



CITY OF TSHWANE METROPOLITAN MUNICIPALITY

TENDER NUMBER:

EAM 06 2023/24

TENDER DESCRIPTION:	TENDER FOR THE SPRAYING OF CHEMICALS ON BOWLING GREENS AND THE SPRAYING OF INSECTICIDES AND FUNGICIDES IN PUBLIC OPEN SPACES, ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF 3 YEARS.
----------------------------	---

NAME OF BIDDER:

CSD NUMBER:

VENDOR NUMBER (WHERE APPLICABLE)

Prepared by:
City of Tshwane Metropolitan Municipality
Tshwane House
320 Madiba Street
Pretoria CBD
0002
Tel: 012 358 9999

BID CLOSING DATE

31 July 2024

Only bidders registered on the central supplier database (CSD) and with a CSD number will be considered for this tender, as this is a requirement from the National Treasury.

“Note: Bidders are required to submit electronic copies of the bid either by memory stick/USB flash drive/CD/DVD together with the hard copy of the Bid/Proposals”.



CITY OF TSHWANE METROPOLITAN MUNICIPALITY

DEPARTMENT: ENVIRONMENTAL AND AGRICULTURAL MANAGEMENT

Bids are hereby invited from suppliers for the following bid:

Bid number	Description	Department	Contact person	Compulsory briefing session	Closing date
EAM 06 2023/24	TENDER FOR THE SPRAYING OF CHEMICALS ON BOWLING GREENS AND THE SPRAYING OF INSECTICIDES AND FUNGICIDES IN PUBLIC OPEN SPACES, ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF 3 YEARS.	ENVIRONMENTAL AND AGRICULTURAL MANAGEMENT	Technical enquiries: Shane Paul 012 358 6090 or ShaneP@tshwane.gov.za	Venue: Denneboom Lapa, Fountains Valley Resort, cnr. Christina de Wit Ave and Eeufees Road, Pretoria Date: 11 July 2024 at 10:00	31 July 2024 at 10:00

THE DOCUMENT IS DOWNLOADABLE ON THE TSHWANE WEBSITE (www.tshwane.gov.za) and on the E-tender portal.

Each tender shall be enclosed in a sealed envelope that bears the correct identification details and shall be placed in the tender box located at:

“Note: Bidders are required to submit electronic copies of the bid either by memory stick/USB flash drive/CD/DVD together with the hard copy of the Bid/Proposals”

**Tshwane House
320 Madiba Street
Pretoria CBD
0002**

Documents must be deposited in the bid box not later than 10:00 on 31 July 2024

Bidders must contact the following officials for any enquiries:

- Technical enquiries: Shane Paul (012 358 6090 or ShaneP@tshwane.gov.za)

- Supply chain enquiries: Maureen Radingoana (012 358 6153 or maureenr@tshwane.gov.za)

Bids will remain valid for a period of 90 days after the closing date.

Bids received after the closing date and time will not be considered. The City of Tshwane does not bind itself to accept the lowest or any other bid in whole or in part.

INDEX

Number	Details	Document	Page
1.	Very important notice on disqualifications		
2.	Certificate of authority for signatory		
3.	Scope of work		
4.	Pricing schedule		
5.	Invitation to bid	MBD 1	
6.	Pricing schedule: Firm prices (purchases)	MBD 3.1	
7.	Pricing schedule: Non-firm prices (purchases)	MBD 3.2	
8.	Declaration of interest	MBD 4	
9.	Preference points claim form in terms of the preferential procurement regulations 2022	MBD 6.1	
10.	Contract form: Rendering of services	MBD 7.2	
11.	Declaration of past supply chain management practice	MBD 8	
12.	Certificate of independent bid determination	MBD 9	
13.	General conditions of contract		
14.	Service-level agreement		
LIST OF RETURNABLE DOCUMENTS THAT SHOULD FORM PART OF BID DOCUMENT			
15.	Company registration certificate		
16.	Rates and taxes or lease agreement		
17.	Unique PIN		
18.	CSD summary report		

VERY IMPORTANT NOTICE ON DISQUALIFICATIONS

A bid that does not comply with the peremptory requirements stated hereunder will be regarded as not being an “acceptable bid”, and such a bid will be rejected. An “acceptable bid” means any bid which, in all respects, complies with the conditions of the bid and the specifications as set out in the bid documents, including the conditions as specified in the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and related legislation as published in *Government Gazette* 22549, dated 10 August 2001, in terms of which provision is made for this policy.

1. If any pages have been removed from the bid document and have therefore not been submitted or if a copy of the original bid document has been submitted.
2. If the bid document is completed using a pencil or Tippex corrections were made, or any other colour ink. Only black ink must be used to complete the bid document.
3. The bidder attempts to influence or has in fact influenced the evaluation and/or awarding of the contract.
4. The bid has been submitted after the relevant closing date and time.
5. If any bidder who, during the last five years, has failed to perform satisfactorily on a previous contract with the municipality, municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
6. The accounting officer must ensure that, irrespective of the procurement process followed, no award may be given to a person –
 - (a) who is in the service of the state;
 - i. if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - ii. who is an advisor or consultant contracted to the municipality in respect of a contract that would cause a conflict of interest.
7. Bid offers will be rejected if the bidder or any of his/her directors are listed on the Register of Bid Defaulters in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) as a person prohibited from doing business with the public sector.
8. Bid offers will be rejected if the bidder has abused the City of Tshwane supply chain management system.
9. Failure to complete and sign the certificate of independent determination or disclosure of wrong information.
10. Duly Signed and completed MBD forms (MBD 1, 4, 5, 8 and 9) The person signing the bid documentation must be authorised to sign on behalf of the bidder. Where the signatory is not a Director / Member / Owner / Shareholder of the company, an official letter of authorization or delegation of authority should be submitted with the bid document.
11. All MBD documents fully completed (i.e. no blank spaces) and fully signed? By the authorized personnel.
12. False or incorrect declarations on any of the MBD documents will result in the rejection of the bidder.

- 13 It is the responsibility of the bidder to disclose in MBD4 any interest in any other related companies or business whether they are bidding for this contract. Failure to disclose this interest will result in the rejection of the bid.
- 14 Joint Ventures (JV) – (Only applicable when the bidder tender as a joint venture)
- i. Where the bidder bid as a Joint Ventures (JV), the required or relevant documents under administrative requirements must be provided/submitted for all JV parties. (These include MBD4, MBD5, MBD8, MBD 9, CSD and/ or SARS pin, Confirmation that the bidder's municipal rates and taxes are up to date.)
 - ii. In addition to the above the bidder must submit a Joint Venture (JV) agreement signed by the relevant parties.
 - iii. It is a condition of this bid that the successful bidder will continue with same Joint Venture (JV) for the duration of the contract, unless prior approval is obtained from City of Tshwane.
 - iv. JV agreement must be complete, relevant and signed by all parties.

Failure to comply with the above will lead to immediate disqualification.

Bidder

CERTIFICATE OF AUTHORITY FOR SIGNATORY

Status of concern submitting tender (delete whichever is not applicable):

COMPANY/PARTNERSHIP/ONE-PERSON BUSINESS/CLOSE CORPORATION/JOINT VENTURE

A. COMPANY

If the bidder is a company, a certified copy of the resolution of the board of directors that is personally signed by the chairperson of the board, authorising the person who signs this bid to do so and to sign any contract resulting from this bid, and any other documents and correspondence in connection with this bid or contract on behalf of the company, must be submitted with this bid.

An example is shown below:

By resolution of the board of directors on 20.....,
Mr/Ms has been duly
authorised to sign all documents in connection with
Bid Number

SIGNED ON BEHALF OF THE COMPANY:

IN HIS/HER CAPACITY AS

DATE:

SIGNATURE OF SIGNATORY:

WITNESSES: 1.

2.

B. PARTNERSHIP

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

Full name of partner	Residential address	Signature
.....		
.....		
.....		

We, the undersigned partners in the business trading as, hereby authorise to sign this bid as well as any contract resulting from the bid and any other documents and correspondence in connection with this bid or contract on our behalf.

.....		
Signature	Signature	Signature

.....		
Date	Date	Date

C. ONE-PERSON BUSINESS

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

.....	
Signature	Date

D. CLOSE CORPORATION

In the case of a close corporation submitting a bid, a certified copy of the founding statement of such corporation shall be included with the bid with a resolution by its members, authorising a member or other official of the corporation to sign the documents and correspondence in connection with this bid or contract on behalf of the company.

An example is shown below:

By resolution of the members at the meeting on 20..... at
....., Mr/Ms, whose
signature appears below, has been duly authorised to sign all documents in
connection with Bid Number

SIGNED ON BEHALF OF THE CLOSE CORPORATION:

IN HIS/HER CAPACITY AS:

DATE:

SIGNATURE OF SIGNATORY:

WITNESSES: 1.

 2.

E. CERTIFICATE OF AUTHORITY FOR JOINT VENTURES

This returnable schedule is to be completed by joint ventures.

We, the undersigned, are submitting this bid offer in joint venture and hereby authorise Mr/Ms , authorised signatory of the company..... , acting in the capacity of the lead partner, to sign all documents in connection with the bid offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
Lead partner		Signature: Name: Designation:
		Signature: Name: Designation:
		Signature: Name: Designation:
		Signature: Name: Designation:

ENVIRONMENT AND AGRICULTURE MANAGEMENT DEPARTMENT

BID NAME

TENDER FOR THE SPRAYING OF CHEMICALS ON BOWLING GREENS AND THE SPRAYING OF INSECTICIDES AND FUNGICIDES IN PUBLIC OPEN SPACES, ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF 3 YEARS.

BID NUMBER

EAM 06 2023-2024

1. INTRODUCTION AND PURPOSE

Tender for the spraying of chemicals on bowling greens and the spraying of insecticides and fungicides in public open spaces, on as and when required basis for a period of 3 years.

The tender sections are as follows:

- Section A - Chemical control of weeds, insects and fungi on bowling greens and cricket pitches
- Section B Chemical control of insects, fungi and algae on plants (Insecticides, fungicides, algaecides)

2. BACKGROUND

The City of Tshwane uses various pest control contractors to carry out various chemicals to control various types of vegetation (weeds and grass), insects and fungi on various sites within in the city. These sites may vary from parks, traffic islands, bowling greens, natural areas, street verges and municipal buildings etc. Delivery of services can be done across the entire City of Tshwane in all 7 Regions.

This tender has been in operation for many years and is used mainly by the Department Environment and Agriculture Management and Regional Urban Management for parks, traffic islands and sports fields. The general demand for sections of this tender is seasonal and varies from Department to Department.

Only South African registered of Herbicides, Insecticides, Fungicides, Rodenticides and Adjuvant with the Department of Agriculture may be tendered.

3. PROJECT SCOPE

The City reserves the right to appoint more than one tenderer for Section A and B. If the first bidder fails to accept the appointment, then the second bidder will be appointed. A bidder may bid for one or more sections of the tender. Service providers will be appointed per section. A bidder may tender for one or more

sections depending on their Pest Control Certification. Bidders must bid for all items under each section. This is a variable tender.

Section	Description	No of Bidders
A	Chemical control of weeds, insects and fungi on bowling greens and cricket pitches	2 Bidders
B	Chemical control of insects, fungi and algae on plants (Insecticides, fungicides, algaecides)	2 Bidders

The tender sections are as follows:

3.1 SECTION A - CHEMICAL CONTROL OF WEEDS, INSECTS AND FUNGI ON BOWLING GREENS AND CRICKET PITCHES

NB: This is a specialized field, and the bidder needs to have thorough knowledge of the correct product use and application on these highly specialized surfaces.

Bidders must comply with all the specifications of this section to be able to qualify as well as the general specifications, conditions and comply with the mandatory evaluation criteria.

3.1.1 Qualifications of Pest Control Operators (PCO)

The following certificates are required to be able to tender for this section. If the tenderer does not provide proof of the following certificates, their tender will not be considered.

Pest Control Operators (PCO) in terms of Section 10 of Act 36 1947 and updated in Government gazette No 1449 of 1 July 1993 are required to have valid PCO certificates. The supervisor of each team, meaning the person who will be on site applying or supervising the application of the chemical used in this tender must have the following PCO certificates.

TABLE 1 – SECTION A PCO CERTIFICATION CRITERIA	
Tender Section	PCO certificate Field
Chemical control of bowling greens and cricket pitches	Weed Control + Plant Pests and Diseases (or a Certificate specializing in Turf grass)

- All chemical sprayers (meaning workers applying chemical) must have received practical training (That is provided by an AGRISETA service provider) in the risks and safe use of chemicals and the application thereof (a basic course is acceptable). Certificates as proof of the abovementioned training must be submitted.
- At least one member of each team must be trained in First Aid and have a valid certificate.

3.1.2 Supply of Chemicals

All herbicides, insecticides and fungicides and adjuvant, shall be supplied by the bidder.

The mixing and application of chemicals shall be done in accordance with the prescriptions of the manufacturer.

The bidder shall be liable for any claims that may arise through the negligent use of chemicals or through the improper use as specified in Act 36/1947 or by the Manufacturer of the chemical.

The bidder is required to keep record of the type of chemical, the amount of chemical used as required by law when spraying chemical for this tender. These records must be made available to the clerk of works for inspection on a monthly basis.

Spraying drift onto people, animals, adjacent land must be avoided. Avoid spraying in windy conditions. The greens and pitches must be closed while spraying is taking place.

Spraying must be suspended under adverse weather conditions if a danger of contamination of humans, etc. exists.

If the project manager decides to use the option of supplying the chemical, then the vendor must arrange for the collection of the chemical from the project manager. The bidder must keep records of how much chemical was used per spraying request. Once the work orders are complete the remaining chemical must be returned to the clerk of works.

The bidder must store the chemical on their property in a proper chemical store. The store must have proper signage and safety precautions in place. The store does not have to be large as the chemical consumed for this section is not very large and the chemicals are usually highly concentrated. Separate cupboards for insecticides, herbicide and fungicides installed correctly can be sufficient.

3.1.3 Vehicles, Spraying Equipment and personnel required for Section.

- A bidder will be required to have the following available for the duration of this tender. If a tenderer does not comply with the minimum requirement they will not qualify for this section of the tender.
- All labour, vehicles and equipment offered for the tender must be available for the duration of the tender.
- The bidder must have the following spraying equipment available to provide a service as specified by this section:
- Knapsack sprayers (mandatory) (one per chemical sprayer)
- Specialized turf grass boom sprayer application equipment (mechanical sprayer with a boom and at least five nozzles fitted of the same type) (mandatory)
- The tenderer shall ensure that all nozzles give equal output throughout every application.
- The nozzles shall be flat fan t-jets “tj 8004 to tj 8006” or twin flat fan t-jets “tj 60-8004 to tj 60-8006”
- The nozzles shall be fitted in such a manner as to ensure even, overlapping spread but preventing any over dosage on the target area sprayed.
- Vehicles- the bidder must have at least one light delivery vehicles available for this tender with the appropriate hazardous signage on the back and side of the vehicle.
- Personnel: the bidder must have a minimum of one team available for this tender section. There must be a Pest Control Operator heading/supervising the

team. The team must have a minimum of two chemical sprayers.

- Covers on the spray heads shall be used when herbicides are sprayed on embankments and greens.
- Marking lines must be used; depending on the product applied; to ensure that no excessive overlapping occurs which might cause damage to the turf as a result of over-dosing.
- All equipment must be thoroughly cleaned before use. The same equipment may not be used to spray herbicides and fungicides/insecticides.
- No leaks will be allowed on the feeding pipe, boom or any of the nozzles.
- The bidder will ensure that no damage (physical or chemical) occurs to playing surface as a result of dragging the feeding pipe.
- The bidder must be in possession of signage that can be placed on site warning the sportsmen that there is a pest control action in process and that they must not enter the area.
- No member of the club, or public will be allowed onto the greens or pitches while spraying is in process.

3.1.4 CATEGORIES OF SPRAYING OF BOWLING GREENS AND CRICKET PITCHES

There are two categories of spraying that can be required of the tenderer namely preventative and curative spraying.

PREVENTIVE SPRAYING SPECIFICATIONS AND OPERATIONAL PROCEDURES

- The use of the preventative spraying option will only be used if a 30-day program has been approved by the Sports and Recreation Division as this will be subject to the availability of funds. If a program has not been approved, then the option of curative spraying will only be used.
- The tenderer shall spray the complete green with every application.
- The mixed product must be evenly spread over the total green surface at a volume not less than 150 litres per green (average size of 1460 sq. m.)
- Only specialized equipment (as specified) shall be used to spray the whole playing surface. No knapsack shall be allowed for spraying the playing surface. The outstanding portion can be sprayed by making use of a knapsack (app. 200mm. ditch; app. 400 mm. grass embankment; 1.0 m. to be sprayed on top of embankment)
- The tenderer shall be liable to do the application of any preventative spraying within 5(five) working days of receiving the request.
- The Municipality shall attempt to follow a preventative program which shall consist of the following: Fungicides throughout the year and insecticides from approximately October to May.

CURATIVE SPRAYING FOR BOWLING GREENS AND CRICKET PITCHES

- The bidder shall spray the complete green with every application.
- The mixed product must be evenly spread over the total green surface at a volume not less than 150 litre per green (average size of 1460 m².)
- Only specialized equipment (as specified) shall be used to spray the whole of the playing surface. No knapsack will be allowed for spraying the playing surface unless spot treatment is applied.
- The outstanding portion shall be sprayed by making use of a knapsack (app. 200mm. ditch; app. 400 mm. grass embankment; 1.0 m. to be sprayed on top of the Embankment)

- All equipment shall be calibrated as to ensure proper and even spread over the target area according to the fungicide / insecticide manufacturer's specification.

3.1.5. Work hours and Operational arrangements.

- The bidder may carry out work from 07:00 to 16:00. No application may be done before 07:00 or after 16:00. If the bidder needs to carry out work after these hours' arrangements must be made with the project manager. It should however be noted that no dew or rain should be present at time of spraying or within three (3) hours after application.
- Work must be completed within the time limits specified under the heading Description of various sites and operational procedures. The following factors will extend the time limits:
 - Rain, wind and other unfavorable climatic conditions
 - Unavailability of product due to manufacture problems.
 - This information must be communicated to the clerk of works within 24 hours after receiving the spraying order.
- If normal working days are affected by the weather and work cannot be completed, then the bidder may request the project manager permission to carry out specific orders on weekend and public holidays. Written permission may be granted in conjunction with the bowling and cricket club. The CoT will not be responsible for extra overtime.
- The bidder is not required to work on weekends and public holidays or any other declared municipal holidays, except when there is work required because of sporting tournaments and work cannot be carried out during normal working hours. The CoT will not carry the extra costs of the overtime.
- The date of application must be arranged in advance with the Functional Head Horticulturist/ Sports Officer or bowling or cricket club manager.
- All spraying shall be done in the presence of the horticulturist / nominee/ club manager.

3.1.6 DESCRIPTION OF THE VARIOUS SITES AND OPERATIONAL PROCEDURES

- Bidders can be requested to work on the following types of terrain.
- Bowling greens and cricket pitches
- **This includes the bowling green and cricket pitch and up to one meter around the green or pitch.**
- The sites can have one, two or three bowling greens. The majority only have two. There are currently 29 Bowling Green's under Sport Division management.
- The Cricket pitches vary in size e.g.: 27x20m, 27 x8m, 25x12m, 30x12m.
- The date specified by the project manager must be adhered to avoid clashes with sporting events. Bidder must liaise with the controlling body of the sport club.
- Time Limits: The bidder shall be liable to do the application of any curative spraying within 24 hours of the receipt of the request.
- Chemical: Various selective herbicides insecticides and fungicides and adjuvant such as colorants and wetting agents can be sprayed according to specifications of the project manager.

Various bowling green facilities in the City of Tshwane (CoT):

TABLE 2 – BOWLING GREEN SITES			
Region	NAME OF FACILITY	Description	PHYSICAL ADDRESS
1	Pretoria North	2 x Bowling greens.	c/o Jan van Riebeeck and Gerrit Maritz Streets in Pretoria North
2	Wonderboom Bowling	2 x bowling greens	Besembiesie Street, Montana
3	Brooklyn Boot Camp	2 x Bowling greens	Murray and Williams
3	Colbyn Bowling Club	2 x Bowling greens	Kilnerton road, Colbyn
3	Lynwood Bowling	2 x Bowling greens	Kings Highway and Rosemary street, Lynwood.
3	Riviera Bowling club- Pretoria Municipal Recreation Club	3 x Bowling Club	Annie Botha Ave, Riviera
3	Sunnyside Bowling	2 x Bowling greens	Jorison and Kotze street, Sunnyside
3	Sunnyside National Association for the blind	2 x Bowling greens	C/O Plein and Kotze street, Sunnyside
3	Villaria Bowling Club (Jan Moerdyk Rolbal Club)	2 x Bowling greens	C/o 30thAve and Terblanche street, Villaria
3	Mbolekwa Sports Complex Bowling	2 x Bowling greens	Sehloho Street, Atteridgeville
4	Centurion	2 x Bowling greens	c/o Sports Avenue and Kruger Avenue, Centurion
4	Laudium	1 x Bowling greens	c/o Azure Street and 10th Avenue in Laudium
6	Meyerspark Bowling club	2 x Bowling greens	C/o. Van Niekerk & Roos Str, Meyerspark
7	Bronkhorstspuit Bowling Club	1 x Bowling greens	Church Street, Bronkhorstspuit

Various cricket pitch facilities in the City of Tshwane (CoT):

TABLE 3 – CRICKET PITCH SITES

Region	NAME OF FACILITY	Description	PHYSICAL ADDRESS
1	Soshanguve Block DD	1 x Cricket turf field	Erf 602 Block DD, C/o Wellcome – and Tshepo Streets, Soshanguve Coordinates/DMS: 25°29 '18.53" S, 28°6' 41.96" E
2	Hammanskraal Sport Complex	1 x Cricket turf field	359 Lovers lane street, Mandela Village, Hammanskraal
2	Temba Stadium	1 x turf cricket field	912 Unit D, Temba
2	Sinoville Cricket	1 x turf cricket field	Matlabas street, street Sinoville
3	Klipkoppies (Pta Mun. Cricket Club)	1 x turf cricket field	10 th Ave & Louis Trichard Str, Wonderboom South
3	Westelike Cricket	1 x turf cricket field	Transoranje Road, 7 351 JR 168
3	Booyens Primary Cricket	1 x turf cricket field	C/o Attie & Wilhelm, Booyens
3	Capital Park Cricket	1 x turf cricket field	Trouw Street, Capital Park
3	Cronje Park Cricket	1 x turf cricket field	C/o Schurmanns & Willie Breedt, Pretoria Gardens
3	Masopha Cricket - Sport Grounds	1 x turf cricket field	Masopha Street, Saulsville
4	Laudium Cricket	1 x turf cricket field	
6	Eersterust Cricket Centre of excellence	2 x turf cricket fields	4325 C/o. Agapanthus & Hans Coverdale North, Eersterust
6	Silverton cricket	1 x turf Cricket Field	Roestoff Str, Silverton
6	Mamelodi West Cricket	1 x turf Cricket field	3419 C/o Masethe & Mkhize St, Mamelodi
6	Stanza Bopape Cricket	1 x turf Cricket field	28731 C/o Rammapudu & Butilezi

3.1.7 Costing of the tender

- The bidder must realize that this is an as and when required tender. The demand for the service varies greatly between summer and winter as well as after lots of rain compared to dry spells.
- The peak season is generally from the first rains in September till April.
- The price must be tendered per litre mix (chemical and water) for some items and per bowling green for other. (The size of a green is estimated at 1460 m² - App. 36.6m². playing surface; app. 200 mm. ditches; app. 400 mm. grass embankment; 1.0 m. to be sprayed on top of the embankment)
- The price must include transport, labour, chemical, mix and application.

- The mandatory evaluation criteria for this section must be completed and returned with the trade names and registration numbers.
- The pricing schedule must be complete with the prices either per litre mix or per bowling green or cricket pitch area.
- The tenderer needs to price each item as the tender section is awarded as a whole. Failure to price each item on the list will lead to disqualification for this section as the section is evaluated as a whole.
- All bidders will be required to have public liability insurance of R10 million

TABLE 4 – SECTION A – TENDER PRODUCTS

	SAP Service no	Product Description- Active Ingredient	Formulation	Mandatory requirements	Tender price unit
A1	3029580	Azoxystrobin 500g/kg	WG	Fungicide.	Per single bowling green - preventative
A2	3029581	chlorothalonil 720 g/lit	SC	Fungicide.	Per single bowling green - preventative
A3	3029580	Azoxystrobin 500g/kg	WG	Fungicide.	Per single bowling green - curative
A4	3029581	chlorothalonil 720 g/lit	SC	Fungicide.	Per single bowling green - curative
A5	3029582	alpha-cypermethrin 100g/lit	SC	Insecticide.	Per single bowling green - curative
A6	3029583	Cypermethrin 200g/lit.	EC	Insecticide.	Per single bowling green - curative
A7	3029584	Copper Oxychloride 850g/kg.	WP	Algae.	Per single bowling green - curative
A8	3029579	Application cost without supplying chemical Product to be provided by the clerk of works.			Per single bowling green - curative
A9	3029585	Dicamba (benzoic acid) 120g/lit. MCPA (phenoxyacetic acid) 300g/lit.	SL	broad leaf herbicide.	R / 1 lt. Mix - Curative spraying
A10	3029586	Halosulfuron (sulfonyleurea) 750 g/kg	WG	nut sedge.	R / 1 lt. Mix - Curative spraying

3.2 SECTION B, CHEMICAL CONTROL OF INSECTS, FUNGI AND ALGAE ON PLANTS (INSECTICIDES, FUNGICIDES)

This section is only for the spraying of insects, fungi on plants or other horticultural related pests that occur outdoors.

Bidders must comply with all the specifications of this section to be able to qualify as well as the general specifications, conditions and comply with the mandatory evaluation criteria.

3.2.1 Qualifications of Pest Control Operators (PCO)

The following certificates are required to be able to tender for this section. If the bidders does not provide proof of the following certificates, their tender will not be considered.

- Pest Control Operators in terms of Section 10 of Act 36 1947 and updated in Government gazette No 1449 of 1 July 1993 are required to have valid PCO certificates. The supervisor of each team, meaning the person who will be on site applying or supervising the application of the chemical used in this tender must have the following PCO Certificate.

TABLE 5: SECTION B PCO CERTIFICATION CRITERIA	
Tender Section	PCO certificate Field
Chemical control of insects, fungi and algae. (Insecticides, fungicides, algaecides)	Plant Pests and Diseases

- All chemical sprayers (meaning workers applying chemical) must have received practical training (That is provided by an AGRISETA service provider) in the risks and safe use of chemicals and the application thereof (a basic course is acceptable). Certificates as proof of the abovementioned training must be submitted.
- At least one member of each team must be trained in First Aid and have a valid certificate.

3.2.2 Supply of Chemical

- All insecticides and fungicides and adjuvant such wetting agents shall be supplied by the bidder.
- The mixing and application of chemicals shall be done in accordance with the prescriptions of the manufacturer on the container.
- The bidder shall be liable for any claims that may arise through the negligent use of chemicals or through the improper use as specified in Act 36/1947 or by the Manufacturer of the chemical.
- Bidder is required to keep record of the type of chemical, the amount of chemical used as required by law when spraying chemical for this tender. These records must be made available to the project manager for inspection monthly.
- Spraying drift onto people, animals, adjacent land, public roads, footpaths, water supplies or crops, particularly when harvesting is taking place must be avoided. Avoid spraying in windy conditions to avoid human contamination.
- Spraying must be suspended under adverse weather conditions if a danger of contamination of humans, rivers, etc. exists.
- The bidder must store the chemical on their property in a proper chemical store. The store must have proper signage and safety precautions in place. The store does not have to be large as the chemical consumed in this section is not very large and the chemicals are usually highly concentrated. Separate cupboards for insecticides and fungicides installed correctly can be sufficient.

3.2.3 Vehicles, Spraying Equipment and personnel required for Section.

- A bidder will be required to have the following available for the duration of this tender. If a bidder does not comply with the minimum requirement they will not qualify for this section of the tender.
- All labour, vehicles and equipment offered for the tender must be available for the duration of the tender.

- The bidder must have the following spraying equipment available to provide a service as specified by this section:
 - Knapsack sprayers (mandatory) (one per chemical sprayer)
 - A 500l or 800L power sprayer is recommended for spraying large volumes of chemical, for example with spraying termite holes.
- Vehicles- the bidder must have at least one light delivery vehicle available for this tender with the appropriate hazardous signage on the back and side of the vehicle.
- Personnel: the bidder must have a minimum of one team available for this tender section. There must be a Pest Control Operator heading/supervising each team. The team must have a minimum of two chemical sprayers.
- The bidder must be in possession of signage that can be placed on site warning the public that there is a pest control action in process and that they must not enter the area.

3.2.4 Categories of Spraying

- The bidder will be required to carry out the following types of spraying using the following types of equipment:
- Spot Treatment
- Application is carried out with a knapsack sprayer and fan or conical sprayer heads at plus minus 200lt water/ha. Shields may be required in certain cases. The knapsacks may not be used for herbicides and must be exclusively used for the fungicides and insecticides.
- Strip Treatment
- Application is carried out with a knapsack or mechanized spraying equipment using fan spray heads where the spray width may vary from 0,2m to 3m. Using 200 - 500lt water/ha low drift spray nozzles must be used at a pressure of 100 - 200 KPA. Shields may be required in certain cases. The knapsack or mechanical sprayer may not be used for herbicides and must be exclusively used for the fungicides and insecticides.

3.2.5 Work hours and Operational arrangements.

- The bidder may carry out work from 07:00 to 16:00. No application may be done before 07:00 or after 16:00. If the tenderer needs to carry out work after these hours' arrangements must be made with the project manager. It should however be noted that no dew or rain should be present at time of spraying or within three (3) hours after application.
 - Work must be completed within the time limits specified under the heading Description of various sites and operational procedures. The following factors will extend the time limits:
- Rain, wind and other unfavorable climatic conditions
- Unavailability of product due to manufacture problems.
 - This information must be communicated to the project manager within 24 hours after receiving the spraying order.
 - If normal working days are affected by the weather and work cannot be completed, then the tenderer may request the project manager permission to carry out specific orders on weekend and public holidays. Written permission may be granted. The Cot will not be responsible for extra overtime.

3.2.6 DESCRIPTION OF THE VARIOUS SITES AND OPERATIONAL PROCEDURES

- The bidder can be requested to work on the following types of terrain.
- Parks
- These may vary from highly developed park areas to suburban parks. Grass surfaces vary from lawns to mixed grass types. Areas are easily accessible with only occasional obstructions. Work might include ants and termites in the grass's areas.
- Time limit: Completion within 5 working days after receiving the request from the clerk of works.
- Chemicals: insecticides or fungicides may be requested to be sprayed on laws, plants, etc.
- Sport Fields
- Developed sports fields include various grass types or hard surfaces. The date specified by the project manager must be strictly adhered to in order to avoid clashes with sporting events. Contractor must liaise with the controlling body of the sport club Work might include ants and termites in the grasses areas.
- Time limit: 5 working days after receiving the order from the clerk of works.
- Chemicals: Various insecticides or fungicides may be requested to be sprayed.
- Undeveloped areas, natural areas and resorts
- These include all other property that falls under the jurisdiction of the municipality. The topography includes wetland areas, bushy and mountainous areas. In various instances the applicable terrain may not be accessible by vehicle. Work might include ants and termites on the undeveloped areas.
- Time limit: 10 working days after receiving the order from the clerk of works.
- Chemicals: Various insecticides or fungicides may be requested to be sprayed.
- Flower beds
- This can include any plants in flower beds that might be insect or fungi infected. Plants can vary from annuals to roses, shrubs or trees. Insects can vary from worms to ants and fungi can vary from black spot to powdery mildew.
- Time limit: 5 working days after receiving the order from the project manager.
- Traffic Islands and Side walks
- The traffic Islands and sidewalks may vary from highly developed to undeveloped. These traffic islands are islands which have been developed (landscaped) and are maintained by the Regional Urban Management. Areas are easily accessible with only occasional obstructions. Walkways and paved areas may be included. Some traffic islands have roses on them which need a winter spray as well as are infected by black spot and powdery mildew.
- Time limit: Completion within 5 working days after receiving the order from the clerk of works.
- Chemicals: Various insecticides and fungicides may be requested to be sprayed
- Storm water drains, water metre boxes
- Pests like ants and termites can from time to time make nests in drains, or water metre boxes, sewerage drains etc. The lid on theses drains or boxes will need to be removed, the area then sprayed and the lids then replaced.
- From time-to-time cockroaches can become a problem in drains, especially storm water drains.
- Time limit: 5 working days after receiving the order from the project manager.

- Chemicals: Various insecticides may be requested to be sprayed

3.2.7 Costing of the tender

- The bidder must realize that this is an as and when required tender. The demand for the service varies greatly between summer and winter as well as after lots of rain compared to dry spells.
- The peak season for insects and diseases is generally from the first rains in September till April.
- The price must be quoted per litre mix only (chemical and water).
- The price must include transport, labour, chemical, mix and application.
- This excludes Bowling greens and cricket pitches and up to one meter around the green or pitch. All ground after that is included in this section.
- The mandatory evaluation criteria for this section must be completed and returned with the trade names and registration numbers of the products.
- The pricing schedule must be complete with the prices per litre mix.
- The bidder needs to price each item as the tender section is awarded as a whole. Failure to price each item on the list will lead to disqualification for this section as the section is evaluated as a whole.
- All bidders will be required to have public liability insurance of R10 million

TABLE 6: SECTION B TENDER PRODUCTS				
Item No.	SAP Service NO	Product Description- Active Ingredient	Formulation	Tender price unit (Excl of VAT)
INSECTICIDES				
B1	3029587	Bifenthin 2,0g/l; myclobutanil (triazole) 7.5 g/l	EC	R / 1 lt. mix
B2	3029582	alpha-cypermethrin 100g/lt	SC -	R / 1 lt. mix
B3	3029588	Deltamethrin (pyrethroid) 25 g/lt.	EC	R / 1 lt. mix
B4	3029583	Cypermethrin 200g/lt.	EC	R / 1 lt. mix
B5	3029589	temephos 500g/lt	EC	R / 1 lt. mix
FUNGICIDES				
B6	3029590	Propamocarb -Hcl 722g/lt.	SL	R / 1 lt. mix
B7	3029591	Chlorothalonil 500g/lt.	SC	R / 1 lt. mix
B8	3029592	polysulphide sulphur 360g/lt	SL	R / 1 lt. mix
TURF GRASS PRODUCTS				
B9	3029580	Azoxystrobin 500g/kg	WG	R / 1 lt. mix
B10	3029581	chlorothalonil 720 g/lt	SC	R / 1 lt. mix

3.3 GENERAL CONDITIONS

The following general specifications must be complied with and requested documents attached on the tender submission.

3.3.1 RETENTIONS

A retention can arise when the work that was not completed using the correct dosage of chemical for the work order. It could also arise from poor workmanship or bad planning by spraying too early in the morning or too late in the afternoon. It can also arise from spraying too soon after rain or watering or spraying just before or during rain.

Failure to complete the work order could lead to the retention of that particular spraying request.

Retention will be applicable if there is not a 100% mortality rate for weeds (herbicide) (Sections A,) and at least a 95% visible mortality rate among the sprayed insect/fungi (section B), for which payment is being requested. If a follow up spray with regard insecticides and fungicides is required by the product to obtain a 100% mortality rate, then this must be arranged with the project manager before spraying commences.

In the case of retention, the contractor will be liable for all extra costs (labour, transport and product or call-out fees) incurred to do the re-application as well as the use of his own product. If the project manager supplied the chemical, then the bidder must supply the same chemical at their own cost.

It is the bidders, duty to write on the work order the circumstances of the work provided like; the time of day, weather conditions. It is the bidder's duty to prove, with evidence, their innocence otherwise retention will be placed against that order until work has been completed to the satisfaction of the project manager.

3.3.2 FINES

The successful bidder can be fined under the following circumstances.

- The staff are not wearing the proper, tender specified, safety equipment.
- The vehicles of the bidder are not licensed when carrying out the work.
 - The equipment on the tender is leaking chemical all over the area or fuel all over the area and pay for the costs to the damaged area (e.g.: dead grass from the herbicides).
- The bidder discards the chemical containers not as specified.
- The safety equipment of the staff is not clean and in good working order.

The fine will be decided upon by the project manager in conjunction with the Department. The bidder will be informed officially in writing and the fine will be 5% for a first and second offence, 10% for a third offence of the total cost of that work order invoice.

If the bidder continues to break the conditions of the tender more than three times, then it could lead to termination and processes will be followed as prescribed by SCM.

3.3.3 SUSPENSIONS

The contract with the successful bidder can be suspended under the following circumstances:

- The contract will be suspended if the new Pest Control Operator (PCO) certificate is not handed when the old one expires.
- The City of Tshwane understands that the Department of Agriculture might not have issued the new certificate by that date. Proof of application will be accepted. In such a case the bidder will have 90 days to provide a certified copy of the new certificate.
- If the contract is suspended, you will only have 14 working days to provide the required certificate. If not, then the City of Tshwane will proceed terminating the contract.
- If the bidder is not working according to the business plan and the wrongful disposal of the empty container.
- If the bidders insurance lapses during the tender period, the bidder will be immediately suspended.

3.3.4 TERMINATIONS

The contract with the successful tenderer can be terminated under the following circumstances:

- If the labour, vehicles and equipment specified are no longer available for the section tendered for.
- If the bidder violates the terms and is fined more than three times.
- If the bidder due to gross negligence destroys City of Tshwane property by spraying the wrong chemical the bidder will be suspended for 30 days.
- If the bidder uses un-certified staff to carry out the work that they are not registered to do (PCO Certificate limitations).

3.3.5 DISPUTES

The bidder has the right to declare a dispute with the City of Tshwane A committee will then be appointed by the Divisional Head: Environmental Management and Parks or their designate.

Once the dispute has been heard, the decision of the committee will be submitted to the Divisional Head for the final decision.

3.3.6 OCCUPATIONAL HEALTH AND SAFETY (SABS 072:1993)

All bidder must comply with the following Occupational Health and Safety Standards.

Protective Personal Safety Equipment

The following personal protective equipment must be used:

- a) a suitable long-sleeved cotton overall that fastens at the neck and wrists and covers the entire body.
- b) chemical- resistant impermeable boots
- c) chemically resistant gloves (PVC or Nitrile) that extend at least 75mm above the wrists
- d) Goggles and or face shield depending on chemical classification.

All safety equipment is to be kept in good condition and effective working order. The overalls must be washed daily.

The following safety equipment must always be worn when using the following chemical classifications.

Classification	Safety equipment to be worn
Moderately Hazardous. Yellow Harmful	Wear rubber gumboots Wear eye protection Wear rubber gloves Wash after use and clothing
Slightly Hazardous Blue Caution	Wear eye protection Wear rubber gloves Wash after use and clothing
Acute Hazard Green	Wear a dust mask Wear eye protection Wear rubber gloves Wash after use and clothing

Washing Facilities

The bidder must have liquid soap, clean towels and clean water available near the operational work site, but so located as to avoid contamination by chemicals, available for personnel to use during working operations.

The bidder must have proper showering facilities at their business depot for the chemical sprayers to use once work has been completed. Soap must be provided by the tenderer.

General OHS

- A first aid kit must be always on hand when work is being carried out.
- Personnel who are used for chemical spraying must be medically examined and found to be fit for duty. Medical reports must be submitted once a year to the project manager.
- Operators who are suffering from any breathing ailment are not permitted to handle chemicals until declared healthy by a medical practitioner.
- No eating, drinking, or smoking in an operational area is allow. Before eating, drinking, or smoking and before using the toilet, wash the gloves with soap water, remove masks and gloves and then wash hands and face thoroughly.
- All vehicles used for this tender must be equipped with a fire extinguisher and have the appropriate occupational, health and safety signs displayed.

Portable Warning signs must be placed in the area where chemical is being sprayed so that the public are aware of the dangers.

The signs must be a minimum of 750mm wide and 500mm high. Across the top must be written **CAUTION** (red background, black letters). Below that: **PEST CONTROL IN OPERATION**

In Situations where the chemical being used is very unhealthy for humans (especially Insecticides) then the park must be closed, or the area cordoned off with barrier tape. The bidder must remain on site till the danger has worn off (the chemical has dried)

3.3.7 DISCARDING OF EXCESS CHEMICAL AND EMPTY CONTAINERS (SABS 10206-2005)

Do not dispose of surplus chemicals and contaminated washing water into any water source, including ground water and sewerage systems, etc.

Ensure that only enough chemical is mixed to carry out the spraying instructions to ensure that excess mix is not wasted and thus lessening the effect on the environment.

Any excess chemicals, contaminated materials and empty containers should be disposed of at a waste site registered to handle that specific category of hazardous waste and shall not be disposed of in the normal waste stream.

NB. The process used by the tenderer must be explained in a document and must be added to the technical evaluation portfolio or the tender will be disqualified.

3.3.8 MATERIAL SAFETY DATA SHEETS (MSDS) AND LABELS

The successful bidders will be required to supply the project manager with the electronic version of all of the labels of all of the products they be using as per section when they are appointed.

As part of the mandatory evaluation criteria the bidders must supply hard copies of the front/ first page of the label.

These labels must be submitted in a file in order and take a marking pen and write the section and the tender item on the product label supplied.

As this is compulsory bidders have to supply these or they will not qualify for evaluation.

3.3.9 COMPLIANCE TO LAWS AND REGULATIONS AND CITY OF TSHWANE POLICIES

All applicable laws and regulations must be adhered to by the tenderer. Failure to do so can result in the contract being suspended or terminated. Tenderers must comply with the following Laws and regulations:

SABS Regulations

- SABS 072 (1993): The safe handling of Pesticides
- SANS 10124 (2003): The application of soil insecticides for the protection of buildings
- SABS 10204 (2004): The application of fumigants
- SABS 10206 (2005): Safety procedures for the disposal of surplus pesticides and associated toxic waste
- SABS 14001: Environmental Management systems – Specifically with guidance for use

National Laws

- The Law on Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 1947 (Act 36 of 1949) – Regulations regarding fertilizers.
- The Hazardous Substances Act 1947(Act 15 of 1947)
 - The Environmental Conservation Act 1989 (Act 73 of 1989)-GN 1095 of 28 July 1997
 - The Occupational Health and Safety Act 1993 (Act 85 of 1993) GN 1179 of 28 August 1995.

4. STAGES OF EVALUATION

The tender will be evaluated in 3 stages' as follows:

- **Stage 1: Administrative Compliance**
- **Stage 2: Mandatory Requirements**
- **Stage 3: Preferential Points System**

4.1 STAGE 1: ADMINISTRATIVE COMPLIANCE

All the bids will be evaluated against the administrative responsiveness requirements as set out in the list of returnable documents.

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
a) To enable The City to verify the bidder's tax compliance status, the bidder must provide; ☐ A copy of their Tax Clearance Certificate (TCS); or ☐ Indicate their tax compliance status PIN.		TCS must be in the same business name as the bidding company? TCS must be valid? Tax status must be compliant?
b) a copy of their Central Supplier Database (CSD) registration; or indicate their Master Registration Number / CSD Number;		CSD must be valid? Tax status must be compliant?
c) Confirmation that the bidding company's rates and taxes are up to date: • Original or copy of Municipal Account Statement of the Bidder (bidding company) not older than 3 months and account must not be in arrears for more than ninety (90) days; or • Letter or Statement or Affidavit from landlord confirming that the Bidder (bidding company) has no disputed account(s) and the account is not in arrears for more than ninety (90) days. Where possible, the landlord letter, landlord statement or landlord affidavit should be accompanied with a signed lease agreement.		Was a Municipal Account Statement or landlord letter provided for the bidding company? The name and / or addresses of the bidder's statement correspond with CIPC document? Are correspondence recent (not older than 3 months)? Are all payment(s) up to date (i.e. not in arrears for more than 90 days)?
d) In addition to the above, confirmation that all the bidding company's owners / members / directors / major shareholders rates and taxes are up to date: • Original or copy of Municipal Account Statement of all the South African based owners / members / directors / major shareholders not older than 3 months and the account/s		Was a Municipal Account Statement(s) or landlord letter(s) provided for ALL the bidding company's (SA based) directors? The names and/or addresses of all directors on statement correspond with CIPC document? Are correspondence recent (not older than 3 months)? Are all payments up to date (i.e.

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
may not be in arrears for more than ninety (90) days; or • Letter or Statement or Affidavit (correspondence should be dated and not older than 3 months) for all the South African based owners / members / directors / major shareholders from their respective landlord/s confirming that the owners / members / directors / major shareholders of the bidding company has no disputed account(s) and the account is not in arrears for more than ninety (90) days. Where possible, the landlord letter, landlord statement or landlord affidavit should be accompanied with a signed lease agreement.		not in arrears for more than 90 days?
e) Duly Signed and completed MBD forms (MBD 1, 4, 5, 8 and 9) The person signing the bid documentation must be authorised to sign on behalf of the bidder. Where the signatory is not a Director / Member / Owner / Shareholder of the company, an official letter of authorization or delegation of authority should be submitted with the bid document. NB: Bidders must ensure that the directors, trustees, managers, principle shareholders, or stakeholders of this company declare any interest in any other related companies or business whether or not they are bidding for this contract. <u>See Question</u>		All documents fully completed (i.e. no blank spaces)? All documents fully signed? Signature authorised (any director / member / trustee as indicated on the CIPC document, alternatively a delegation of authority would be required? Documents completed in black ink (i.e. no "Tippex" corrections, no pencil, no other colour ink, or none submission of the above, will be considered)?

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
<u>3.14 of MBD 4. Failure to declare interest will result in a disqualification</u>		
Financial Statements for the most recent three (3) years or financial statements from date of existence for companies less than three years. NB: The bidder must submit signed audited annual financial statements for the most recent 3 years, or if established for a shorter period, submit audited annual financial statements from date of establishment. If the bidder is not required by law to prepare signed annual financial statements for auditing purposes, then the bidder must submit Proof that the bidder is not required by law to prepare Audited financial statements.		Applicable for tenders above R10m in conjunction with MBD 5) Are Audited financial statements provided (Audited financials must be signed by auditor)? Or
f) Joint Ventures (JV) – (Only applicable when the bidder tender as a joint venture) • Where the bidder bid as a Joint Ventures (JV), the required or relevant documents as per (a) to l above must be provided for all JV parties. • In addition to the above the bidder must submit a Joint Venture (JV) agreement signed by the relevant parties. • Note: It is a condition of this bid that the successful bidder will continue with same Joint Venture (JV) for the duration of the contract, unless prior approval is obtained from The City.		If applicable. JV agreement provided? JV agreement complete and relevant? Agreement signed by all parties? All required documents as per (i.e. a to e) must be provided for all partners of the JV.
Bidder attended a compulsory briefing session where applicable		A compulsory briefing register must be signed by the bidder.

Compulsory Returnable Documentation (Submission of these are compulsory)	Submitted (YES or NO)	Checklist (Guide for Bidder and the Bid Evaluation Committee)
		Bidders will be disqualified should they fail to attend compulsory briefing session
Pricing schedule (All items must be quoted for in pricing schedule and if not all items are quoted the bidder will be disqualified). Unless the tender is awarded per item or per section where the bidder only quoted the items or sections they are interested in.		Incomplete pricing schedule results in totals being incomparable. Bidder must be disqualified. Bidder will be disqualified should they make corrections on the price schedule without attaching a signature thereto. Bidder will be disqualified should they use tippex/ correction ink, on the price schedule.

4.2 STAGE 2: MANDATORY REQUIREMENTS

Bidders must comply with the mandatory requirements to qualify for the section or sections they are bidding for.

Section A - Chemical control of weeds, insects and fungi on bowling greens and cricket pitches

TABLE 7: SECTION A - MANDATORY EVALUATION – not to be filled in by the bidder but evidence to be supplied				
Item	Description of tender returnable document	Evidence Required for Section A	Compliance	
			Yes	No
1	Pest Control Certificates	Copies of the pest controller/team leader/supervisor Pest Control Certificates – Field required- Weed Control as well as Plant Pests and Diseases (or a Certificate specializing in Turf grass). As certified by the National Department of Agriculture.		
2	Chemical sprayers	Copies of certificates of training of the chemical sprayers to be used for this section- basic training		
3	Prior Experience of the bidder with relevance to Pest Control Spraying.	Provide signed reference letters, on the company's letter head, of previous or current clients, referring to the quality of pest control spraying work done.		
4	Professional experience of the Pest Control Operator (PCO)	A portfolio of work experience and qualifications relating to the spraying of insecticides and fungicides of the project manager/site manager whose PCO certificate was submitted under item 1		

TABLE 7: SECTION A - MANDATORY EVALUATION – not to be filled in by the bidder but evidence to be supplied

Item	Description of tender returnable document	Evidence Required for Section A	Compliance	
			Yes	No
5	Vehicles	Copies of the licensing papers or lease agreement of the one vehicle you are making available for this tender section and photos of the vehicles with the appropriate hazardous signage on the back and side of the vehicle with a view of the numberplate. (Certified copies required).		
6	Chemical spraying equipment	A full list of all the Knapsack sprayers (one per chemical sprayer); 100L wheelbarrow push type power sprayer (one per team or vehicle); Specialized turf grass boom sprayer application equipment (<u>mechanical sprayer with a boom</u> and at least five nozzles fitted of the <u>same type</u>) that you have available for this section of the tender. Photos must be included of the available equipment.		

TABLE 8: SECTION A - MANDATORY EVALUATION must be filled in by the bidder

Item No.	Active Ingredient	Labels to be provided	Product Name Offered	Registration number	Local Content Y/N
A2/5	Azoxystrobin 500g/kg	Label (1 st page only)			
A3/6	chlorothalonil 720 g/lit	Label (1 st page only)			
A7	alpha-cypermethrin 100g/lit	Label (1 st page only)			
A8	Cypermethrin 200g/lit.	Label (1 st page only)			
A9	Copper Oxychloride 850g/kg.	Label (1 st page only)			
A11	Dicamba (benzoic acid) 120g/lit. MCPA (phynoxyacetic acid) 300g/lit.	Label (1 st page only)			
A12	Halosulfuron (sulfonyleurea) 750 g/kg	Label (1 st page only)			

SECTION B -, CHEMICAL CONTROL OF INSECTS, FUNGI AND ALGAE ON PLANTS (INSECTICIDES, FUNGICIDES, ALGAECIDES)

TABLE 9: SECTION B - MANDATORY EVALUATION – not to be filled in by the bidder but evidence to be supplied

	Description of Mandatory requirement	Evidence Required	Compliance	
			Yes	No
1	Pest Control Certificates	Copies of the pest controller/team leader/supervisor Pest Control Certificates – Field required- Plant Pests and Diseases. As certified by the National Department of Agriculture.		
2	Chemical sprayers	Copies of certificates of training of the chemical sprayers to be used for this section- basic training		
3	Prior Experience of the bidder with relevance to Pest Control Spraying.	Provide signed reference letters, on the company's letter head, of previous or current clients, referring to the quality of pest control spraying work done.		
4	Professional experience of the Pest Control Operator (PCO)	A portfolio of work experience and qualifications relating to the spraying of insecticides and fungicides of the project manager/site manger whose PCO certificate was submitted under item 1		
5	Vehicles	Copies of the licensing papers or lease agreement of the one vehicle you are making available for this tender section and photos of the vehicles with the appropriate hazardous signage on the back and side of the vehicle. (Certified copies required).		
6	Chemical spraying equipment	A full list of all the Knapsack sprayers (one per chemical sprayer) and 100L wheelbarrow push type power sprayer (one per team or vehicle) that you have available for this section of the tender. Photos must be included of the available equipment.		

TABLE 10: SECTION B - MANDATORY EVALUATION must be filled in by the bidder

Item No.	Active Ingredient	Labels to be provided	Product Name Offered	Registration number	Local Content Y/N
B1	Bifenthin 2,0g/l; myclobutanil (triazole) 7.5 g/l	Label (1 st page only)			
B2	alpha-cypermethrin 100g/l	Label (1 st page only)			
B3	Deltamethrin (pyrethroid) 25 g/l.	Label (1 st page only)			
B4	Cypermethrin 200g/l.	Label (1 st page only)			

TABLE 10: SECTION B - MANDATORY EVALUATION must be filled in by the bidder					
Item No.	Active Ingredient	Labels to be provided	Product Name Offered	Registration number	Local Content Y/N
B5	temephos 500g/lt	Label (1 st page only)			
B6	Propamocarb -Hcl 722g/lt.	Label (1 st page only)			
B7	Chlorothalonil 500g/lt.	Label (1 st page only)			
B8	polysulphide sulphur 360g/lt	Label (1 st page only)			
B9	Azoxystrobin 500g/kg	Label (1 st page only)			
B10	chlorothalonil 720 g/lt	Label (1 st page only)			

NOTE:

- Bidders are required to fill in all the criteria required as well as provide copies of the documents required. All documents must be supplied in a folder and placed in order of required per section. Incomplete files per section will not be evaluated.
- Only South African registered herbicides, insecticides, fungicides and adjuvant will be accepted for this Tender. The South African manufacturers name must be evident on the Labels Sheets Handed in.

Furthermore, bidders failing to comply with the compulsory evaluation criteria will not be considered for evaluation.

4.3 STAGE 3: PREFERENTIAL POINT SYSTEM

- 1) Bidders are required to submit supporting documents for their bids to claim the specific goal points.
- 2) Non-compliance with specific goals will not lead to disqualification but bidders will not be allocated specific goal points. Bidders will score points out of 80 for price only and zero (0) points out of 20 for specific goals.
- 3) Cot shall act against any bidder or person when it detects that the specific goals were claimed or obtained on a fraudulent basis.

The specific goal for this bid is outlined below.

Specific goals	80/20 preference point system	Proof of specific goals to be submitted
BB-BEE score of companies • Level 1 • Level 2 • Level 3 • Level 4 • Level 5 • Level 6 • Level 7 • Level 8 • Non-compliant	• 8 Points • 7 Points • 6 Points • 5 Points • 4 Points • 3 Points • 2 Points • 1 Point • 0 Points	Valid Certified copy of BBBEE certificate. For EME's and QSE's copy of a valid Sworn affidavit.
EME and/ or QSE	2 Points	Valid Sworn affidavit
At least 51% of Women-owned companies	2 Points	Certified copy of Identity Document/s
At least 51% owned companies by People with disability	2 Points	Medical Certificate with doctor's details (Practice Number, Physical Address and contact numbers)
At least 51% owned companies by Youth	2 Point	Certified copy of Identity Document/s
Local Economic participation • City of Tshwane • Gauteng • National	4 Points 2 Points 1 Point	Municipal Account statement/Lease agreement.

For points to be allocated as per above the tenderers will be required to submit proof of documentation as evidence for claims made. Any tenderer that does not submit evidence as stated in the bid document to claim applicable points will be allocated zero points.

5 PRICING SCHEDULE

- Bidders are requested to submit prices for the execution of work specified in the document.
- Prices must include all work specified without any omission or alterations.
- Prices must be exact as according to conditions specified in the document.
- The bidder must realize that this is an as and when required tender. The demand for the service varies greatly between summer and winter as well as after lots of rain compared to dry spells.
- The peak season for insects and diseases is generally from the first rains in September till April.
- The price must be quoted per unit.
- The price must include transport, labour, chemical, mix and application.
- The bidder needs to price each item as the tender section is awarded as a whole. Failure to price each item on the list will lead to disqualification for this section as the section is evaluated as a whole.
- The bidder needs to price each item as per section to qualify for the tender section they are bidding for as the tender is awarded for the whole section.

Failure to price each item on the list will lead to disqualification for this section as the section is evaluated as a whole.

Section A - Chemical control of weeds, insects and fungi on bowling greens and cricket pitches

TABLE 13: SECTION A – Pricing Schedule - must be filled in by the bidder						
Item No.	SAP Service NO	Product Description- Active Ingredient	Tender unit	Estimated quantity	Price / unit (EXCL VAT)	Total Price
A1	3029580	Azoxystrobin 500g/kg	Per single bowling green - preventative	40		
A2	3029581	chlorothalonil 720 g/lit	Per single bowling green - preventative	40		
A3	3029580	Azoxystrobin 500g/kg	Per single bowling green - curative	120		
A4	3029581	chlorothalonil 720 g/lit	Per single bowling green - curative	100		
A5	3029582	alpha-cypermethrin 100g/lit	Per single bowling green - curative	50		
A6	3029583	Cypermethrin 200g/lit.	Per single bowling green - curative	50		
A7	3029584	Copper Oxychloride 850g/kg.	Per single bowling green - curative	10		
A8	3029585	Application cost without supplying chemical Product to be provided by the clerk of works	Per single bowling green - curative	10		
A9	3029566	Dicamba (benzoic acid) 120g/lit. MCPA (phynoxyacetic acid) 300g/lit.	R / 1 lt. Mix - Curative spraying	500		
A10	3029586	Halosulfuron (sulfonyleurea) 750 g/kg	R / 1 lt. Mix - Curative spraying	200		
		TOTAL PRICE (VAT EXCLUSIVE).				
		VAT (15%)				
		TOTAL PRICE				

Section B - , Chemical control of insects, fungi and algae on plants (Insecticides, fungicides, algaecides)

TABLE 14: SECTION B – Pricing Schedule - must be filled in by the bidder					
Item No.	SAP Service NO	Product Description- Active Ingredient	Estimated quantity	Tender unit	Unit Price (Excl of VAT)
B1	3029587	Bifenthin 2,0g/l; myclobutanil (triazole) 7.5 g/l	1000	R / 1 lt. mix	
B2	3029582	alpha-cypermethrin 100g/lt	5 000	R / 1 lt. mix	
B3	3029588	Deltamethrin (pyrethroid) 25 g/lt.	10 000	R / 1 lt. mix	
B4	3029583	Cypermethrin 200g/lt.	30 000	R / 1 lt. mix	
B5	3029589	Temephos 500g/lt	10 000	R / 1 lt. mix	
B6	3029590	Propamocarb -Hcl 722g/lt.	2 000	R / 1 lt. mix	
B7	3029591	Chlorothalonil 500g/lt.	5 000	R / 1 lt. mix	
B8	3029592	polysulphide sulphur 360g/lt	1 000	R / 1 lt. mix	
B9	3029580	Azoxystrobin 500g/kg	2 000	R / 1 lt. mix	
B10	3029581	chlorothalonil 720 g/lt	2 000	R / 1 lt. mix	
		TOTAL PRICE (VAT EXCLUSIVE).			
		VAT 15 %			
		TOTAL PRICE			

7. VALIDITY PERIOD

The validity period for the tender after closure is 90 days. CoT shall have right and power to extent any tender validity period beyond any initial validity period set and subsequent extensions. SCM shall ensure that an extension of validity is requested in writing from all bidders before the validity expiry date. Extension of validity shall be finalized while the quotations/bids are still valid.

8. TYPE OF AGREEMENT REQUIRED

Service Level Agreement to be required by the successful bidders to be signed when appointments are finalized.

9. MARKET ANALYSIS

The city of Tshwane reserves the right to conduct market analysis. Should the city exercise this option, where a tenderer offers a price that is deemed not to be viable to supply goods or services as required, written confirmation will be made with the tenderer if they will be able to deliver on the price, if a tenderer confirm that they cannot, the tenderer will be disqualified on the basis of being non-responsive. If they confirm that they can deliver, a tight contract to mitigate the risk of non-performance will be entered into with the service provider. Further action on failures by the supplier to deliver will be handled in terms of the contract including performance warnings and listing on the database of restricted suppliers.

The city further reserves the right to negotiate a market related price with a tenderer scoring the highest points. If the tenderer does not agree to a market-related price, the city reserves

the right to negotiate a market-related price with the tenderer scoring the second highest points, if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points. If a market-related price is not agreed, the city reserves the right to cancel the tender.

APPROVALS TO BE COMPLETED BY THE DEPARTMENT

Compiled by: Acting Director.

.....

Signature:

.....

Date:

Reviewed by: Acting Divisional Head

.....

Signature

.....

Date:

Approved by: Group Head

.....

Signature

.....

Date:

**PRE-SPECIFICATION CONDUCTED BY DEMAND MANAGEMENT OFFICIAL
WITH THE RELEVANT DEPARTMENT**

Date for Pre-Spec:

Demand Official

.....

Signature

.....

Department official

.....

Signature

.....

Comments if any on the specification

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

APPROVALS BY BID SPECIFICATION COMMITTEE

Date:

Chairperson

.....

Signature

.....

Approval status

Approved Yes

Approved with amendments Yes

Proposed amendments

.....

.....

.....

.....

.....

Rejected Yes

Reasons for rejection:

.....

.....

.....

.....

.....

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE CITY OF TSHWANE MUNICIPALITY

BID NUMBER:	EAM 06 2023/24	CLOSING DATE:	31 July 2024	CLOSING TIME:	10:00
DESCRIPTION	TENDER FOR THE SPRAYING OF CHEMICALS ON BOWLING GREENS AND THE SPRAYING OF INSECTICIDES AND FUNGICIDES IN PUBLIC OPEN SPACES, ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF 3 YEARS.				

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).

BID RESPONSE DOCUMENTS MAY BE
DEPOSITED IN THE BID BOX SITUATED AT
(STREET ADDRESS)

Tshwane House

Supply Chain Management

320 Madiba Street

Pretoria CBD

0002

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					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		☐ Yes ☐ 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?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ 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			
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT	Supply Chain Management	DEPARTMENT	Environmental and Agriculture Management
CONTACT PERSON	Maureen Radingoana	CONTACT PERSON	Shane Paul
TELEPHONE NUMBER	012 358 6153	TELEPHONE NUMBER	012 358 6090
FACSIMILE NUMBER	n/a	FACSIMILE NUMBER	n/a
EMAIL ADDRESS	maureenr@tshwane.gov.za	EMAIL ADDRESS	ShaneP@tshwane.gov.za

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION	
1.1	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE
1.3	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.

- 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1 IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES ☐ NO ☐
- 3.2 DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES ☐ NO ☐
- 3.3 DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES ☐ NO ☐
- 3.4 DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES ☐ NO ☐
- 3.5 IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES ☐ NO ☐

IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID. NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

PRICING SCHEDULE: FIRM PRICES (PURCHASES)

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of Bidder.....	Bid Number
Closing Time	Closing Date

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
----------	----------	-------------	--

- Required by:
- At:
.....
- Brand and Model
- Country of Origin
- Does the offer comply with the specification(s)? *YES/NO
- If not to specification, indicate deviation(s)
- Period required for delivery
*Delivery: Firm/Not firm
- Delivery basis

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

** "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

* Delete if not applicable

PRICING SCHEDULE: NON-FIRM PRICES (PURCHASES)

NOTE: PRICE ADJUSTMENTS WILL BE ALLOWED AT THE PERIODS AND TIMES SPECIFIED IN THE BIDDING DOCUMENTS.

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of Bidder	Bid number
Closing Time	Closing Date

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
----------	----------	-------------	--

- Required by:
- At:
- Brand and model
- Country of origin
- Does the offer comply with the specification(s)? *YES/NO
- If not to specification, indicate deviation(s)
- Period required for delivery
- Delivery: *Firm/Not firm
- ** "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.
- * Delete if not applicable

PRICE ADJUSTMENTS

A. NON-FIRM PRICES SUBJECT TO ESCALATION

1. IN CASES OF PERIOD CONTRACTS, NON FIRM PRICES WILL BE ADJUSTED (LOADED) WITH THE ASSESSED CONTRACT PRICE ADJUSTMENTS IMPLICIT IN NON FIRM PRICES WHEN CALCULATING THE COMPARATIVE PRICES
2. IN THIS CATEGORY PRICE ESCALATIONS WILL ONLY BE CONSIDERED IN TERMS OF THE FOLLOWING FORMULA:

$$Pa = (1 - V)Pt \left(D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + D3 \frac{R3t}{R3o} + D4 \frac{R4t}{R4o} \right) + VPt$$

Where:

- Pa = The new escalated price to be calculated.
- (1-V) Pt = 85% of the original bid price. **Note that Pt must always be the original bid price and not an escalated price.**
- D1, D2.. = Each factor of the bid price eg. labour, transport, clothing, footwear, etc. The total of the various factors D1,D2...etc. must add up to 100%.
- R1t, R2t..... = Index figure obtained from new index (depends on the number of factors used).
- R1o, R2o = Index figure at time of bidding.
- VPt = 15% of the original bid price. This portion of the bid price remains firm i.e. it is not subject to any price escalations.

3. The following index/indices must be used to calculate your bid price:

Index..... Dated.....	Index..... Dated.....	Index..... Dated.....
Index..... Dated.....	Index..... Dated.....	Index..... Dated.....

4. FURNISH A BREAKDOWN OF YOUR PRICE IN TERMS OF ABOVE-MENTIONED FORMULA. THE TOTAL OF THE VARIOUS FACTORS MUST ADD UP TO 100%.

FACTOR (D1, D2 etc. eg. Labour, transport etc.)	PERCENTAGE OF BID PRICE

B. PRICES SUBJECT TO RATE OF EXCHANGE VARIATIONS

1. Please furnish full particulars of your financial institution, state the currencies used in the conversion of the prices of the items to South African currency, which portion of the price is subject to rate of exchange variations and the amounts remitted abroad.

PARTICULARS OF FINANCIAL INSTITUTION	ITEM NO	PRICE	CURRENCY	RATE	PORTION OF PRICE SUBJECT TO ROE	AMOUNT IN FOREIGN CURRENCY REMITTED ABROAD
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		

2. Adjustments for rate of exchange variations during the contract period will be calculated by using the average monthly exchange rates as issued by your commercial bank for the periods indicated hereunder: (Proof from bank required)

AVERAGE MONTHLY EXCHANGE RATES FOR THE PERIOD:	DATE DOCUMENTATION MUST BE SUBMITTED TO THIS OFFICE	DATE FROM WHICH NEW CALCULATED PRICES WILL BECOME EFFECTIVE	DATE UNTIL WHICH NEW CALCULATED PRICE WILL BE EFFECTIVE

ADJUSTMENT PERIODS	DATE FROM WHICH NEW CALCULATED PRICES WILL BECOME EFFECTIVE
1 st Adjustment	After 12 calendar months
2 nd Adjustment	After 24 calendar months

NB: Unless prior approval has been obtained from Supply Chain Management, no adjustment in contract prices will be made

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of 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, shareholder²)
 - 3.4 Company Registration Number:
 - 3.5 Tax Reference Number:
 - 3.6 VAT Registration Number:
 - 3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.
 - 3.8 Are you presently in the service of the state? **YES / NO**
 - 3.8.1 If yes, furnish particulars.

¹ 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.

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

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

3.9.1 If yes, furnish particulars.

.....

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

3.10.1 If yes, furnish particulars.

.....

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

3.11.1 If yes, furnish particulars.

.....

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

3.12.1 If yes, furnish particulars.

.....

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

3.13.1 If yes, furnish particulars.

.....

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

3.14.1 If yes, furnish particulars:

.....

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

Full Name	Identity Number	State Employee Number

.....

Signature

.....

Date

.....

Capacity

.....

Name of Bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

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

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

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 **To be completed by the organ of state**
(delete whichever is not applicable for this tender).
- a) The applicable preference point system for this tender is the 80/20 preference point system.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
- (a) Price; and
- (b) Specific Goals.
- 1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
TOTAL POINTS FOR PRICE AND SPECIFIC GOALS	100

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

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

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

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

- Ps = Points scored for price of tender under consideration
 Pt = Price of tender under consideration
 Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

Specific goals	80/20 preference point system	Number of points claimed (80/20 system) (To be completed by the tenderer)
BB-BEE score of companies - Level 1 - Level 2 - Level 3 - Level 4 - Level 5 - Level 6 - Level 7 - Level 8 - Non-compliant	8 Points 7 Points 6 Points 5 Points 4 Points 3 Points 2 Points 1 Point 0 Points	
EME and/ or QSE	2 Points	
At least 51% of Women-owned companies	2 Points	
At least 51% owned companies by People with disability	2 Points	
At least 51% owned companies by Youth	2 Point	
Local Economic Participation - City of Tshwane - Gauteng - National	4 Points 2 Points 1 Point	

N.B For points to be allocated as per above the tenderers will be required to submit proof of documentation as evidence for claims made. Any tenderer that does not submit evidence as stated in the bid document to claim applicable points will be allocated zero points.

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a

fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

- (e) forward the matter for criminal prosecution, if deemed necessary.

.....	
SIGNATURE(S) OF TENDERER(S)	
SURNAME AND NAME:	
DATE:	
ADDRESS:	
	
	

CONTRACT FORM: RENDERING OF SERVICES

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

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

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number **EAM 06 2023024** at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2022;
 - Declaration of interest;
 - Declaration of Bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

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

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES

1

2

DATE:

CONTRACT FORM: RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

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

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION

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

SIGNED AT ON

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1
2

DATE:

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

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 ☐	No ☐
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 ☐	No ☐
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 ☐	No ☐
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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid: **EAM 06 2023/24**

TENDER FOR THE SPRAYING OF CHEMICALS ON BOWLING GREENS AND THE SPRAYING OF INSECTICIDES AND FUNGICIDES IN PUBLIC OPEN SPACES, ON AN AS AND WHEN REQUIRED BASIS FOR A PERIOD OF 3 YEARS.

(Bid Number and Description)

in response to the invitation for the bid made by:

CITY OF TSHWANE MUNICIPALITY

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

I certify, on behalf of: _____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

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

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

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

July 2010

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

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 supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
 - 1.12 ”Force majeure” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
 - 1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

- 1.14 “GCC” means the General Conditions of Contract.
- 1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 “Project site,” where applicable, means the place indicated in bidding documents.
- 1.21 “Purchaser” means the organization purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa.
- 1.23 “SCC” means the Special Conditions of Contract.
- 1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

1. Application

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

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid.
Where applicable a non-refundable fee for documents may be charged.

	3.2	With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
4. Standards	4.1	The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
5. Use of contract documents and information inspection.	5.1	The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
	5.2	The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
	5.3	Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
	5.4	The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
6. Patent rights	6.1	The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
7. Performance security	7.1	Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
	7.2	The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
	7.3	The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms: (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or (b) a cashier's or certified cheque
	7.4	The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.
8. Inspections, tests and analyses	8.1	All pre-bidding testing will be for the account of the bidder.

- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

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

final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

- | | |
|---|--|
| 15.3 | The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty. |
| 15.4 | Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser. |
| 15.5 | If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract. |
| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be. |
| 18. Contract | 18.1 No variation in or modification of the terms of the contract shall be made amendments except by written amendment signed by the parties concerned. |
| 19. Assignment | 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent. |
| 20. Subcontracts | 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under 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 | <p>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.</p> <p>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.</p> |

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties**
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.
- 23. Termination for default**
- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the Supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated

fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti-dumping and countervailing duties and rights

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

25. Force Majeure

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all

		reasonable alternative means for performance not prevented by the force majeure event.
26. Termination for insolvency	26.1	The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.
27. Settlement of Disputes	27.1	If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
	27.2	If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
	27.3	Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
	27.4	Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
	27.5	Notwithstanding any reference to mediation and/or court proceedings herein, (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and (b) the purchaser shall pay the supplier any monies due the supplier.
28. Limitation of liability	28.1	Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6; 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 the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
29. Governing language	29.1	The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices	31.1	Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

	31.2	The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
32. Taxes and duties	32.1	A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
	32.2	A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
	32.3	No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
33. National Industrial Participation (NIP) Programme	33.1	The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation
34. Prohibition of Restrictive practices	34.1	In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
	34.2	If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
	34.3	If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

Js General Conditions of Contract (revised July 2010)

SERVICE-LEVEL AGREEMENT

ENTERED INTO BETWEEN

THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY

AND

Registration number: _____

Doc2 Version 1 3 March 2022

SERVICE-LEVEL AGREEMENT

ENTERED INTO BETWEEN

THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY

A municipality, as described in Section 2 of the Local Government: Municipal Systems Act, 2000 and as contemplated in Section 155 of the Constitution of the Republic of South Africa, 1996 as a category A municipality, or the Assignee, if applicable, herein represented by Mr Johann Mettler in his/her capacity as City Manager duly authorised thereto under and by virtue of a resolution passed on 26 January 2012, and who by his/her signature hereto warrants that he/she is properly authorised to sign this Agreement.

(Herein referred to as the “**CITY**”)

AND

Registration number: _____

Herein represented by _____ in his/her capacity as _____ is duly authorised thereto under and by virtue of a resolution of the board passed on _____, a copy of which is annexed as Annexure A, and who by his/her signature hereto warrants that he/she is properly authorised to sign this agreement.

(Herein referred to as the “**SERVICE PROVIDER**”)

CONTENTS

- 1. DEFINITIONS**
- 2. INTERPRETATION**
- 3. APPOINTMENT**
- 4. PURPOSE OF THE AGREEMENT**
- 5. RELATIONSHIP**
- 6. DURATION**
- 7. CONTACT PERSON**
- 8. SCOPE OF GENERAL SERVICES**
- 9. PRICE AND PAYMENT**
- 10. PRICE RESTRUCTURING**
- 11. SERVICE LEVELS**
- 12. WITHHOLDING OF PERFORMANCE**
- 13. PENALTY**
- 14. ACCESS**
- 15. ORDERS OF GOODS**
- 16. DELIVERY OF GOODS**
- 17. DEFECTIVE GOODS OR LATENT PRODUCTS**
- 18. AMENDMENT OR CANCELLATION OF PURCHASE ORDER**
- 19. INSPECTION**
- 20. MAINTENANCE AND SUPPORT**
- 21. TRAINING**
- 22. SERVICE PROVIDER'S WARRANTIES AND INDEMNITIES**
- 23. SERVICE PROVIDER'S PERSONNEL**
- 24. STATUTORY AND EMPLOYMENT ISSUES**
- 25. SUBCONTRACTING**
- 26. CONFIDENTIALITY**

- 27. INTELLECTUAL PROPERTY RIGHTS
- 28. *FORCE MAJEURE*
- 29. CESSION
- 30. CHANGE OF CONTROL OR CIRCUMSTANCE
- 31. BREACH
- 32. EARLY TERMINATION
- 33. DISPUTES
- 34. LAWS AND JURISDICTION
- 35. NOTICES AND COMMUNICATION
- 36. GENERAL AND MISCELLANEOUS
- 37. EXECUTION

ANNEXURE A: BOARD RESOLUTION

ANNEXURE B: SCOPE OF WORK AND DELIVERABLES

ANNEXURE C: PAYMENT TERMS

RECORDAL:

WHEREAS the City requires various services to be provided or carried out and delivered at the service areas;

AND WHEREAS the City wishes to appoint the service provider;

AND WHEREAS the service provider wishes to provide such services;

AND WHEREAS the service provider has indicated that it has the necessary expertise, skills and capabilities to provide the service;

NOW THEREFORE, the parties have agreed to enter into this agreement, in terms of which the service provider shall provide the services in the service areas and/or delivery area, and provide maintenance and support thereof to the City in accordance with the terms and subject to the conditions of this agreement.

1. DEFINITIONS

Unless otherwise expressly stated, or if the context requires otherwise, the following words and expressions, when used in this agreement, including in this introduction, shall bear the following meanings ascribed to them:

- 1.1 **“Agreement”** means this service-level agreement and shall include any annexures, schedules, attachments, appendices and/or any addenda hereto or incorporated herein by reference, as amended from time to time;
- 1.2 **“Business day”** means any day from Monday to Friday, excluding public holidays, as defined in the Public Holidays Act, 1994 (Act 36 of 1994), as amended from time to time;
- 1.3 **“Business week”** means five consecutive business days, excluding public holidays as defined in the Public Holidays Act, 1994;
- 1.4 **“City”** means the City of Tshwane Metropolitan Municipality, a metropolitan municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- 1.5 **“Contact persons”** means persons identified by the parties as persons who are responsible for the execution of the agreement and whose names are set out in Clause 35 below and who can be substituted in writing from time to time;
- 1.6 **“Contract price”** means the amount reflected as the contract price in Clause 9 below;
- 1.7 **“Contract period”** means the contract period as reflected in Clause 6 below;
- 1.8 **“Effective date”**, notwithstanding the signature date, means _____;
- 1.9 **“Intellectual property”** means patents, designs, know-how, copyright, trademarks and all rights having an equivalent or similar effect which may exist anywhere in the world, introduced and required by either party to give effect to

their obligations under this agreement, owned in whole or in part by, or licenced to either party before the commencement date or developed after the commencement date, and includes all further additions and improvements to the intellectual property, otherwise pursuant to this agreement;

- 1.10 **“Month”** means a calendar month;
- 1.11 **“Parties”** means the City of Tshwane and the service provider and “party” means either of these, as the context requires;
- 1.12 **“Services”** means services to be provided by the service provider to the City as detailed in Clause 8 below;
- 1.13 **“Service provider”** means _____, a company duly incorporated in accordance with the company laws of the Republic of South Africa with company registration number: _____;
- 1.14 **“Signature date”** means the date of signature of this agreement by the party signing last;
- 1.15 **“Subcontract”** means any contract, agreement or proposed contract between the service provider and any third party whereby that third party agrees to provide to the service provider the services or any part thereof;
- 1.16 **“Subcontractor”** means the third party with whom the service provider enters into a subcontract;
- 1.17 **“Tax invoice”** means the document, as required by Section 20 of the Value-added Tax Act, 1991 (Act 89 of 1991), as amended from time to time;
- 1.18 **“VAT”** means value-added tax, as defined in terms of the Value-added Tax Act, 1991.

2. INTERPRETATION

- 2.1 Headings and subheadings are inserted for information purposes only and shall not be used in the interpretation of this agreement.
- 2.2 Unless the context clearly indicates a contrary intention, any word that connotes –
 - 2.2.1 any singular shall be deemed to include a reference to the plural and *vice versa*;
 - 2.2.2 any one gender shall be deemed to include a reference to any other gender; and
 - 2.2.3 a natural person shall be deemed to include a reference to a legal or juristic person.

- 2.3 The expiry or termination of this agreement shall not affect provisions of this agreement, which expressly provide that they will operate after any such expiry or termination of this agreement. Provisions of necessity shall continue to have been effective after such expiry or termination of this agreement, notwithstanding that the clauses themselves do not expressly provide for this.
- 2.4 The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that agreement shall not apply.
- 2.5 Where figures are referred to in numerals and in words and there is any conflict between the two, the words shall prevail.
- 2.6 Any reference to any legislation is a reference to such legislation as at the signature date and as amended or re-enacted from time to time.
- 2.7 If any provision in a definition is a substantive provision that confers any rights or imposing any obligations on any party, then, notwithstanding that it is only in this interpretation clause, effect shall be given to it as if it were a substantive provision in this agreement.

3. APPOINTMENT

The City hereby appoints the service provider, who accepts such appointment, to provide the services in accordance with the terms and subject to the conditions of this agreement.

4. PURPOSE OF THE AGREEMENT

- 4.1 The purpose of this agreement is to –
- 4.1.1 formalise and regulate the working relationship between the parties;
 - 4.1.2 set out the roles and responsibilities of the parties; and
 - 4.1.3 define process and procedures to be followed by the parties.

5. RELATIONSHIP

Nothing in this agreement shall constitute or be deemed to constitute a partnership or joint venture between the parties. Furthermore, the service provider acknowledges and agrees that its status under this agreement is that of an independent service provider and its status shall in no way be deemed to be that of an agent or employee of the City for any purpose whatsoever. The service provider shall have no authority or power to bind the City or to contract in the name of the City or create a liability against the City in any way or for any purpose.

6. DURATION

This agreement shall commence on the effective date and shall subsist for _____ years, unless terminated earlier, pursuant to Clause 32 below.

7. CONTACT PERSON

- 7.1 The work to be performed by the service provider hereunder will be supervised by City's contact person referred to in Clause 35 below.
- 7.2 The parties shall notify each other in writing from time to time of the details of the nominated contact person.
- 7.3 The contact persons shall liaise and update each other on the progress of the services rendered and shall endeavour to resolve and remedy any problems or disputes that may arise in relation to the services.
- 7.4 Either party may substitute a contact person at its discretion, provided that each party shall give the other party reasonable notice of such substitution and will provide replacement employees of equivalent ability.
- 7.5 Without derogating from the foregoing, should either party replace a contact person for any reason whatsoever, it shall ensure, to the greatest extent possible in the circumstances, that the suitable period of handover and overlap takes place, at its cost, between the new and the incumbent contact person.

8. SCOPE OF GENERAL SERVICES

The service provider shall, for the duration of this agreement, provide the services set out in the scope of work and in accordance with the deliverables and milestones attached hereto as Annexure B, including but not limited to the maintenance and support services, as provided for in Clause 20 below.

9. PRICE AND PAYMENT

- 9.1 The City shall pay to the service provider the contract price in the sum of R_____ (_____ rand), payable in accordance with the terms of the appointment letter, attached hereto as Annexure C, and subject to deliverables.
- 9.2 All payments under this agreement shall be made by electronic fund transfer or other forms of payment as the parties may agree upon from time to time, upon receipt of valid and undisputed tax invoices and month-end statements together with the supporting documentation from the service provider, once the undisputed tax invoices or such portion of the tax invoices which are undisputed become due and payable.
- 9.3 All amounts and other sums payable in terms of this agreement and schedules hereto will be stipulated exclusive of VAT, unless expressly stated otherwise.

- 9.4 Unless otherwise provided in the schedules, valid tax invoices shall be submitted together with a month-end statement. Payment against such month-end statement shall be made by the City within 30 (thirty) days after the date of receipt by the City of the service provider's statement together with the relevant valid and undisputed tax invoice(s) and supporting documentation, but in any event no later than 90 (ninety) days of receipt of such statement.
- 9.5 Where the payment of any valid and undisputed tax invoice, or any part of the said tax invoice which is not in dispute, is not made by the due date, the service provider shall be entitled to charge interest on the outstanding amount, at the service provider's prime rate of interest in force, for the period from the due date of payment until the outstanding amount is fully paid.
- 9.6 There shall be no interest levied on a tax invoice that is in dispute between the parties.
- 9.7 The City shall pay the amount reflected on a tax invoice once the City's contact person has verified that the services set out in a schedule have been rendered and the tax invoice amount has been approved by the City.
- 9.8 All tax invoices shall be addressed to the City's contact person.
- 9.9 All payments shall be transferred by the City to the service provider electronically into the service provider's bank account, the details of which are as follows:
- Bank: _____
Account type: _____
Account number: _____
Branch number: _____
- 9.10 Failure to comply with the clauses above may result in late payment of the total amount of an invoice by the service provider to the City. The City shall not be liable for any costs or damages suffered by the service provider as a result of such late payment.

10. PRICE RESTRUCTURING

- 10.1 The service provider shall be subject to a price review every year.
- 10.2 The City shall embark on a benchmarking exercise every 12 (twelve) months where the City shall benchmark the service provider's contract price against the prevailing market rates.
- 10.3 In the event that it emerges that the service provider's charges regarding the contract price and other charges under this agreement are materially higher than the reasonable benchmark ascertained by the City or that the City can acquire similar services of a like quality from another supplier at a total delivered cost that is lower than the total delivered cost of the services acquired hereunder from the service provider, the City shall have the right to notify the service provider of such total delivered cost and the service provider shall have an opportunity to adjust the contract price and any other charges hereunder, on

such a basis as to result in the same total delivered cost to the City, within 30 (thirty) calendar days of such notice.

10.4 If the service provider fails to do so or cannot legally do so, the City may –

10.4.1 acquire the services from such other supplier in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of the City and the service provider hereunder shall be reduced accordingly;

10.4.2 terminate this agreement without any penalty, liability or further obligation; or

10.4.3 continue under this agreement.

10.5 Within 30 (thirty) calendar days of a notice by the City or at any time the City so requests, the service provider shall certify in writing to the City that it is in compliance with this clause and shall provide all information that the City reasonably requests in order to verify such compliance.

11. SERVICE LEVELS

11.1 The service provider recognises that the City has entered into this agreement relying specifically on the service provider's representations regarding service levels including, *inter alia* –

11.1.1 capacity allocations in accordance with the service to be provided; and

11.1.2 all work to be performed and services rendered under this agreement shall comply with industry norms and best practice acceptable within the services industry and shall be executed by the service provider to the total satisfaction of the City.

11.2 The service provider shall provide suitably qualified and trained employees to provide the services to the City in terms of this agreement, and shall allocate, in its discretion, employee resources in accordance with the technical skill and knowledge required, provided that any exercise of such discretion by the service provider shall not negatively impact the provision of the services by the service provider to the City. The service provider shall also allocate employees with the technical skill and knowledge on-site at the City at all times during normal working hours, if the City so requires.

11.3 Among others, the service provider shall comply with and provide the services as set out in Clause 8 above.

12. WITHHOLDING OF PERFORMANCE

The service provider may not, under any circumstances, including, without limitation, non-payment by the City, withhold any services from the City during the currency of this agreement, unless it validly terminates this agreement, in terms of Clause 32 below.

13. PENALTY

- 13.1 Should the service provider fail to comply with its obligations in terms of this agreement, the City may –
 - 13.1.1 exercise its rights in terms of Clause 31 below; or
 - 13.1.2 impose a penalty on the service provider.
- 13.2 An election of any of the above by the City shall not mean that the City has waived any other rights which the City might have in law.
- 13.3 Should the City choose to impose a penalty on the service provider, the City shall provide the service provider with a written notice requiring the service provider to remedy the default within 7 (seven) days from the date of delivery of the notice.
- 13.4 Should the service provider fail to remedy the default within 7 (seven) days after receiving the notice, the City shall be entitled, without prejudice to any alternative or additional right of action or remedy available to the City and without further notice, to impose a penalty, which penalty shall be a deduction of 10% of the monthly contract price for the contract period. For the avoidance of doubt, the penalty amount shall be 10% of the monies due for payment to the service provider monthly, in terms of Clause 9 above.
- 13.5 Should there be a dispute as to whether the failure to deliver was caused by the City or was the service provider's fault, such dispute shall be dealt with in accordance with Clause 33 below.

14. ACCESS

- 14.1 The City shall allow the service provider reasonable access to its premises, provided that –
 - 14.1.1 access is related to the services to be provided by the service provider; and
 - 14.1.2 the service provider adheres to all rules, regulations and instructions applicable at the City's premises.
- 14.2 The service provider is required to notify the City every month of employees who are to provide services at the service areas and/or delivery areas.
- 14.3 The City shall grant the service provider and/or its employees, referred in Clause 14.2 above, access to its premises to perform its obligations in terms of this agreement.
- 14.4 The service provider and its employees shall at all times, when entering the premises and/or service areas and/or delivery areas of the City, comply with all rules, laws, regulations and policies of the City.

15. ORDERS OF GOODS

- 15.1 The service provider's contact person shall advise the City in writing of the goods required to enable the service provider to render the services. On the order form, the service provider shall set out the quantity, description of goods and the anticipated date of delivery of the goods ("delivery date").
- 15.2 The City shall confirm the order in writing and authorise the service provider to order the goods necessary for the provision of the service.
- 15.3 All orders for goods ordered under Clause 15 shall be for the separate account of the City, the cost of which shall be invoiced to the City by the service provider upon confirmation of the order, in terms of Clause 15.2 above. The City shall not be obliged to order the goods from the service provider and shall be entitled to use any company that it deems most suitable for the provision of the goods.

16. DELIVERY OF GOODS

- 16.1 The service provider shall deliver the goods on the delivery date.
- 16.2 Should the service provider be unable to deliver the goods on the delivery date, the service provider shall inform the City of its inability to deliver the goods, the reason therefor, and shall provide the City with a reasonable alternative delivery date, which, in any event, shall not be more than 14 (fourteen) days from the original delivery date.
- 16.3 In the event that the service provider is unable to deliver the goods on the delivery date 3 (three) times in a period of 6 (six) months, the City shall be entitled to terminate this agreement by giving the service provider one (1) month's written notice to terminate.
- 16.4 Upon delivery of the goods by the service provider, the City's contact person shall sign the delivery document provided by the service provider as acknowledgement of receipt of the goods. Such acknowledgement of receipt shall not constitute an acceptance –
 - 16.4.1 that the goods were received in good condition;
 - 16.4.2 that the goods were free of any defects;
 - 16.4.3 that the goods were fit for the purpose for which they were purchased; and/or
 - 16.4.4 of any terms and conditions of the delivery document.
- 16.5 In the event that the City notifies the service provider, within 5 (five) business days, that the goods delivered are not in accordance with the order, the City shall be entitled to return the goods to the service provider at the service provider's cost and the service provider shall deliver the replacement goods ordered within 5 (five) business days of taking delivery of the defective goods.

17. DEFECTIVE GOODS OR LATENT PRODUCTS

- 17.1 The service provider shall verify whether the goods received are in order and without any defects.
- 17.2 In the event that the City realises that the goods have any defect, including (but not limited to) manufacture and/or latent defects, the City shall inform the service provider in writing within 5 (five) days of becoming aware of the defect ("Notice of Defect").
- 17.3 Upon receipt of the Notice of Defect, the service provider shall immediately deliver replacement goods to the City within 14 (fourteen) business days of receiving the Notice of Defect, referred to in Clause 17.2 above, and replace the defective goods.
- 17.4 The cost of returning and replacing the defective goods shall be borne by the service provider.
- 17.5 The service provider shall be responsible for the replacement amount of any parts of the goods that are to be replaced in terms of this agreement.

18. AMENDMENT OR CANCELLATION OF PURCHASE ORDER

The City is entitled to cancel an order, reschedule delivery of the goods or change the delivery area and delivery date on 14 (fourteen) days' written notice to the service provider.

19. INSPECTION

- 19.1 The City may, at any time, inspect the goods and/or service levels of the service provider in terms of this agreement.
- 19.2 If the City is, at any time, dissatisfied with the service levels, the City shall, within 7 (seven) days, notify the service provider in writing of the failure or default.
- 19.3 The service provider shall immediately upon receipt of written demand by the City remedy such failure or default, within 7 (seven) business days from the date of receipt of the notice, free of charge.
- 19.4 Should the service provider fail to remedy the failure or default referred to above, the City shall have the right to impose penalties as provided for in Clause 12 above or invoke the provisions of clauses and/or Clause 31 below.
 - 19.4.1 To enable the City to determine whether the goods and/or services rendered in terms of this agreement are being complied with, the service provider shall –
 - 19.4.1.1 provide the City with such information as it may reasonably require;
 - 19.4.1.2 allow the City to inspect and take copies of any records of the service provider relating to the goods and/or services, including all hardware, software, data, information, visuals,

procedures, event logs, transaction logs, audit trails, books, records, contracts and correspondence; or

- 19.4.1.3 allow the City or its authorised representatives to conduct interviews with any of the service provider's employees, subject to reasonable notice being given to the service provider.

19.5 Service provider to provide reasonable assistance

19.5.1 Where any information is required for inspection in terms of this clause and the information is kept in a computer, the service provider shall give the City reasonable assistance required to facilitate inspection and obtain copies of the information in a visible and legible form or to inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the keeping of the information.

19.5.2 Any information required to be provided to the City, pursuant to Clause 19, shall be provided by the service provider, as the case may be in such form (including a form otherwise than in writing) as the City may reasonably specify.

19.5.3 The cost of any inspection contemplated in terms of Clause 19 shall be for the account of the City unless any material irregularity or failure on the part of the service provider is determined by the City in the course of such inspection.

19.6 The inspection contemplated in this agreement will be conducted –

19.6.1 during normal business hours; and

19.6.2 where the circumstances justify it, on reasonable notice to the service provider, with the minimum interference in the provision of the services and the service provider's other operations.

20. MAINTENANCE AND SUPPORT

The essential and critical elements of the maintenance and support to be provided by the service provider to the City shall be detailed in the scope of work attached hereto as Annexure B.

21. TRAINING

If required, the service provider shall, after delivery and installation of the goods, and as part of maintenance and support, ensure that the City's nominated employees, from time to time, receive the required and necessary training relating to the nature, purpose and appropriate use of the goods.

22. SERVICE PROVIDER'S WARRANTIES AND INDEMNITIES

22.1 Service warranties

22.1.1 The service provider warrants that, in relation to each service provided in terms of this agreement, –

- 22.1.1.1 it has full capacity and authority to enter into and perform this agreement, and that this agreement is executed by duly authorised representatives of the service provider;
- 22.1.1.2 it possesses or has access to the requisite knowledge, skill and experience to provide the services in an expert manner;
- 22.1.1.3 it will discharge its obligations under this agreement and any annexure, appendix or schedule hereto with all due skill, care and diligence;
- 22.1.1.4 all work performed and services rendered under this agreement shall comply with prevailing practice, standards and specifications within the industry;
- 22.1.1.5 it will be solely responsible for the payment of remuneration and associated benefits, if any, of its personnel and for withholding and remitting income tax for its personnel in conformance with any applicable laws and regulations;
- 22.1.1.6 the use or possession by the City of any materials will not subject the City to any claim for infringement of any intellectual property rights of any third party;
- 22.1.1.7 it will, with promptness and diligence, and in a skilful manner and in accordance with the practices and professional standards of operations, perform services and/or deliver goods;
- 22.1.1.8 its services and/or goods will, in all aspects, comply with industry norms and best practice to the satisfaction of the City with regard to materials and workmanship;
- 22.1.1.9 it will use and adopt any standards, processes and procedures required under this agreement;
- 22.1.1.10 it shall employ suitably qualified and trained employees to provide the services and/or goods to the City and it shall allocate employees in accordance with the technical skills and knowledge required;
- 22.1.1.11 the goods and/or services will be free from any defects in material and workmanship;
- 22.1.1.12 it will maintain and cause to be maintained the highest standard of workmanship and care in undertaking the services and/or processing the goods;

- 22.1.1.13 it will maintain and cause to be maintained the highest standard of care and diligence in providing the services, maintenance and support;
- 22.1.1.14 it will ensure that all applicable laws are observed;
- 22.1.1.15 without derogating from the generality of the foregoing, it will strictly adhere to any or all laws, regulations and accepted procedures with regard to health, hygiene and the maintaining of the environment in the manufacture, packaging, labelling, identification, storage and transportation of the goods; and
- 22.1.1.16 it guarantees that the goods shall be in good working condition for the warranty and/or maintenance period of the goods, and that the service provider shall be responsible for the costs of repair of the goods should the goods require to be repaired to their normal use.

22.2 Indemnity

22.2.1 The service provider hereby indemnifies the City against any claim which may be brought against the City by the service provider's personnel or a third party arising from the execution of this agreement or which arises against the City as a result of the service provider's breach of any of the provisions of this agreement. This is provided that the City notifies the service provider in writing within a reasonable time, and, in any event, no less than 14 (fourteen) business days of the City becoming aware of any such claim to enable the service provider to take steps to contest it. The City shall provide the service provider with such reasonable assistance as may be necessary to enable the service provider to defend the claim to the extent only that it is in a position to render such assistance. The service provider may, within 5 (five) business days of receipt of written notice from the City aforesaid, elect in writing to contest such a claim in the name of the City and shall be entitled to control the proceedings in regard thereto. This is provided that the service provider indemnifies the City against all and any costs (including attorney and own client costs) which may be incurred by or awarded against the City as a consequence of the defence of the claim.

23. SERVICE PROVIDER'S PERSONNEL

23.1 Liability for criminal acts of employees

The service provider shall be liable to the City for any loss that the City or any third party may suffer as a result of any theft, fraud or other criminal act of any employee of the service provider which arises within the course and scope of such employee's employment with the service provider.

23.2 Character of employees

23.2.1 Due to the confidential nature of certain aspects of the services and the position of trust which the service provider's employees will fulfil, the service provider hereby undertakes to use its best commercial endeavours to ensure that it only assigns to the City employees who are fit and proper persons, who display the highest standards of personal integrity and honesty, and who have not, to their knowledge, been convicted of any crime.

23.2.2 The service provider shall, at its own cost, conduct all reasonable background checks into its employees before using them to provide the services in terms of this agreement.

23.3 The City shall conduct all reasonable background checks into the service provider's employees from time to time, where it deems it necessary to do so.

24. STATUTORY AND EMPLOYMENT ISSUES

24.1 The service provider shall comply with all employment legislation

24.1.1 The service provider warrants that it has full knowledge of all relevant statutory, collective and other stipulations applicable to the relationship with its personnel and its relationship with the City. This includes, but is not limited to, the Labour Relations Act, 1995 (Act 66 of 1995), the Basic Conditions of Employment Act, 1977 (Act 75 of 1997), the Employment Equity Act, 1998 (Act 55 of 1998) and any other applicable employment legislation currently in force.

24.1.2 The service provider warrants further that it is not and will not in future be in contravention of any of the provisions of any such legislation and in the event of such contravention, the service provider shall immediately take all steps to remedy such contravention. If the City advises the service provider of any contravention of such legislation in writing, the service provider shall, within 10 (ten) days after receipt of such notice, take all steps necessary to remedy such contravention and shall keep the City informed regarding the steps taken and the implementation and result thereof.

24.2 No employment

The service provider warrants that none of its personnel shall be regarded as employees of the City. The service provider shall assist to defend and bear all costs in the event that the City is required to defend a claim, whether civil or employment related, instituted against it by the service provider's personnel should the City defend the matter. The service provider hereby indemnifies the City against all and any costs (including attorney and own client costs) which may be incurred by or awarded against the City as a consequence of the defence of the claim.

24.3 Occupational Health and Safety Act, 1993

The service provider shall be responsible for ensuring compliance with all the provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993)

and it indemnifies the City against any claim which may arise in respect of such act by its personnel against the City.

25. SUBCONTRACTING

- 25.1 The service provider may not subcontract the whole of or any portion of the services in terms of this agreement to any third party without the prior consent of the City.
- 25.2 In the event the service provider wishes to subcontract the whole of or any portion of the services in terms of this agreement, it shall apply to the City in writing for consent to do so.
- 25.3 In its application, the service provider shall give the name of the subcontractor, the subcontractor's obligations, the proposed date of commencement of the subcontract, which shall include the fees payable to the subcontractor, and a report of the background security check on the subcontractor's suitability, financial and otherwise.
- 25.4 The City may, in its sole and absolute discretion, refuse consent to subcontract. In the event the City approves the subcontracting of the whole of or any portion of the services in terms of this agreement, –
 - 25.4.1 the service provider shall ensure that the subcontractor's BBEE level is equal or better than that of the service provider, its price is competitive and it has the capacity to provide the service;
 - 25.4.2 such subcontracting shall not absolve the service provider from the responsibility of achieving the service levels or complying with its obligations in terms of this agreement, and the service provider hereby indemnifies and holds the City harmless against any loss, harm or damage which the City may suffer as a result of such subcontracting;
 - 25.4.3 the service provider shall, at all times, remain the sole point of contact for the City in respect of the acquisition of services by the City; and
 - 25.4.4 no such subcontracting shall have any effect on the contract price and charges payable by the City to the service provider in terms of this agreement.

26. CONFIDENTIALITY

- 26.1 The service provider acknowledges that all information relating to the City's confidential business and technical information, data, documents or other information necessary or useful for the carrying on by the City of its business which shall include, but shall not be limited to, operating procedures, quality control procedures, approximate operation personnel requirements, descriptions, trade names and trademarks, know how, techniques, technology, information relating to clients, customers, suppliers and relevant authorities, copyright, trade secrets and all goodwill relating to the business and any other intellectual property rights, technical data and documents in whole or in part, used by the City in respect of its business ("confidential information") shall

remain confidential and shall not be made known unless the City has given written consent to do so.

- 26.2 The information provided by the City in the context of this agreement is confidential information and the service provider shall take all reasonable measures to keep the information confidential and will only use the information for the purpose for which it was provided.
- 26.3 The service provider undertakes to not disclose any such confidential information. However, there will be no obligation of confidentiality or restriction on use where –
 - 26.3.1 the information is publicly available, or becomes publicly available otherwise than by action of the receiving party;
 - 26.3.2 the information was already known to the receiving party (as evidenced by its written records) prior to its receipt under this or any previous agreement between the parties or their affiliates; or
 - 26.3.3 the information was received from a third party not in breach of an obligation of confidentiality.

27. INTELLECTUAL PROPERTY RIGHTS

- 27.1 All intellectual property rights of the contractor and/or third party vest in the contractor and/or third party, as appropriate.
- 27.2 All rights in the City name and logo remain the absolute property of the City.
- 27.3 The contractor warrants that no aspect of the services provided in terms thereof will infringe any patent, design, copyright, trademark, trade secret or other proprietary right of any third party.
- 27.4 The contractor shall promptly notify the City, in writing, of any infringement or apparent or threatened infringement or any circumstances which may potentially give rise to an infringement, or any actions, claims or demands in relation to any intellectual property rights.
- 27.5 In the event the City becomes aware of any such infringement, the contractor shall, at its cost, defend the City against any claim that the services infringe any such third party intellectual property rights, provided that the City gives notice to the contractor of such claim and the contractor controls the defence thereof. The contractor further indemnifies the City against, and undertakes that it will pay all costs, damages and attorney fees, if any, finally awarded against the City in any action which is attributable to such claim and will reimburse the City with all costs reasonably incurred by the City in connection with any such action.
- 27.6 Should any claim be made against the City by any third party in terms of Clause 27.1 above, the City shall give the contractor written notice thereof within 3 (three) days of becoming aware of such claim to enable the contractor to take steps to contest it.

27.7 Should any third party succeed in its claim for the infringement of any third party proprietary rights, the contractor shall, at its discretion and within 30 (thirty) days of the services having been found to infringe, at its own cost, –

27.7.1 obtain for the City the right to continue using the subject of infringement or the parts thereof which constitute the infringement;

27.7.2 replace the subject of infringement or the parts thereof which constitute the infringement with another product or service which does not infringe and which is materially similar to the subject of infringement;

27.7.3 alter the subject of infringement in such a way as to render it non-infringing while still in all respects operating in substantially the same manner as the subject of infringement; or

27.7.4 withdraw the subject of infringement.

28. FORCE MAJEURE

28.1 For the purposes hereof, “*force majeure*” shall mean civil strife, riots, insurrection, sabotage, national emergency, acts of war of public enemy, rationing of supplies, flood, storm, fire or any other like forces of nature beyond the reasonable control of the party claiming *force majeure* and comprehended in the terms thereof.

28.2 If *force majeure* causes delays in or failure or partial failure of performance by a party of all or any of its obligations hereunder, this agreement shall be suspended for the period agreed in writing between the parties.

28.3 In the event of circumstances arising which the other party believes that it constitutes a *force majeure* (“the affected party”), such affected party shall send, within 5 (five) days from the interrupting circumstances, a written notice of the interrupting circumstances specifying the nature and date of commencement of the interrupting event to the other party. The parties shall agree, in writing, to suspend the implementation of this agreement for a specific period (“agreed period”).

28.4 In the event that both parties reasonably believe that the affected party shall be unable to continue to perform its obligations after the agreed period, either party shall be entitled to terminate this agreement without further notice to the other party.

28.5 The party whose performance is interrupted by the interrupting circumstances shall be entitled, provided that such party shall give notice to that effect with a written notice of the interrupting circumstances as provided above, to extend the period of this agreement by a period equal to the time that its performance is so prevented.

29. CESSION

The service provider shall not be entitled to cede, assign or transfer in any other way and/or alienate its rights and obligations in terms of this agreement without the prior written consent of the City.

30. CHANGE OF CONTROL OR CIRCUMSTANCE

- 30.1 The service provider shall notify the City in writing of any change in the service provider's shareholding or membership or any change in the service provider's subsidiary companies or holding or its affiliates (such change shall be considered a material change in the constitution and identity of the service provider). The City may terminate this agreement upon becoming aware of such material change.
- 30.2 The parties agree that should there be a change, as envisaged in Clause 30.1 above, the service provider will no longer exist and a new third party or entity shall have been constituted. In this regard, such third party shall not be entitled to inherit any of the service provider's rights and obligations in terms of this agreement, which will only be transferred to the new entity in writing by the City following the City's satisfaction and approval in writing of such new entity.
- 30.3 The service provider shall further notify the City of any material changes or circumstance which might have led the City to appoint the service provider to provide the goods and/or services. In the event that any material change or circumstance occurs and the service provider fails to inform the City of such a change or circumstance, the service provider shall be deemed to have breached a material term of this agreement and the City shall be entitled to cancel the agreement on 1 (one) month's prior notice.

31. BREACH

- 31.1 Subject to Clause 30.3 above, should either party commit a breach of any term of this agreement ("the defaulting party") then the affected party ("aggrieved party") shall be entitled to inform the defaulting party in writing to remedy such failure or default within 5 (five) business days. Should the defaulting party fail to remedy the breach within 5 (five) business days after receipt of the notice, the aggrieved party shall be entitled, without prejudice to any of its rights under this agreement or law, to –
- 31.1.1 immediately terminate this agreement without giving written notice and claim damages (which shall include legal costs on an attorney or client scale);
- 31.1.2 request specific performance and claim damages (which shall include legal costs on an attorney or client scale); or
- 31.1.3 impose penalties as provided for in Clause 13 above.

32. EARLY TERMINATION

The City shall have the right to terminate this agreement by giving 30 (thirty) days' notice in writing to the service provider of its intention to terminate the agreement.

33. DISPUTES

33.1 Save for Clause 31 above or any other clause in this agreement which provides for its own remedy, should any dispute arise between the parties in respect of or pursuant to this agreement, including, without limiting the generality of the foregoing, any dispute relating to –

33.1.1 the interpretation of the agreement;

33.1.2 the performance of any of the terms of the agreement;

33.1.3 any of the parties' rights and obligations;

33.1.4 any procedure to be followed;

33.1.5 the termination or cancellation or breach of this agreement; or

33.1.6 the rectification or repudiation of this agreement,

any party may give the other party written notice of such dispute, in which event the provisions below shall apply.

33.2 Within 7 (seven) days of the declaration of such dispute, the parties' representatives or their nominated persons shall meet in the spirit of goodwill and endeavour to resolve the dispute, failing which (and without prejudice to any other alternative dispute resolution to which the parties may agree, either prior to or concurrently with arbitration) the provisions of Clause 33 shall apply.

33.3 If the parties are unable to resolve the dispute within 14 (fourteen) days of the notice of the dispute (or such longer period as they may have agreed to in writing), then either party may, on written notice to the other party, require that the dispute be submitted to and decided by arbitration, in terms of the Arbitration Act, 1965 (Act 42 of 1965).

33.4 The arbitration shall be held under the provisions of the Arbitration Act, 1965 provided that the arbitration shall be –

33.4.1 at any place which the parties agree, in writing, to be mutually convenient; and

33.4.2 in accordance with such formalities and/or procedures as may be settled by the arbitrator and may be held in an informal and summary manner, on the basis that it shall not be necessary to observe or carry out the usual formalities of procedure, pleadings and/or discovery or respect rules of evidence.

33.5 If the arbitration is –

33.5.1 a legal matter, then the arbitrator shall be a practising advocate or a practising attorney of no less than 10 (ten) years' standing;

- 33.5.2 an accounting matter, then the arbitrator shall be a practising chartered accountant of no less than 10 (ten) years' standing; and
- 33.5.3 any other matter, then the arbitrator shall be any independent person agreed upon between the parties.
- 33.6 Should the parties fail to agree on an arbitrator within 14 (fourteen) days after the arbitration has been demanded, then the arbitrator shall be nominated at the request of either of the parties, by the president for the time being of the Law Society of the Northern Provinces.
- 33.7 Should the parties fail to agree whether the dispute is of a legal, accounting or other nature within 7 (seven) days after the arbitration has been demanded, it shall be deemed to be a dispute of a legal nature.
- 33.8 The arbitrator may –
 - 33.8.1 investigate or cause to be investigated any matter, fact or thing which he/she considers necessary or desirable in connection with the dispute and, for that purpose, shall have the widest powers of investigating all documents and records of any party that have a bearing on the dispute;
 - 33.8.2 interview and question under oath the parties or any of their representatives;
 - 33.8.3 decide the dispute according to what he/she considers just and equitable in the circumstances; and
 - 33.8.4 make such award, including an award for specific performance, damages or otherwise, as he/she in his/her discretion may deem fit and appropriate. The arbitration shall be held as quickly as possible after it is requested, with a view to it being completed within 30 (thirty) days after it has been so requested.
- 33.9 The arbitrator's decision and award shall be in writing with reasons and shall be subject to appeal by either party.
- 33.10 Subject to the provisions of Clause 33.9 above, the arbitrator's award may, on application by either party to a court of competent jurisdiction and after due notice is given to the other party, be made an order of court.
- 33.11 Notwithstanding the provisions of Clauses 33.1, 33.2, 33.3, 33.4, 33.5, 33.6 and 33.7 above, in the event of either party having a claim against the other party for a liquidated amount or an amount which arises from a liquid document, or for an interdict or other urgent relief, then the other party having such a claim shall be entitled to institute action therefor in a court of law rather than in terms of the above clauses, notwithstanding the fact that the other party may dispute the claim.

33.12 The provisions of Clause 33 are severable from the rest of this agreement and shall remain in effect even where this agreement is terminated or cancelled for any reason.

34. LAWS AND JURISDICTION

34.1 This agreement shall be governed by and interpreted according to the law of the Republic of South Africa.

34.2 Each party submits to the exclusive jurisdiction of the South African courts in respect of any matter arising from or in connection with this agreement, including its termination. Each party further consents to the jurisdiction of the High Court of South Africa (North Gauteng High Court (in Pretoria)).

35. NOTICES AND COMMUNICATION

35.1 The Parties choose, as their respective *domicilium citandi et executandi* (hereinafter referred to as the "*domicilium*") and for the delivery of any notices arising out of the agreement or its termination or cancellation, whether in respect of court process, notices or other documents or communication of whatsoever nature (including the exercise of any option), the address, as set out below.

35.1.1 The City:

2nd Floor, Block D
Tshwane House
320 Madiba Street
Pretoria CBD
0001

Attention: _____
Telephone: _____
Fax: 086 214 9544
Email: _____

35.1.2 The service provider:

Attention: _____
Telephone: _____
Fax: _____
Email: _____

35.2 Each party shall be entitled, from time to time, by written notice to the other party, to vary its *domicilium* to any other address, which is not a post office box or *poste restante*.

- 35.3 Any notice given and any payment made by any party to another party (hereinafter referred to as “the addressee”) which –
- 35.3.1 is delivered by hand during normal business hours of the addressee at the addressee’s *domicilium*, shall be deemed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
 - 35.3.2 is posted by prepaid registered post to the addressee at the addressee’s *domicilium* shall be deemed, until the contrary is proved by the addressee, to have been received on the 7th (seventh) day after the date of posting; or
 - 35.3.3 is sent by email or facsimile machine shall be deemed, until the contrary is proven by the addressee, to have been received within 1 (one) hour of transmission where it is transmitted during business hours of the receiving instrument and at noon on the following business day (excluding Saturdays) where it is transmitted outside such business hours.
- 35.4 Any notice or communication required or permitted in terms of this agreement shall be valid and effective only if in writing, but it shall be competent to give notice by facsimile.
- 35.5 Notwithstanding anything to the contrary in this agreement, a notice or communication actually received by one party shall be an adequate notice or communication notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi*.

36. GENERAL AND MISCELLANEOUS

36.1 Sole record of agreement

This agreement constitutes the sole record of the agreement between the parties with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

36.2 No amendment except in writing

No addition to, variation of or agreed cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties. Any alleged waiver of this requirement must itself be reduced to writing and signed by the relevant party to be of any effect.

36.3 Waivers

No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of that party and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

36.4 **Survival of obligations**

Any provision of this agreement which contemplates performance or observance subsequent to any termination or expiration of this agreement shall survive any termination or expiration of this agreement and continue in full force and effect.

36.5 **Approvals and consents**

An approval or consent given by a party under this agreement shall only be valid if in writing and shall not relieve the other party from the responsibility of complying with the requirements of this agreement nor shall it be construed as a waiver of any rights under this agreement, except as and to the extent otherwise expressly provided in such approval or consent, or elsewhere in this agreement. Any alleged waiver of the requirement that the approval or consent must be in writing must itself be reduced to writing and signed by the relevant party to be of any effect.

37. **EXECUTION**

37.1 This agreement may be executed in several counterparts, which shall each be deemed an original, but all of which shall constitute one and the same instrument. A facsimile shall constitute a valid counterpart for all purposes hereunder.

37.2 The signatories to this agreement, by their signature, warrant their authority to enter into this agreement and the capacity of their principal, if signing in a representative capacity, to enter into this agreement.

Signed at on this day of 20.....

Witnesses:

1.

2.

For and on behalf of **the City of
Tshwane Metropolitan
Municipality**
(duly represented by Mr Johann
Mettler)

Signed at on this day of 20.....

Witnesses:

1.
2.

For and on behalf of

(duly represented by

_____)

ANNEXURE A

RESOLUTION OF THE BOARD

Resolution by the board of directors of _____
(the “company”) made at a meeting held at _____ on
_____ 20__.

NOTED: THAT _____ intends to enter into an agreement with the City of Tshwane Metropolitan Municipality in terms of which the company shall provide various services (the “agreement”) on the terms and subject to the conditions of the agreement to which this resolution is attached as Annexure A.

RESOLVED:

THAT the company approves and enters into the agreement on the terms and subject to the conditions of the agreement to which this resolution is attached.

THAT _____ in his/her capacity as a _____ of the company, be and is hereby authorised to negotiate, settle and sign the agreement attached hereto, and to sign all documentation and do all things necessary to give effect to the aforesaid resolutions on behalf of the company.

Read and confirmed

CHAIRPERSON/COMPANY SECRETARY

ANNEXURE B

SCOPE OF WORK AND DELIVERABLES

ANNEXURE C
PAYMENT TERMS