



**REQUEST FOR PROPOSAL [RFP] –
SUPPLY, DELIVERY AND OFFLOADING OF SODIUM HYDROXIDE**

MHLATHUZE WATER

RFP CONTRACT NO:	MW/14/11/2022/2023
ISSUE DATE:	02 November 2022
CLOSING DATE:	22 November 2022
CLOSING TIME:	12:00 PM
BID VALIDITY PERIOD:	180 Days from Closing Days

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SUPPLY, DELIVERY AND OFFLOADING OF SODIUM HYDROXIDE

SCHEDULE OF BID DOCUMENTS

Section No

Page

SECTION 1: SBD1 FORM

PART A
INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS SUPPLY, DELIVERY AND OFFLOADING OF SODIUM HYDROXIDE A DIVISION MHLATHUZE WATER

BID NUMBER:	MW/14/21/2022/2023	ISSUE DATE:	02 November 2022	22 November 2022	CLOSING TIME:	12h00
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DESCRIPTION **SUPPLY, DELIVERY AND OFFLOADING OF SODIUM HYDROXIDE**

SUPPLIER INFORMATION

NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER: MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED FOR PURPOSES OF COMPLIANCE WITH THE B-BBEE ACT]

1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER QUESTIONNAIRE BELOW]
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO

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DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐

YES ☐ NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

☐ YES ☐ NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?

☐ YES

☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 1.3 BELOW.

PART B
TERMS AND CONDITIONS FOR BIDDING

1. TAX COMPLIANCE REQUIREMENTS

- 1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 1.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

DATE: _____

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SECTION 2 : NOTICE TO BIDDERS

1 INVITATION TO BID

Responses to this RFP [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as an **entity**, **Respondent** or **Bidder**].

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TENDER ADVERT	All Mhlathuze Water tenders are advertised on the National Treasury's e-Tender Publication Portal Should one of these media (i.e. National Treasury's e-Tender Publication Portal or Mhlathuze Water website) not be available, bidders are advised to check on the other media for advertised tenders.
COMMUNICATION	Any addenda to the RFP or clarifications will be published on the e-tender portal and Mhlathuze Water website. Bidders are required to check the e-tender portal prior to finalising their bid submissions for any changes or clarifications to the RFP. Mhlathuze Water will not be held liable if Bidders do not receive the latest information regarding this RFP with the possible consequence of either being disadvantaged or disqualified as a result thereof.
BRIEFING SESSION	No briefing Session
CLOSING DATE	12:00 pm on Tuesday, 22 November 2022 Bidders must ensure that bids are uploaded timeously onto the system. As a general rule, if a bid is late, it will not be accepted for consideration.
VALIDITY PERIOD	180 Business Days from Closing Date Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded. With regard to the validity period of next highest ranked bidders, please refer to Section 2, paragraph 11.12

Any additional information or clarification will be published on the e-Tender portal and Mhlathuze Water website, if necessary.

2 RFP INSTRUCTIONS

- 2.1 Please sign documents [sign, stamp and date the bottom of each page] before uploading them on the system. The person or persons signing the submission must be legally authorised by the respondent to do so.
- 2.2 **All returnable documents tabled in the Proposal Form [Section 5] must be returned with proposals.**
- 2.3 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 2.4 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [Alterations made by the Respondent to Bid Prices] of the General Bid Conditions, paragraph 12 below (Legal Review) and Section 6 of the RFP, alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.

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3 JOINT VENTURES OR CONSORTIUMS

Respondents who would wish to respond to this RFP as a Joint Venture [JV] or consortium with B-BBEE entities, must state their intention to do so in their RFP submission. Such Respondents must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If at the time of the bid submission such a JV or consortium agreement has not been concluded, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by Mhlathuze Water through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to Mhlathuze Water.

Respondents are to note that for the purpose of Evaluation, a JV will be evaluated based on one consolidated B-BBEE score card (a consolidated B-BBEE Status Level verification certificate) as per the B-BBEE Preferential Procurement Regulations, 2017 preference point scoring.

4 COMMUNICATION

- 4.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted onto the system and to Sihle Mndaweni, 035 902 1062] before **12:00 pm on 18 November 2022** substantially in the form set out in Section 8 hereto. In the interest of fairness and transparency, Mhlathuze Water response to such a query will be published on the e-tender portal and Mhlathuze Water website.
- 4.2 After the closing date of the RFP, a Respondent may only communicate with the name of delegated individual (Ms Sihle Mndaweni), at telephone number 035 902 1037, email tenders@mhlathuze.co.za on any matter relating to its RFP Proposal.
- 4.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 4.4 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Mhlathuze Water in respect of this RFP between the closing date and the date of the award of the business.
- 4.5 Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.

5 CONFIDENTIALITY

All information related to this RFP is to be treated with strict confidence. In this regard Respondents are required to certify that they have acquainted themselves with the Non-Disclosure Agreement. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information related to this RFP or the subsequent contract, written approval must be obtained from Mhlathuze Water.

6 COMPLIANCE

The successful Respondent [hereinafter referred to as the **Short Terms Insurance Broker** shall be in full and complete compliance with any and all applicable laws and regulations.

7 EMPLOYMENT EQUITY ACT

Respondents must comply with the requirements of the Employment Equity Act 55 of 1998 applicable to it including (but not limited to) Section 53 of the Employment Equity Act.

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8 DISCLAIMERS

Respondents are hereby advised that Mhlathuze Water is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of Proposals. In particular, please note that Mhlathuze Water reserves the right to:

- 8.1 modify the RFP's Goods/Services and request Respondents to re-bid on any such changes;
- 8.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 8.3 disqualify Proposals submitted after the stated submission deadline [closing date];
- 8.4 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 8.5 Award a contract for only a portion of the proposed Goods/Services which are reflected in the scope of this RFP;
- 8.6 split the award of the contract between more than one Supplier/Service provider, should it at Mhlathuze Water discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 8.7 cancel the bid process;
- 8.8 validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Mhlathuze Water to do so;
- 8.9 request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 8.10 not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it;
- 8.11 to cancel the contract and/request that National Treasury place the Respondent on its Database of Restricted Suppliers for a period not exceeding 10 years, on the basis that a contract was awarded on the strength of incorrect information furnished by the Respondent or on any other basis recognised in law;
- 8.12 to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods/Services at the quoted price, should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were issued with a Letter of Regret. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods/Services at their quoted price, even after they have been issued with a Letter of Regret.

Note that Mhlathuze Water will not reimburse any Respondent for any preparatory costs or other work performed in connection with its Proposal, whether or not the Respondent is awarded a contract.

9 LEGAL REVIEW

A Proposal submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by Mhlathuze Water Legal Counsel, prior to consideration for an award of business. A material deviation from the Standard terms or conditions could result in disqualification.

10 SECURITY CLEARANCE

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the Goods/Services and its subcontractor(s) must obtain security clearance from the appropriate authorities to the level of **CONFIDENTIAL/ SECRET/TOP SECRET**. Obtaining the required clearance is the responsibility of the Successful

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Respondent. Acceptance of the bid is also subject to the condition that the Successful Respondent will implement all such security measures as the safe performance of the contract may require.

11 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE

Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Respondents must register on the CSD prior to submitting their bids. Business may not be awarded to a Respondent who has failed to register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD.

For this purpose, the attached SBD 1 form must be completed and submitted as a mandatory returnable document by the closing date and time of the bid.

12 TAX COMPLIANCE

Respondents must be compliant when submitting a proposal to Mhlathuze Water and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

It is a condition of this bid that the tax matters of the successful Respondents be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Respondents tax obligations. The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids.

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

Mhlathuze Water urges its clients, suppliers and the general public to report any fraud or corruption to TIP-OFFS ANONYMOUS: 0800 204 310

SECTION 3: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS

BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS BACKGROUND

Mhlathuze Water (MW) is a state-owned entity based in Richards Bay and operating in the Province of KwaZulu-Natal. However, due to its geographic location in Richards Bay, the entity predominantly operates in the uMkhanyakude, King Cetshwayo and Zululand District Municipalities. Richards Bay is supplied by three dominant water sources namely: Mhlathuze River, Lake Mzingazi and Lake Nsezi. The organization's business activities include raw (untreated), clarified (partially treated) and purified water supply; disposal of industrial and domestic waste water; and scientific services. The organisation provides these bulk water services in a sustainable and cost-effective manner. The organisation's major clients include: Foskor, Richards Bay Minerals, City of uMhlathuze and Mondi.

Other business activities include the commercial provision of Scientific Services, through Mhlathuze Water's Laboratory, to external organisations such as municipalities, industry and private clients.

Visit our website on www.mhlathuze.co.za for further information.

3.1. OBJECTIVE

Mhlathuze Water's objective is to have a service provider: to supply, deliver and offload Sodium Hydroxide to Nsezi Water Treatment Plant on "as and when" required basis.

3.2. CONTRACT DURATION

The contract is for the period of **thirty six (36) months after appointment** subject to performance agreement to be entered into between the service provider and the employer.

3.3. DESCRIPTION OF WORK

The work required is to supply, deliver and offload sodium hydroxide. The sodium hydroxide must be directly delivered and offloaded at the Nsezi Water Treatment Works in Alton, Richards Bay. The estimated monthly average usage of sodium hydroxide is 120 000kg per month. **This quantity should not be considered as binding. Mhlathuze Water reserves the right to either increase or decrease the quantities actually ordered.** The following are the coordinates to the Nsezi Water Treatment Plant: **28°44'58.44" S and 31°58'59.44" E.**

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3.4. TECHNICAL SPECIFICATION

The Purchaser requires Sodium Hydroxide quality standard specified below:

- Appearance : clear solution, slightly turbid colourless solution, slight viscous
- Strength : 48 – 51 % (m/m) as NaOH
- Density at 20 °C : 1.52 g/cm³
- Viscosity at 20 °C : 100 Pa.s
- Sodium Chloride (NaCl) : Not more than 2.4 % (m/m)
- Sodium Chlorate (NaClO₃) : Not more than 0.7 % (m/m)

In addition to the specifications stated above the sodium hydroxide to be supplied should meet the Type 1 chemical parameters as per SANS 50896:2007.

Tenderers must submit a 500mL clearly labelled Sodium Hydroxide sample together with the tender submission. A specification sheet that outlines the contents must accompany the sample that details the concentrations of the contents and the impurities of the product as outlined above, as well as the material safety data sheet (MSDS).

Note: Once a supplier is awarded the tender, on delivery of Sodium Hydroxide it is compulsory that the supplier provides a certificate of analysis (COA) and a 500mL sample should be taken in the presence of the employer's representative when offloading. The COA must include all the items outlined above.

3.5. TRANSPORTATION OF CHEMICALS.

The following will be checked and verified by the security personnel before permitting entry to the plant.

- a) The Occupational Health and Safety Act requires that the drivers of the delivery trucks must have:
 - PDP driver permits.
 - Hazchem Certificates.
 - Medical Certificates of fitness.
- b) The truck is required to:
 - Have a copy of Hazardous Chemical Substances Regulations of the OHS Act, at all times when transporting the chemicals.
 - Always display / carry emergency information, containing the details of the supplier and Material Safety Data Sheet.
 - Be marked with appropriate signage for hazardous chemical transportation.
 - Be in a condition that is fit for the purpose it is used for i.e. comply with the specifications of the Hazardous Chemical Substances Regulations.

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- The access route to Nsezi WTP has a height restriction of 3.7 m as well as a section with uneven terrain that has sand and gravel.

3.6. OFFLOADING OF CHEMICALS

- Delivery and offloading must be done during working hours (08h00 – 15h30). In exceptional circumstances based on operational requirements prior arrangements may be made with the Inventory Manager for delivery and offloading outside these working hours.
- Certification of analysis must accompany each delivery, failing which the delivery may not be accepted and that will have a negative impact on the performance of the supplier(s)
- The tenderer should provide a flexible hose to connect the bulk tanker and the transfer pump(s).

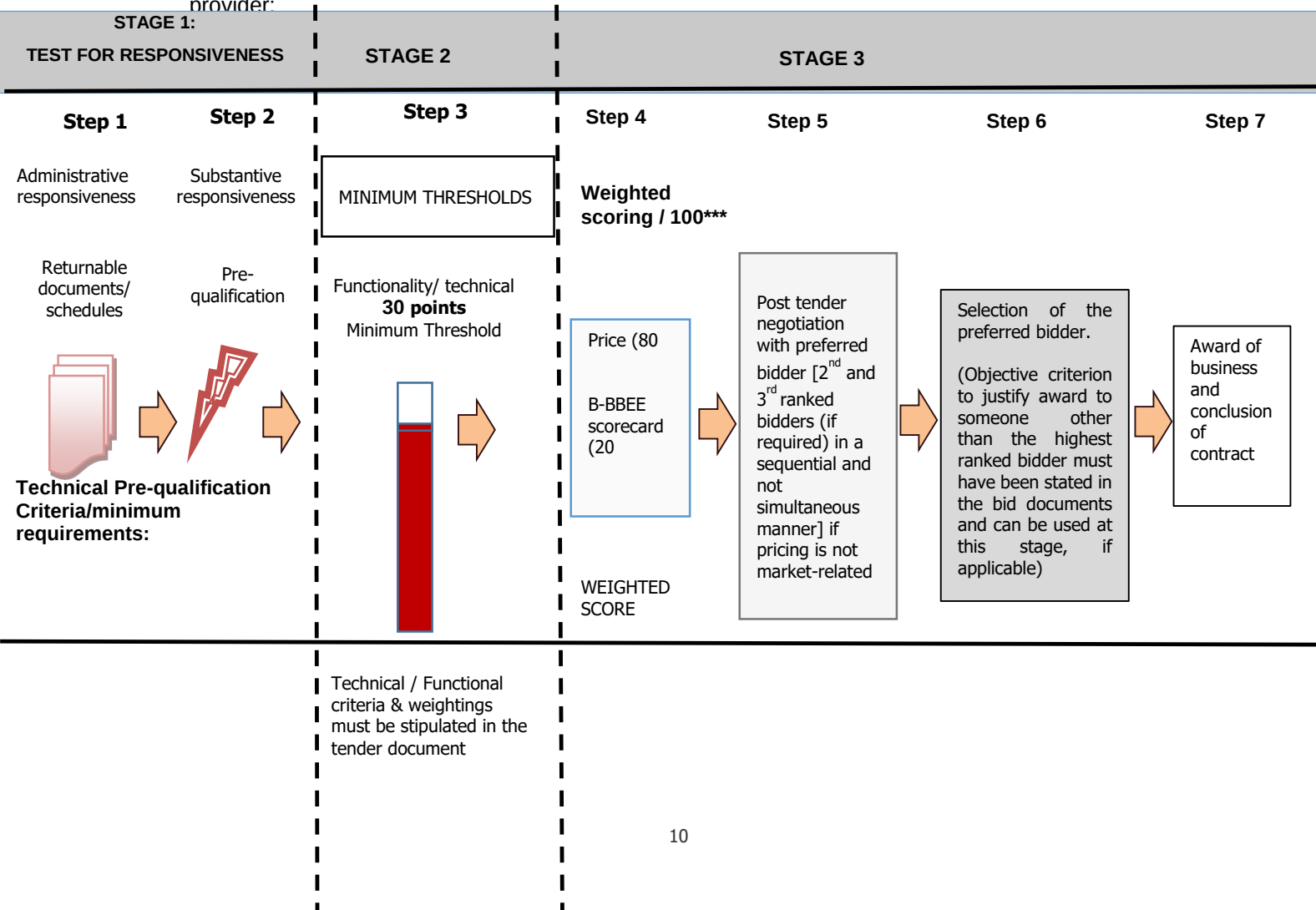
4. GENERAL SUPPLIER/SERVICE PROVIDER OBLIGATIONS

4.1. The Supplier/Service provider(s) shall be fully responsible to Mhlathuze Water for the acts and omissions of persons directly or indirectly employed by them.

4.2. The Supplier/Service provider(s) must comply with the requirements stated in this RFP.

1 EVALUATION METHODOLOGY

Mhlathuze Water will utilise the following methodology and criteria in selecting a preferred Supplier/Service provider:



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NB: Evaluation of the various stages will normally take place in a sequential manner. However, in order to expedite the process, Mhlathuze Water reserves the right to conduct the different steps of the evaluation process in parallel. In such instances the evaluation of bidders at any given stage must not be interpreted to mean that bidders have necessarily passed any previous stage(s).

1.1 STEP ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

Administrative responsiveness check	RFP Reference
Whether the Bid has been lodged on time	<i>Section 1 paragraph 3</i>
Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	<i>Section 10</i>
Verify the validity of all returnable documents	<i>Section 10</i>
Verify if the Bid document has been duly signed by the authorised respondent	<i>All sections</i>

1.2 STEP TWO: Test for Substantive Responsiveness to RFP

The test for substantive responsiveness to this RFP will include the following:

Check for substantive responsiveness	RFP Reference
Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule	<i>Section 4</i>
Whether the Bid materially complies with the scope and/or specification given	<i>All Sections</i>
Whether any Technical pre-qualification/eligibility criteria set by Mhlathuze Water have been met as follows:	<i>Scope of Work</i> Section 3

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1.3 STEP THREE: Minimum Threshold 30 points for Technical Criteria, The test for the Technical and Functional threshold will include the following:

The Pre-Qualification Criteria and maximum score in respect of each of the criteria are as follows and sufficient detail must be provided in experience sheets/support documentation attached to the Tenders for evaluation purposes.

Total Maximum Evaluation Points for the items is **60**.

The Pre-Qualification Criteria and maximum score in respect of each of the criteria are as follows and sufficient detail must be provided in experience sheets/support documentation attached to the Tenders for evaluation purposes. The method for the evaluation of tenders will be as follows:

The total maximum evaluation points is **30points**.

The minimum number of evaluation points shall be **30 points (60%)**, below which value the tender shall be regarded as being non responsive.

Tenderers who will pass functionality as, will then be evaluated on price per segment. Tenders are encouraged to read instructions carefully on Bill of quantities, Section C2.2.

The Functionality criteria and maximum score in respect of each of the criteria are as follows:

Quality (Functionality) Criteria	SUB CRITERIA	Maximum No
Quality Management System	1. Quality Certification - ISO 9001:2015 Certification (please submit current certificate) or 5 - Quality Management Plan in accordance with the ISO 9001:2015 requirements. (please submit plan) 3	5
Environmental Management System	2. Environmental Management System - ISO14001 certification (please submit current certificate) – or 5 - Environmental Management Plan in accordance with the requirements of ISO 14001(please submit plan) 3	5
Occupational Health and Safety Plan	3. Occupational Health and Safety - OHSAS 18001/ISO 45001 (please submit certificate) or 5 - Occupational Health & Safety Plan (Please submit plan) 3	5
Emergency Response Plan	4. Emergency Response Plan for spills, accidents and any other emergencies while transporting and within Mhlathuze Water premises. - Proof of agreement with a competent organisation registered to deal with HAZMART spillages. 5 - Emergency Response Plan detailing how the Tenderer or subcontractor will respond to an emergency spill, clean and rehabilitate the area that may be	5

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	affected by an uncontrolled release of sodium hydroxide during transportation and /or while the vehicle is within Mhlathuze Water site. 3 No plan submitted. 0	
Tenderer's Experience	5. Tenderers shall provide previous and current contracts in the last 10 years involving supply, delivery and offloading of water treatment chemicals. <i>(Please submit written reference per contract, no points will be allocated without a written reference)</i> 5 Points per contract for the value of R 2million and above (maximum 4) 20 4 Points per contract for the value ranging between R 1million and R 1 999 999.99 (maximum of 4 projects) 16 3 Points per contract for the value ranging between R 500 000 and R 999 999.99 (maximum of 4 projects) 12	20
Locality	6. Location of the business address - Mhlathuze Water operational area (King Cetshwayo DM, Zululand DM and UMkhanyakude DM) 10 - Outside Mhlathuze Water operational area but within KZN 5	10

Tenderers who will pass functionality, will then be evaluated on price per segment. Tenderers are encouraged to read instructions carefully on Bill of quantities, Section C2.2.

The Functionality criteria and maximum score in respect of each of the criteria are as follows:

- **END OF SECTION –**

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Respondents must complete and submit **Specification, Annexures** which include a **Technical proposal**.
A Respondent's compliance with the minimum functionality/technical threshold will be measured in line with evaluation criteria

Respondents are to note that Mhlathuze Water will round off final technical scores to the nearest 2 (two) decimal places for the purposes of determining whether the technical threshold has been met.

The minimum threshold for technical/functionality [Step Three] must be met or exceeded for a Respondent's Proposal to progress to Step Four for final evaluation

1.4 STEP FOUR: Evaluation and Final Weighted Scoring

a) **Price and TCO Criteria** [Weighted score 80 points]:

Evaluation Criteria	RFP Reference
• Commercial offer	Section 4

Mhlathuze Water will utilise the following formula in its evaluation of Price:

$$PS = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right) \text{ OR } PS$$

Where:

Ps = Score for the Bid under consideration
 Pt = Price of Bid under consideration
 $Pmin$ = Price of lowest acceptable Bid

b) **Broad-Based Black Economic Empowerment criteria** [Weighted score 20 points]

- B-BBEE - current scorecard / B-BBEE Preference Points Claims Form
- Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table indicated in Section 4.1 of the B-BBEE Preference Points Claim Form.

1.5 SUMMARY: Applicable Thresholds and Final Evaluated Weightings

Thresholds	Minimum Threshold
Technical / functionality	30 points

Evaluation Criteria	Final Weighted Scores
Price and Total Cost of Ownership	80
B-BBEE - Scorecard	20
TOTAL SCORE:	100

1.6 STEP FIVE: Post Tender Negotiations (if applicable)

- Respondents are to note that Mhlathuze Water may not award a contract if the price offered is not market-related. In this regard, Mhlathuze Water reserves the right to engage in PTN with

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the view to achieving a market-related price or to cancel the tender. Negotiations will be done in a sequential manner i.e.:

- first negotiate with the highest ranked bidder or cancel the bid, should such negotiations fail,
 - Negotiate with the 2nd and 3rd ranked bidders (if required) in a sequential manner.
- In the event of any Respondent being notified of such short-listed/preferred bidder status, his/her bid, as well as any subsequent negotiated best and final offers (BAFO), will automatically be deemed to remain valid during the negotiation period and until the ultimate award of business.
- Should Mhlathuze Water conduct post tender negotiations, Respondents will be requested to provide their best and final offers to Mhlathuze Water based on such negotiations. Where a market related price has been achieved through negotiation, the contract will be awarded to the successful Respondent(s).

1.7 STEP SEVEN: Award of business and conclusion of contract

- Immediately after approval to award the contract has been received, the successful bidder(s) will be informed of the acceptance of his/their Bid by way of a Letter of Award. Thereafter the final contract will be concluded with the successful Respondent(s).
- A final contract will be concluded and entered into with the successful Bidder at the acceptance of a letter of award by the Respondent.

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Compulsory Returnable

A. PRICING AND DELIVERY SCHEDULE

Respondents are required to complete the table below:

ITEM NO	DESCRIPTION	Estimated Average Quantity (kg/month)	Unit	RATE Year 1 Amount	
				R	c
1	Supply of Sodium Hydroxide	120 000	R/kg		
2	Delivery and offloading Costs to Nsezi Treatment Plant		R/kg		
TOTAL PRICE, exclusive of VAT:					
VAT 15% (if applicable)					
Disbursement					
Unconditional Discount(s)					
Total Inclusive of VAT (where applicable)					

Notes to Pricing:

- a) Respondents are to note that if the price offered by the highest scoring bidder is not market-related, Mhlathuze Water may not award the contract to that Respondent. Mhlathuze Water may-
 - (i) Negotiate a market-related price with the Respondent scoring the highest points or cancel the RFP;
 - (ii) if that Respondent does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the second highest points or cancel the RFP;
 - (iii) if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFP.

If a market-related price is not agreed with the Respondent scoring the third highest points, Mhlathuze Water must cancel the RFP.
- b) Prices must be quoted in South African Rand inclusive of VAT.
- c) Any disbursement not specifically priced for will not be considered/accepted by Mhlathuze Water.

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- d) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this pricing schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.
- e) Rates proposed must be aligned with the Guide on Hourly Fee Rates for Consultants” by the Department of Public Service and Administration (DPSA);
- f) Quantities given are estimates only. Any orders resulting from this RFP will be on an “as and when required” basis.
- g) Prices are to be quoted on a delivered basis to
- h) Please note that should you have offered a discounted price(s), Mhlathuze Water will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.
- i) Respondents, if awarded the contract, are required to indicate that their prices quoted would be kept firm and fixed a period of 12 months, subject thereafter to adjustment (i.e. after the initial period of 12 months), utilizing the following price index/indices/adjustment formula. [Not to be confused with bid validity period Section 2, clause 1]

.....

.....

YES	

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B. CONTRACT PRICE ADJUSTMENTS

1. PRODUCT PRICE ADJUSTMENT CALCULATION

The product price escalation will be calculated based on the Producer Price Index (PPI). The PPI report, P0142.1, is published by STATS SA on a monthly basis. Table 2 –PPI for intermediate manufactured goods has the relevant index.

Price escalation calculation will be as follow:

- **Product Base Price (A)**
- **PPI at base Price (B)**
- **PPI at contract anniversary (C)**

$$\text{New Product Price} = A \times \left(\frac{C}{B} \right)$$

NOTE:

- a) The above PPI “**Basic and other chemicals**” is found on **Table 2** on **P0142.1**
- b) The base price will be fixed for the first 12 months and thereafter the new contract price will be adjusted subject to escalation for year 2 and 3 as illustrated above. Adjustment will be done once a year on the anniversary of the contract.
- c) A 30 day notice period prior to price increases is required.

2. TRANSPORT PRICE ADJUSTMENT CALCULATION

The transport price escalation will be calculated as follow:

- **Transport Base Price (D)**
- **PPI at base Price (E)**
- **PPI at contract anniversary (F)**

$$\text{New Transport Price} = D \times \left(\frac{F}{E} \right)$$

NOTE:

- a) The above PPI “**Diesel**” is found on Table 1 on **P0142.1**
- b) The transport base price will be fixed for the first 12 months and thereafter the new contract price will be adjusted subject to escalation.
- c) Transport price will be adjusted biannually and 30 day notice period prior to price increase is required.

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Compulsory Returnable

RETURNABLE DOCUMENTS

Returnable Documents means all the documents, Sections and Annexures, as listed in the tables below. There are three types of returnable documents as indicated below and Respondents are urged to ensure that these documents are returned with their bids based on the consequences of non-submission as indicated below:

Mandatory Returnable Documents	<i>Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this RFP <u>will</u> result in a Respondent's disqualification.</i>
Returnable Documents Used for Scoring	<i>Failure to provide all Returnable Documents used for purposes of scoring a bid, by the closing date and time of this bid will not result in a Respondent's disqualification. However, Bidders will receive an automatic score of zero for the applicable evaluation criterion.</i>
Essential Returnable Documents	<i>Failure to provide essential Returnable Documents <u>will</u> result in Mhlathuze Water affording Respondents a further opportunity to submit by a set deadline. Should a Respondent thereafter fail to submit the requested documents, this may result in a Respondent's disqualification.</i>

MANDATORY DOCUMENTS FOR TEST FOR ADMINISTRATIVE RESPONSIVENESS

Description	Submitted YES / NO
1. Proof of company registration documents	
2. Proof of Registration with SARS (Valid PIN from SARS confirming compliance status)	
3. Certified copies of Identity Documents of Shareholders/Members/Directors of the business (not applicable if a company is a 100 % subsidiary)	
4. A certified copy of Partnership Agreement(if tenderer is a partnership or JV)	
5. Reference Letters from Previous Employers / current Employers	
6. Certified valid copy of BBBEE Certificate or a sworn affidavit if company is an EME or QSE.	

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MANDATORY DOCUMENTS FOR TEST CHECK FOR SUBSTANTIVE RESPONSIVENESS

Description	Submitted YES / NO
7. Quality Certification - ISO 9001:2015 Certification (please submit current certificate) or - Quality Management Plan in accordance with the ISO 9001:2015 requirements. (please submit plan)	
8. Environmental Management System - ISO14001 certification (please submit current certificate) – or - Environmental Management Plan in accordance with the requirements of ISO 14001(please submit plan)	
9. Occupational Health and Safety - OHSAS 18001/ISO 45001 (please submit certificate) or - Occupational Health & Safety Plan (Please submit plan)	
10. Emergency Response Plan for spills, accidents and any other emergencies while transporting and within Mhlathuze Water premises. - Proof of agreement with a competent organisation registered to deal with HAZMART spillages. - Emergency Response Plan detailing how the Tenderer or subcontractor will respond to an emergency spill, clean and rehabilitate the area that may be affected by an uncontrolled release of sodium hydroxide during transportation and /or while the vehicle is within Mhlathuze Water site. - No plan submitted.	
11. Tenderers shall provide previous and current contracts in the last 10 years involving supply, delivery and offloading of water treatment chemicals. <i>(Please submit written reference per contract, no points will be allocated without a written reference)</i>	
12. Location of the business address - Mhlathuze Water operational area (King Cetshwayo DM, Zululand DM and UMkhanyakude DM) - Outside Mhlathuze Water operational area but within KZN	
13. Pricing and Delivery Schedule	

SBD4

Essential Returnable

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise,

employed by the state?

YES/NO

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

3.1 I have read and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;

3.3 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 consortium² will not be construed as collusive bidding.

3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

3.4 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.

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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- 3.6 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

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Essential

TAX COMPLIANCE STATUS LETTER REQUIREMENTS

Respondents must be compliant when submitting a proposal to Mhlathuze Water and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

It is a condition of this bid that the tax matters of the successful Respondents be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Respondents tax obligations.

The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids.

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

- Bidder must ensure compliance with their tax obligations
- Bidders are required to submit their unique personal identification number(pin) issued by SARS to enable the organ of state to verify the taxpayers' profile and status
- Application for Tax Compliance Status(TCS) pin may be made via- filling through the SARS www.sars.gov.za
- Bidders may also submit a printed TCS certificate with the bid
- In bids where consortia/ joint ventures/sub-contractors are involved, each party must submit a separate TCS certificate /pin//CSD number
- No bids will considered from person in the services of the state, companies with directors who are person in the service of state, or close corporations with members in the service of state

I ACCEPT THAT THE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPHY 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE OF IN THE SUPPLY CHAIN MANAGEMENT SYSTME SHOULD THIS DECLARATION PROVE TO BE FALSE

.....

Signature

.....

Date

.....

Position Name of bidder

.....

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Essential Returnable

Authority to submit a Tender

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

A - COMPANY	B - PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR

A. Certificate for Company

I, _____ chairperson of the board of directors of
_____ hereby confirm that by
resolution
of the board taken on _____ (date), Mr/Ms _____ ,
_____ acting in the capacity of _____ ,
was authorised to sign all documents in connection with this tender offer and any contract resulting from
it on behalf of the company.

Signed _____ Date _____

Name _____ Position _____ Chairman of the Board of Directors

B. Certificate for Partnership

We, the undersigned, being the **key partners** in the business trading as _____
_____ hereby _____ authorise _____ Mr/Ms,
_____ acting in the capacity of _____ , to sign all documents in connection with
the tender
offer for Contract _____ and any contract resulting from it on our
behalf.

Name	Address	Signature	Date

NOTE: This certificate is to be completed and signed by the full number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

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C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms _____, an authorised signatory of the company _____ acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract: _____ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

Name of firm	Address	Authorising signature, name (in caps) and capacity

D. Certificate for Sole Proprietor

I, _____ hereby confirm that I am the sole owner of the business trading as _____

Signed	_____	Date	_____
Name	_____	Position	Sole Proprietor

Compulsory

Certificate of Attendance at Tender Clarification Meeting

This is to certify that

_____ (Tenderer)

of

_____ (address)

was represented by the person(s) named below at the **compulsory** tender clarification meeting

Held at:	Mhlathuze Water, Cnr, South Central Arterial & Battery Bank, Alton Richards Bay 3900	
On (date)	_____	Starting time: 10h00

As the tenderer we undertake that by said persons attending the clarification meeting we have made it our business to familiarise ourselves with all aspects of the works / service / supply specified in the tender documents in order for us to take account of everything necessary to provide a responsive tender offer and to compile our rates and prices included in the tender offer.

We further understand that in addition to any queries raised on behalf of us at the meeting we may still approach the *Employer / Purchaser's* Representative to request clarification of the tender documents until no later than five working days before the tender closing time stated in the Tender Data.

Particulars of person(s) attending the meeting:

Name	_____	Signature	_____
------	-------	-----------	-------

Capacity	_____		_____
----------	-------	--	-------

Name	_____	Signature	_____
------	-------	-----------	-------

Capacity	_____
----------	-------

Essential

B-

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

(i)

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

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

1. GENERAL CONDITIONS

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

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

1.2

a) The value of this bid is estimated to **not exceed** R50 000 000 (all applicable taxes included) and therefore the **...80/20....** 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.

The maximum points for this bid are allocated as follows:

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

1.4 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.

1.5 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at

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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:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

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
$Ps = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$	or	$Ps = 90 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$

Where

- Ps = Points scored for price of bid under consideration
- Pt = Price of bid under consideration
- Pmin = Price of lowest acceptable bid

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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		NO	
-----	--	----	--

- 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

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Preferential Procurement Regulations,2017:

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

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

.....

.....

.....

.....

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8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

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

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

WITNESSES

1.

2.

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

DATE:

ADDRESS

.....

.....

Essential

**Certificate of Acquaintance with
Tender Documents**

NAME OF ENTITY:

1. I/we

do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising this Tender and all conditions contained therein, as laid down by Mhlathuze Water for the carrying out of the proposed supply/service/works for which I/we submitted my/our Proposal.

2. I/we furthermore agree that Mhlathuze Water shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any RFP/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Bid will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Bid, I/we understand that the word "competitor" shall include any individual or organisation, 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 Services as the Bidder and/or is in the same line of business as the Bidder
5. 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 will not be construed as collusive bidding.
6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a) prices;
 - b) geographical area where Services will be rendered [market allocation];

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- 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 RFP;
or
 - f) bidding with the intention of not winning the Bid.
7. 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 Services to which this RFP relates.
8. 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.
9. I/We am/are 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 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

Signed	Date
_____	_____
Name	Position
_____	_____
Tenderer	

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Essential

Record of Addenda to Tender Documents

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

	Date	Title or Details
1		
2		
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Attach additional pages if more space is required.

Signed

Date

Name

Position

Tenderer

Supplier Integrity Pact

Essential

PREAMBLE

Mhlathuze Water values full compliance with all relevant laws and regulations, ethical standards and the principles of economical use of resources, fairness and transparency in its relations with its Bidders / Suppliers.

In order to achieve these goals, Mhlathuze Water and the Bidder / Supplier hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Bidder's / Supplier's application for registration with Mhlathuze Water as a vendor.

The general purpose of this Integrity Pact is to agree on avoiding all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of any procurement and / or reverse logistics event and any further contract to be entered into between the Parties, relating to such event.

All Bidders / Suppliers will be required to sign and comply with undertakings contained in this Integrity Pact, should they want to be registered as a Mhlathuze Water vendor.

1. Objectives

Mhlathuze Water and the Bidder / Supplier agree to enter into this Integrity Pact, to avoid all forms of dishonesty, fraud and corruption including practices that are anti-competitive in nature, negotiations made in bad faith and under-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

- 1.1 Enable Mhlathuze Water to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and
- 1.2 Enable Bidders / Suppliers to abstain from bribing or participating in any corrupt practice in order to secure the contract.

2. Commitments of Mhlathuze Water

Mhlathuze Water commits to take all measures necessary to prevent dishonesty, fraud and corruption and to observe the following principles:

- 2.1 Mhlathuze Water hereby undertakes that no employee of Mhlathuze Water connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any

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person, organisation or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to any contract.

- 2.2 Mhlathuze Water will, during the registration and bidding process treat all Bidders / Suppliers with equity, transparency and fairness. Mhlathuze Water will in particular, before and during the registration process, provide to all Bidders / Suppliers the same information and will not provide to any Bidders / Suppliers confidential / additional information through which the Bidders / Suppliers could obtain an advantage in relation to any bidding process.
- 2.3 Mhlathuze Water further confirms that its employees will not favour any prospective bidder in any form that could afford an undue advantage to a particular bidder during the tendering stage, and will further treat all Bidders / Supplier participating in the bidding process.
- 2.4 Mhlathuze Water will exclude from the bidding process such employees who have any personal interest in the Bidders / Suppliers participating in the bidding process.

3. Obligations of the Bidder / Supplier

- 3.1 The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:
 - 3.1.1 The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Mhlathuze Water or to any of Mhlathuze Water employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process.
 - 3.1.2 The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
 - e) A Bidder / Supplier may not offer gifts, goods or services to a Mhlathuze Water employee at artificially low prices, which are not available to the public at those prices.
 - 3.1.3 The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
 - 3.1.4 The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or introduce cartels into the bidding process.

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- 3.1.5 The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Mhlathuze Water part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 3.1.6 A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.
- 3.1.7 The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Mhlathuze water or other competitors.
- 3.1.10 The Bidder / Supplier shall furnish Mhlathuze Water with a copy of its code of conduct, which code of conduct shall reject the use of bribes and other dishonest and unethical conduct, as well as compliance programme for the implementation of the code of conduct.
- 3.1.11 The Bidder / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

4 Disqualification from Bidding Process

- 4.1 If the Bidder / Supplier has committed a transgression through a violation of section 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder / Supplier into question, Mhlathuze Water may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.
- 4.2 If the Bidder / Supplier has committed a transgression through a violation of section 3, or any material violation, such as to put its reliability or credibility into question, Mhlathuze Water may after following due procedures and at its own discretion also exclude the Bidder / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Mhlathuze Water reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.
- 4.3 If the Bidder / Supplier can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances

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of the case may require, Mhlathuze Water may at its own discretion revoke the exclusion or suspend the imposed penalty.

5 Grounds for Blacklisting

5.1 A Bidder / Supplier may be blacklisted where it has submitted a bid, or concluded a contract in the capacity of agent or subcontractor or has been associated with such a Bid or contract and the Bidder / Supplier has:

- a) withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
- b) after being notified of the acceptance of its Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming a part of the bid documents;
- c) carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
- d) offered, promised or given a bribe in relation to the obtaining or execution of the contract;
- e) acted in a fraudulent or improper manner or in bad faith towards Mhlathuze Water or any Government Department or towards any public body, enterprise or person;
- f) made any incorrect statement in a certificate or other communication with regard to the Local Content of its Goods or its B-BBEE status and is unable to prove to the satisfaction of Mhlathuze Water that:
 - (i) it made the statement in good faith honestly believing it to be correct; and
 - (ii) Before making such statement it took all reasonable steps to satisfy itself of its correctness.
- g) caused Mhlathuze Water damage, or to incur costs in order to meet the *Consultant's* requirements and such costs could not be recovered from the *Consultant*; and
- h) litigated against Mhlathuze Water in bad faith.

5.2 As soon as Mhlathuze Water detects misconduct by a Bidder / Supplier falling within one of the grounds for blacklisting, the matter must immediately be reported to the Procurement Division. The Procurement Division will review the motivation for blacklisting. If possible grounds for blacklisting exist, a forensic audit may be conducted to establish whether the grounds for blacklisting are valid.

5.3 Should the forensic report establish that possible grounds for blacklisting exist, the matter will be referred to the Mhlathuze Water Legal Department for further action. The Mhlathuze Water Legal Department will inform the Bidder / Supplier, its directors and all associate entities by registered mail of the intention to blacklist. The letter will also indicate whether Mhlathuze Water intends to cancel any existing contracts with the Bidder / Supplier.

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- 5.4 The Bidder / Supplier will be afforded a period of 14 (fourteen) working days within which to make representation as to why they should not be blacklisted or why existing contracts should not be cancelled. After the 14 (fourteen) day period, the Mhlathuze Water Legal Department will consider and deal with the responses (if any) from the Bidder / Supplier.

6 Previous Transgressions

- 6.1 The Bidder / Supplier hereby declares that no previous transgressions resulting in a serious breach of any law, including but not limited to, corruption, fraud, theft, extortion and contraventions of the Competition Act 89 of 1998, which occurred in the last 5 (five) years with any other public sector undertaking, government department or private sector company that could justify its exclusion from its registration on the Bidder's / Supplier's database or any bidding process.
- 6.2 If it is found to be that the Bidder / Supplier made an incorrect statement on this subject, the Bidder / Supplier can be rejected from the registration process or removed from the Bidder / Supplier database.

7 Sanctions for Violations

Mhlathuze Water shall also take all or any one of the following actions, wherever required to:

- 7.1 Immediately exclude the Bidder / Supplier from the bidding process or call off the pre-contract negotiations without giving any compensation to the Bidder / Supplier. However, the proceedings with the other Bidders / Suppliers may continue.
- 7.2 Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Bidder / Supplier.
- 7.3 Recover all sums already paid by Mhlathuze Water
- 7.4 Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Bidder / Supplier, in order to recover the payments already made by Mhlathuze Water, along with interest.
- 7.5 Cancel all or any other contracts with the Bidder / Supplier.
- 7.6 Exclude the Bidder / Supplier from entering into any bid with Mhlathuze Water in future.

8 Conflicts of Interest

- 8.1 A conflict of interest includes, inter alia, a situation in which:
- 8.1.1 A Mhlathuze Water employee has a personal financial interest in a bidding / supplying entity;
- 8.1.2 A Mhlathuze Water employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in acting in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism;

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8.1.3 A Mhlathuze Water employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:

- a) Private gain or advancement; or
- b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.

Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.

8.2 If a Bidder / Supplier has or becomes aware of a conflict of interest, i.e. a family, business and / or social relationship between its owner(s) / member(s) / director(s) / partner(s) / shareholder(s) and a Mhlathuze Water employee / member of Mhlathuze Water Board of Directors in respect of a bid which will be considered for the bid process, the Bidder / Supplier:

- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
- b) must notify Mhlathuze Water immediately in writing once the circumstances has arisen.

8.3 The Bidder / Supplier shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process, where this is done. Mhlathuze Water shall be entitled forthwith to rescind the contract and all other contracts with the Bidder / Supplier.

9 Examination of Financial Records, Documentation and/or Electronic Data

10. For the purpose of Monitoring, as stipulated above, the Monitor shall be entitled to:

- a) Examine the financial records, documentation and or electronic data of the Bidder / Supplier / Mhlathuze Water. The Bidder / Supplier / Mhlathuze Water shall provide all requested information / documentation / data to the Monitor and shall extend all help possible for the purpose of such examination.

11 Dispute Resolution

11.1 Mhlathuze Water recognises that trust and good faith are pivotal to its relationship with its Bidders / Suppliers. When a dispute arises between Mhlathuze Water and its Bidder / Supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, Mhlathuze Water will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

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- a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
- b) **Perjury:** where a supplier makes a false statement either in giving evidence or on an affidavit;
- c) **Scurrilous allegations:** where a supplier makes allegations regarding a senior Mhlathuze Water employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a supplier abuses the court process in order to gain a competitive advantage during a bid process.

12 General

- 12.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 12.2 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.
- 12.3 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.
- 12.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.
- 12.5 Should a Bidder / Supplier be confronted with dishonest, fraudulent or corruptive behaviour of one or more Mhlathuze Water employees, Mhlathuze Water expects its Bidders / Suppliers to report this behaviour directly to a senior Mhlathuze Water official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

The Parties hereby declare that each of them has read and understood the clauses of this Integrity Pact and shall abide by it. To the best of the Parties' knowledge and belief, the information provided in this Integrity Pact is true and correct.

SIGNED ON BEHALF OF EACH PARTY AS FOLLOWS:

MHLATHUZE WATER

Signed at: _____ on
_____ 20____

Signature: _____

(duly authorised)

Full name and surname:

MHLATHUZE WATER
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Position:

BIDDER / SUPPLIER

Signed at: _____ on
_____ 20 _____

Signature: _____
(duly authorised)

Full name and surname:

Position:

Essential

Mutual Non-Disclosure Agreement

Note to tenderers: This Non-Disclosure Agreement is to be completed and signed by an authorised signatory:

THIS AGREEMENT is made effective as of ____ day of _____ 20 by and between:

Mhlathuze Water a company incorporated and existing under the laws of South Africa, having its principal place of business at Cnr South Central Arterial & Battery Bank, Alton Richards Bay 3900

and _____

(Registration No. _____), a private company incorporated and existing under the laws of South Africa having its principal place of business at _____

1. Purpose

The parties to this Agreement have a business relationship under which each party may disclose its Confidential Information to the other for the purpose of planning, developing and/or constructing services associated with **PROVISIONS OF SECURITY SERVICES AT MIDDELDRIFT** .

("the Purpose"). Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the National Key Points Act (Act No. 102 of 1980), whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

2. Definition

"Confidential Information" means any information, technical data, or know-how, including, but not limited to that which relates to research, product plans, products, services, customers, markets, software, developments, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or finances.

3. Exclusions

Confidential Information does not include information, technical data or know-how which:

- a. is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure;

**MHLATHUZE WATER
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- b. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving party;
- c. is developed by the receiving party through its independent resources without reference to the disclosing party's Confidential Information;
- d. is disclosed to the receiving party by a third party without restriction and, to the knowledge of the receiving party, without violation of any obligation of confidentiality; or
- e. is approved for release by the disclosing party in writing.

4. Non-Disclosure of Confidential Information

- a. The parties to this Agreement agree not to use the Confidential Information disclosed to it by the other party for its own use or for any purpose except to carry out the Purpose as contained in this Agreement. Neither party will disclose any Confidential Information of the other party to third parties except those directors, officers, employees, consultants and agents who are required to have the information in order to carry out the discussions of the contemplated Purpose. Each party will notify those directors, officers, employees, consultants and agents to whom Confidential Information of the other party is disclosed or who have access to Confidential Information of the other party that they are bound by the obligations of this Non-Disclosure Agreement.
- b. Each party agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorised hereunder to have any such information, which measures shall include the highest degree of care that either party utilises to protect its own Confidential Information of a similar nature. Each party agrees to notify the other party in writing of any misuse or misappropriation of such Confidential Information of the other party which may come to its attention.

5. Promotion of Access to Information Act, No.2 of 2000

- a. All information relating to the disclosing party and which the disclosing party has indicated to the receiving party in writing to be confidential information, shall be deemed to be confidential information.
- b. No provision of this Agreement shall be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the confidential information in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of the provisions of the Promotion of Access to Information Act, No.2 of 2000, as may be amended from time to time ("the Act").
- c. Subject to the provisions below, the disclosure of confidential information by the receiving party otherwise than in accordance with the provisions of this Agreement will entitle the disclosing party to institute action for breach of confidence against the receiving party, as envisaged by Section 65 of Act No.2 of 2000.

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- d. The receiving party acknowledges that the above provisions shall not be construed in such a manner as to exclude the applicability of any other grounds of refusal contained in Act No.2 of 2000 which may be applicable in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000.

6. Non-Solicitation

During the two-year period following the execution of this Agreement, neither party will solicit for employment, on its own behalf or that of any other person, any officer, director or employee of the other party at the level of director, vice-president or higher with whom the soliciting party became acquainted during the course of the discussions contemplated by this Agreement; provided, that the foregoing shall not be deemed to prohibit either party or a subsidiary of such party from making a general, public solicitation of employment in the ordinary course of such party or subsidiary's business, provided that such solicitation is not directed specifically to employees of the other party.

7. Mandatory Disclosure

In the event that either party or their respective directors, officers, employees, consultants or agents are requested or required by legal process to disclose any of the Confidential Information of the other party, the party required to make such disclosure shall give prompt notice so that the other party may seek a protective order or other appropriate relief. In the event that such protective order is not obtained, the party required to make such disclosure shall disclose only that portion of the Confidential Information, which its counsel advises that it is legally required to disclose.

8. Variation, Addition or Cancellation

No variation of, addition to, cancellation or novation of this Agreement in its entirety or of any term or condition thereof shall be of any force or effect unless such amendment or cancellation is reduced to writing and signed by both parties.

9. No License Granted

Nothing in this Agreement is intended to grant any rights to either party under any patent, copyright, trade secret or other intellectual property right nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of the contemplated business relationship between the parties.

10. No Representations

No party makes any representation or warranty as to the accurateness or completeness of any Confidential Information provided hereunder. Neither party shall have any liability to the other arising from, or related to, the other party's use of Confidential Information provided hereunder.

11. Term

The foregoing commitments of either party in this Agreement shall survive any termination of the business relationship under the contemplated Purpose between the parties, and shall continue

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relative to any Confidential Information disclosed hereunder for a period of 10 (ten) years following the disclosure of such Confidential Information.

12. Miscellaneous

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of either party may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.

13. Governing Law and Jurisdiction

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Republic of South Africa, and shall be binding upon the parties hereto in South Africa and worldwide.

14. Disputes

Any dispute or difference arising out of or relating to this Non-disclosure Agreement shall be referred to arbitration and settled by arbitration according to the rules then in effect of the Arbitration Foundation of Southern Africa. Such arbitration shall be held in Johannesburg, and conducted in the English language before 1 (one) arbitrator appointed in accordance with the said rules. The arbitrator shall apply the law chosen by the parties elsewhere in this Agreement to the merits of the dispute. This Agreement to arbitrate shall be enforceable in, and judgment upon any award may be entered in any court of any country having appropriate jurisdiction.

15. Remedies

Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages may be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein.

Accordingly, each party agrees and acknowledges that any such violation or threatened violation may cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

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Tender Clarification Request Form

Essential

Tender No: PYP/W/

RFP deadline for questions / RFP Clarifications: Before 12h00 on Tuesday, 20th November 2022

TO: Mhlathuze Water
ATTENTION: Sihle Mndaweni
EMAIL: simndaweni@mhlathuze.co.za **Contract Specialist**

DATE: _____

FROM: _____

RFP Clarification No [to be inserted by Transnet]

REQUEST FOR RFP CLARIFICATION
