		
	- Directors/Members/Owners of the Business		
	OR		
	Copy of the <b><u>Lease Agreements</u></b> or <b><u>Rental Statement</u></b> of the following:		
	- Business		
	- Directors/Members/Owners of the Business		
5.	Copy of CIDB registration (if applicable)	N/A	N/A
6.	MBD 1 – Is the form duly completed and signed?		
7.	MBD 4 – Is the form duly completed?		
8.	MBD 5 – Declaration for procurement above R10 million.		
9.	MBD 6.1 – Is the form duly completed and signed?		
10.	Authorised Signatory – Is the form completed OR resolution attached?		
11.	All required sections <b><u>completed and signed</u></b> by the Authorised Signatory?		
12.	MBD 8 – Is the form duly completed and signed?		
13.	MBD 9 – Is the form duly completed and signed?		
14.	Declaration - Is the form duly completed and signed?		

15.	Contract form - Is the form duly completed and signed?		
<b>ADDITIONAL DOCUMENTS APPLICABLE TO THIS TENDER</b>			
16.	Documentation as required for the functionality criteria in Section 1.4.3		

I, ..... confirm that all compulsory documents for this tender is duly completed, signed and attached to this tender document.

.....  
Signature

.....  
Date