

# HARRY GWALA DISTRICT MUNICIPALITY



## HARRY GWALA EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE CONSTRUCTION OF WATER, SANITATION & MAINTENANCE PROJECTS FOR A PERIOD OF 36 MONTHS

**CONTRACT No. HGDM689/HGDM/2020**

**CIDB CONTRACTOR GRADING**  
**From 1 to 4**

**PREPARED BY:**

Zimile Consulting Engineers  
ERF 358  
76 Hope Street  
4700  
Tel N<sup>o</sup>: +27 11 466 8576  
Fax N<sup>o</sup>: +27 11 466 8813

**PREPARED FOR:**

Harry Gwala District Municipality  
40 Chapel Street  
IXOPO  
3276  
Tel N<sup>o</sup>: (039) 834 3939

NAME OF TENDERER	
ADDRESS OF TENDERER	
TELEPHONE	
FAX	
TENDER SUM	

**TENDER CLOSING DATE: 12h00 14 AUGUST 2020**



**EXPANDED PUBLIC WORKS PROGRAMME**  
Creating opportunities towards human fulfillment

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## **PART T1 TENDERING PROCEDURES**

### **T1.1 Tender Notice and Invitation to Tender**

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**HARRY GWALA DISTRICT MUNICIPALITY  
 WATER SERVICES DEPARTMENT**

**BID NOTICE**

**BID INVITATION**

Bids are hereby invited from qualified and experienced Bidders for the construction of the following Infrastructure projects within the Harry Gwala District municipality

NO.	PROJECT NAME	CIDB GRADIN G	TENDER NUMBER	CLOSING DATE
i.	EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE CONSTRUCTION OF WATER, SANITATION & MAINTENCANCE PROJECTS FOR A PERIOD OF 36 MONTHS	1CE-4CE	Contract No: HGDM 689/HGDM/2020	14 August 2020 @12h00

Only Bidders that have the required CIDB Grading listed on the table above will be considered. Joint Ventures are also eligible to submit Bids provided that every member of the Joint Venture is registered with the CIDB and a combined grade of Joint Venture calculated in accordance with the CIDB regulations is equal to or higher than the specified Contractor grading.

**Invalid or non-submission of the following documents will lead to immediate disqualification.**

- Central Supplier database registration
- JV Agreement (if applicable);
- A signed MBD4 form must be submitted with all bids ( available on our website or at reception)

**The following will apply in all the above bids:**

- Valid tax certificate or SARS pin
- Price(s) quoted must be firm and must be inclusive of VAT;
- A firm delivery period must be indicated;
- All tenders must be valid for 90 days after the tender closing date

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- A certified and valid B-BBEE status level verification certificate or an original certified sworn affidavit for claiming preference points.
- 80/20 Preference point system will be used in Evaluation. Functionality will be calculated first.

**COLLECTION OF BID DOCUMENTS**

Bid documents may be collected from the **20 July 2020** between **09h00 and 16h00** at Harry Gwala District Municipality Offices, Finance Services Department, situated at Ixopo 40 Main Street, Ixopo 3276. Tender documents will be issued upon payment of a non-refundable cash fee of **R 500 each**.

Documents can also be downloaded on municipal website: [www.harrygwaladm.gov.za](http://www.harrygwaladm.gov.za)

**CLOSING DATE**

The closing date for the bids is as per the table above. Bids must be enclosed in **SEALED ENVELOPES** and clearly labelled with the contract number and project name on the outside of the envelopes addressed to **The Municipal Manager**.

Bids must be deposited in the Bid Box at the reception area of Harry Gwala District Municipal, 40 Main Street, IXOPO before the closing date. Telegraphic, telexed or faxed bids will not be considered and late bids will not be accepted.

Harry Gwala District Municipality does not bind itself to accept the lowest or any Bid and reserves the right to accept the whole or any part of the bid.

**BID ENQUIRIES**

All bid enquiries and other matters shall be directed to the following during working hours on 039 834 3939:

Executive Director: Water Services: Mr D Gqiba on [gqibad@harrygwaladm.gov.za](mailto:gqibad@harrygwaladm.gov.za)

Mr S Ngcobo on [ngcobos1@harrygwaladm.gov.za](mailto:ngcobos1@harrygwaladm.gov.za)

**Mrs AN. Dlamini**  
**Municipal Manager**

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**PART T1**  
**TENDERING PROCEDURES**

**T1.2 Tender Data**

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## TENDER DATA

The Standard Conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced to the clause in the Standard Conditions of Tender to which it mainly applies.

Clause Number	Addition or Variation to Standard Conditions of Tender
F.1.1	The Employer is <b>Harry Gwala District Municipality</b>
F.1.2	<p>The tender document issued by the employer comprise:</p> <p><b>Part T1 Tender Procedures</b>                      T1.1 Tender Notice and Invitation to Tender T1.2                      Tender Data</p> <p><b>Part T2 Returnable Documents</b>                      T2.1 List of Returnable Documents                      T2.2 Returnable Schedules</p> <p><b>Part C1 Agreements And Contract Data</b>                      C1.1 Form of offer and acceptance                      C1.2 Contract data</p> <p><b>Part C2 Pricing data</b>                      C2.1 Pricing instructions</p> <p><b>Part C3 Scope of work</b>                      C3 Description of work</p>
F.1.3	<b>Contract Period: 36 Months</b>

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F.1.4	<p>The Employer's Agent's details are as follows:</p> <p><b>Name :</b> Mr D. Gqiba  <b>Address :</b> 40 Chapel Street  Ixopo  3276</p> <p><b>Tel. No. :</b> (039) 834 3939  <b>Fax No. :</b></p> <p><b>E-Mail :</b> <a href="mailto:gqibad@harrygwaladm.gov.za">gqibad@harrygwaladm.gov.za</a></p>
F.1.5	<p>The Consultant's Representative: details areas follows</p> <p><b>Name :</b> Mr V. Kuboni  <b>Address:</b> ERF 358  76 Hope Street  Kokstad  4700</p> <p><b>Tel. No. :</b> (011) 466 8576  <b>Fax No. :</b> (011) 466 8813  <b>E-Mail :</b> <a href="mailto:vuyisani@zimile.co.za">vuyisani@zimile.co.za</a></p>
F.2.1	<p><b>Eligibility</b></p> <p>The following information/certificates must be submitted with tender offers.</p> <p style="padding-left: 40px;">a) A certified copy of Partnership Agreement (if tenderer is partnership/consortium)</p>

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	<p>or joint venture)</p> <p>b) Proof of registration on National Treasury Central Supplier Database (CSD)</p> <p>c) Proof of Registration with South African Revenue Services or SARS PIN</p> <p>d) Proof of attendance of site briefing must be submitted</p> <p>e) Proof of registration of a minimum of CIDB . <i>(Expired, cancelled and suspended proof of registration will not be considered)</i></p> <p>For the tenderer to be eligible for further evaluation it must be confirmed that:</p> <p>f) That the bidder or any of its directors/shareholders is not listed on the National Treasury Register of Tender Defaulters i.t.o Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector.</p> <p>g) The bidder, and if that person is not a natural person, of which any Director, Member or Shareholder of the bidder must not be in the employ of the state.</p> <p><b>Tax Compliance:</b>  <b>No tender may be awarded to any person whose tax matters have not been declared by the South African Revenue Services (SARS) to be in order. Harry Gwala District Municipality will verify with SARS whether the tax affairs of bidders are in order before making an award.</b></p>
F.2.4	All work produced, including records, documents pertaining to this tender shall remain the property of Harry Gwala District Municipality and no part thereof may be copied, reproduced in any manner without the written consent of Harry Gwala District Municipality.

F.2.8	Accept that <b>failure to request clarification</b> on tender documents, in at least 5 working days prior to the closing time stated in the tender data, it shall be deemed that all matters in the tender documents are clearly understood. Accept that the Employer shall not be obligated to respond to any requests for clarification of tender documents submitted in less than 5 working days prior to the closing date.
F.2.12	<b>Criteria for alternative tender offers</b> No alternative tender offers will be accepted.
F.2.13.3	<b>No copies</b> of tender offer are required

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F.2.13.5	<p>The <b>employer's address</b> for delivery of tender offers and identification details to be shown on each tender offer package are as follows:</p> <p><b>Location of Tender Box</b> : Foyer of Harry Gwala District Municipality Offices  <b>Physical Address</b> : Harry Gwala District Municipality  40 Chapel Street  Ixopo, 3276</p> <p><b>Identification Details</b> : HARRY GWALA EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE CONSTRUCTION OF WATER, SANITATION &amp; MAINTENANCE PROJECTS FOR A PERIOD OF 36MONTHS</p>
F.2.13.6	<p>A two-envelope procedure will <b>NOT</b> be followed.</p> <p><b>Pre- qualification process</b></p> <p>Accept that tenders will go through a pre-qualification process in which tenders shall be evaluated for quality first and if the minimum score is attained by a tenderer, then the tender shall be evaluated further.</p> <p>Accept that failure to score the minimum points set out for quality as stipulated in the Tender Data Clause F.3.11.9 of this Tender shall warrant disqualification from further evaluation process.</p>
F.2.15.1	<p>The closing time for submission of tender offers is <b>27 July 2020 @ 12H00</b></p> <p>Telephonic, telegraphic, telex, facsimile or e-mailed and late tender offers will not be accepted</p>
F.3.7	<p>Accept that failure to submit certificates stated in the Tender Data and failure to complete <b>in full the tender document shall result in tender being regarded as non-responsive.</b></p>
F.2.16.1	<p>The tender offer validity period is 90 (ninety) days from the tender closing date.</p>

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F.2.16.1	If the tender validity expires on a weekend or public holiday, the tender validity period shall remain open until the closure of business on the next working day.
F.2.23	<b>Joint ventures</b> are eligible to submit tenders provided that:  1. A joint venture agreement, signed by both partners in a joint venture is in place. 2. Roles, responsibilities and percentage split of joint venture partners must be clearly defined
F.3.3	<b>Site meeting / Briefing session</b>  NONE
F.3.4	Tenders will be opened in public. Open tender system will be implemented.  Submissions must be placed in the Harry Gwala District Municipality tender box situated at the Foyer before <b>12H00 on 14 August 2020</b>  Submission must be in an envelope that is clearly marked – HARRY GWALA EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE CONSTRUCTION OF WATER, SANITATION & MAINTENCANCE PROJECTS FOR A PERIOD OF 36 MONTHS and addressed to Harry Gwala District Municipality –
F.3.11	The responsibility rests with the prospective tenderer to provide all the information required by Harry Gwala District Municipality to claim preferential points. Failure to submit the information shall result in preferential points not being awarded.
F.3.11.4	80/20 or 90/10 Preference Point Scoring System in terms of PPPFA 2017 Tenderers who pass the eligibility and functionality criteria shall be appointed on the panel of service providers for the Civil, Mechanical and Electrical Engineering works. Appointment to this panel does not constitute a binding contract between Harry Gwala District Municipality and the successful Tenderer. Rather it shall imply that the bidder has qualified to be a member of the panel. A separate process of obtaining requests for Proposals or Quotations will be sent out to qualifying panel members for various assignments based on their CIDB grading; at which point Harry Gwala District Municipality and the bidder will enter into a contract.
F.3.11.7	Formula 1 or 2 to calculate the value of A. $W_1 = 80$ or $90$

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F.3.11.8

B-BBEE points will be allocated as Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations, 2017.

80/20 principle:

B-BBEE Status

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

Allocation of B-BBEE points for trusts, consortium or joint ventures and sub-contracting refer to Preferential Procurement Regulation,2017, Conditions section 11 (6) to (13)

OR:

**90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

7 (1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where-

$$\left(1 - \frac{Pt - Pmin}{Pmin}\right) Ps = 90$$

Ps = points scored for price of tender under consideration; Pt = price of tender under consideration; and Pmin = price of lowest acceptable tender.

(2)The following table must be used to calculate the points out of 10 for B-BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

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- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
- a) may only score points out of 80/90 for price; and
  - b) scores 0 out of 20/10 for B-BBEE.

F.3.11.9 a)

**NB: The Evaluation and Adjudication process will be conducted by the Technical Support Consultant.**

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

Total maximum evaluation points for the items is **100%**

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

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

Functionality Criteria	SUB CRITERIA	Max No. of points
<b>Experience in the industry GRADE 2 – 4 (based on schedule of work experience)</b>	<p><b>1. Company Relevant experience on completed project in (Water, Sanitation and Maintenance)</b></p> <p>Completed more than One Projects (with reference letters) <i>(Maximum of 2 points)</i></p> <p>Completed One projects (with reference letter) <span style="float: right;">20</span></p> <p><b>NO PROJECT EXPERIENCE IS REQUIRED FOR GRADE 1, (BIDDERS SHOULD BE REGISTERED WITH CIDB) A MAXIMUM POINT SHOULD BE GRANTED</b></p>	<b>20</b>
<b>Qualifications and Experience of Key personnel in the employ of the Company including Company Owners</b>	<p><b>2. Qualifications and experience of key personnel (Supervisor) employed by company including Company Owners:</b></p> <p>Recognized Degree or Diploma in the Built Environment (must have Water, Sanitation and Maintenance experience in projects):</p> <p>Between 1 and 4 years <span style="float: right;">20</span></p>	<b>20</b>

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<b>Locality</b>	<b>7. Company business address within:</b>	<b>60</b>
	Location of Business (Please provide proof of physical address) <ul style="list-style-type: none"> <li>▪ Within Harry Gwala Region (uMzimkhulu LM, Ubuhlebezwe LM, Nkosazana Dlamini Zuma LM and Greater Kokstad LM). 60</li> <li>▪ Outside Harry Gwala Region operational area but within KwaZulu-Natal. 0</li> </ul> (Utility bill, lease agreement, or letter from Traditional council)	
	<b>Total Points in %</b>	<b>100</b>

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3.3.17	<p>Add the following to the clause:</p> <p>Accept that tender offers will only be accepted if:</p> <ul style="list-style-type: none"> <li>(a) the tenderer has submitted an original valid Tax Clearance Certificate issued by the South African Revenue Services.</li> <li>(b) the tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;</li> <li>(c) the tenderer has not: <ul style="list-style-type: none"> <li>(i) abused the Employer’s Supply Chain Management System; or</li> <li>(ii) failed to perform on any previous contract with the Employer and has been given a written notice to this effect.</li> </ul> </li> </ul> <p>The successful tenderer/s shall receive <b>one</b> copy of the signed contract.</p>
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- **END OF SECTION –**

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## **PART T1**

### **TENDERING PROCEDURES**

#### **T1.3 Preferential Procurement Regulations**

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**PREFERENTIAL PROCUREMENT REGULATIONS, 2017**

**As published in**

**Regulation Gazette No. 10684 of 20 January 2017**

**a) PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000:  
 PREFERENTIAL PROCUREMENT REGULATIONS, 2017**

**b) Definitions**

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

“B-BBEE” means broad –based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“B-BBEE status level of contributor” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“black designated groups” has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“black people” has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

“Broad-Based Black Economic Empowerment Act” means the Broad-Based-Black Economic Empowerment Act,2003(Act No. 53 of 2003)

“co-operative” means a co-operative registered in terms of section 7 of the Cooperatives Act,2005(Act No.14 of 2005);

“designated group” means-

- a) black designated groups;
- b) black people;
- c) women;
- d) people with disabilities;
- e) small enterprises, as defined in section 1 of the National Small Enterprise Act,1996(Act No.102 of 1996)

“designated sector” means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a)

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“EME” means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“functionality” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

“military veteran” has the meaning assigned to it in section 1 of the Military Veterans Act,2011(Act No.18 of 2011)

“National Treasury” has the meaning assigned to it in section 1 of the Public Finance Management Act,1999(Act No.1 of 1999);

“people with disabilities” has the meaning assigned to it in section 1 of the Employment Equity Act,1998(Act No.55 of 1998);

“price” includes all applicable taxes less all unconditional discounts;

“proof of B-BBEE status level contributor” means-

- a) the B-BBEE status level certificate issued by an authorised body or person;
- b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

“QSE” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“Rand value” means the total estimated value of a contract in Rands, calculated at the time of tender invitation;

“rural area” means-

- a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional tenure system;

“stipulated minimum threshold” means the minimum threshold stipulated in terms of regulation 8(1)(b);

“the Act” means the Preferential Procurement Policy Framework Act,2000 (Act No.5 of 2000); 2007;

“township” means an urban living area that any time from the late 19<sup>th</sup> century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

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“treasury” has the meaning assigned to it in section 1 of the Public Finance Management Act,1999 (Act No.1 of 1999); and

“youth” has the meaning assigned to it in section 1 of the National Youth Development Agency Act,2008(Act No.54 of 2008).

### **Application**

2 These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.

### **Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting**

3 An organ of state must-

- (a) determine and stipulate in the tender documents-
  - (i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or
  - (ii) if it is unclear which preference point system will be applicable, 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;
- (b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
- (c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

### **Pre-qualification criteria for preferential procurement**

4.(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- a) a tenderer having a stipulated minimum B-BBEE status level of contributor; b) an EME or QSE;
- c) a tenderer subcontracting a minimum of 30% to-
  - (i) an EME or QSE which is at least 51% owned by black people;
  - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
  - (iii) an EME or QSE which is at least 51% owned by black people who are women;
  - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;

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- (iv) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (v) a cooperative which is at least 51% owned by black people;
- (vi) an EME or QSE which is at least 51% owned by black people who are military veterans;
- (vii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the in the tender documents is an unacceptable tender.

**Tenders to be evaluated on functionality**

- 5 (1) An organ of state must state in the tender documents if the tender will evaluated on functionality
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) The tender documents must specify-
- a) the evaluation criteria for measuring functionality;
  - b) the points for each criteria and, if any, each sub-criterion; and
  - c) the minimum qualifying score for functionality.
- (4) The minimum qualifying score for functionality for a tender to be considered further-
- a) must be determined further separately for each tender; and
  - b) may not be so-
    - (i) low that it may jeopardise the quality of the required goods or services; or
    - (ii) high that it is unreasonably restrictive.
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- (7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

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**80/20 preferential point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million**

6 (1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

Where-

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

$P_s$  = points scored for price of tender under consideration;  
 $P_t$  = price of tender under consideration; and  
 $P_{min}$  = price of lowest acceptable tender.

(2) Subject to sub-regulation (3), points must be awarded to a tender fir attaining the B-BBEE status level of contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-

- c) may only score points out of 80 for price; and
- d) scores 0 out of 20 for B-BBEE.

(5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

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- (6) The points score by a tenderer for B-BBEE in terms of sub regulation (2) must be added to the points scored for price under sub regulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (9) (a) If the price offered by the tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.
- (b) The organs of state may-
- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
  - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
  - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

**90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

8 (1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes: Where-

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

$P_s$  = points scored for price of tender under consideration;  $P_t$  = price of tender under consideration; and  $P_{min}$  = price of lowest acceptable tender.

(2) The following table must be used to calculate the points out of 10 for B-BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

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- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
  - e) may only score points out of 90 for price; and
  - f) scores 0 out of 10 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (6) The points score by a tenderer for B-BBEE in terms of sub regulation (2) must be added to the points scored for price under sub regulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (9) (a) If the price offered by the tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.
  - (b) The organs of state may-
    - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
    - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
    - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
  - (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

**Local Production and Content**

- 8. (1) The Department of Trade and Industry may, in consultation with the National Treasury-
  - a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
  - b) stipulate a minimum threshold for local production and content.
- (2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

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(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.

(4) (a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

(b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

**Subcontracting as condition of tender**

9.(1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

(2) If an organ of state applies subcontracting as contemplated in sub regulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

- a) an EME or QSE;
- b) an EME or QSE which is at least 51% owned by black people;
- c) an EME or QSE which is at least 51% owned by black people who are youth;
- d) an EME or QSE which is at least 51% owned by black people who are women;
- e) an EME or QSE which is at least 51% owned by black people with disabilities;
- f) an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;
- g) a cooperative which is at least 51% owned by black people;
- h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
- i) more than one of the categories referred to in paragraphs (a) to (h)

**(3)** The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation(2) from which the tenderer must select a supplier.

**Criteria for breaking deadlock in scoring**

10. (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.

(2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.

(3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

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**Award of contracts to tenderers not scoring highest points**

11. (1) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.

(2) If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

**Subcontracting after award of tender**

12(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.

(2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

(3) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

**Cancellation of tender**

13 (1) An organ of state may, before the award of a tender, cancel a tender invitation if-

- a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
- b) funds are no longer available to cover the total envisaged expenditure;
- c) no acceptable tender is received; or
- d) there is a material irregularity in the tender process.

(2) The decision to cancel a tender invitation on terms of sub regulation (1) must be published in the same manner in which the original tender invitation was advertised.

(3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

**Remedies**

14 (1) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- a) inform the tenderer accordingly;
- b) give the tenderer an opportunity to make representations within 14 days as to why-

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- (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
  - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
  - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
- c) if it concludes, after considering the representations referred to in sub regulation (1)(b), that-

aa) disqualify the tenderer or terminate the contract in whole or in part; and

bb) if applicable, claim damages from the tenderer; or

(ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.

(2)(a) An organ of state must-

- (i) inform the National Treasury, in writing, of any actions taken in terms of sub regulation (1);
- (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
- (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

(b) The National Treasury may request an organ of state to submit further information pertaining to sub regulation (1) within a specified period.

(3) The National Treasury must-

(a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and (b) maintain and publish on its official website a list of restricted suppliers.

**c) Circulars and guidelines**

15. The National Treasury may issue-

- (a) a circular to inform organs of state of any matter pertaining to these Regulations; or
- (b) a guideline to assist organs of state with the implementation of any provision of these Regulations.

**d) Repeal of Regulation**

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16.(1) Subject to this Regulation, the Preferential Procurement Regulations,2011, published in Government Notice No R.502 of 8 June 2011(herein called "the 2011 Regulations),are hereby repealed with effect from the date referred to in regulation 17.

(2) Any sector designated and minimum threshold determined for local production and content for purposes of regulation 9 of the 2011 Regulations and in force immediately before the repeal of the 2011 Regulations, are regarded as having been done under regulation 8(1) of these Regulations.

(3) Any tender advertised before the date referred to in sub regulation 17 must be dealt with in terms of the 2011 Regulations

**e) Short title and commencement**

These Regulations are called the Preferential Procurement Regulations, 2017 and take effect on 1 April 2017.

**- END OF SECTION –**

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**PART T1**

**TENDERING PROCEDURES**

**T1.4 STANDARD CONDITIONS OF TENDER**

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## STANDARD CONDITIONS OF TENDER

### **F.1 General**

#### **F.1.1 Actions**

**F.1.1.1** The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

**F.1.1.2** The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result. 2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**F.1.1.3** The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

#### **F.1.2 Tender Documents**

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

#### **F.1.3 Interpretation**

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:

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- (a) **conflict of interest** means any situation in which:
- i someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
  - ii an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
  - iii incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- (ii) **comparative offer** means the tenderer’s financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis
- (b) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and CIDB Standard Conditions of Tender 30 January 2009
- (c) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
- (d) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body
- (e) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs

**F.1.4 Communication and employer’s agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer’s agent are stated in the tender data.

**F.1.5 The employer’s right to accept or reject any tender offer**

**F.1.5.1** The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.

**F.1.5.2** The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering

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substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

**F.1.6 Procurement procedures**

**F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

**F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1**

Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2**

All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, finetuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3**

At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4**

The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.

**F.1.6.3 Proposal procedure using the two stage-system**

**F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of CIDB evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

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**F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

**F.2 Tenderer's obligations**

**F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with the employer.

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

**F.2.2 Cost of tendering**

Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

**F.2.4 Confidentiality and copyright of documents**

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

**F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

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**F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary, apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

**F.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

**F.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

**F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

**F.2.10 Pricing the tender offer**

**F.2.10.1**

Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2**

Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3**

Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4**

State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

**F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

**F.2.12 Alternative tender offers**

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**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

**F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

**F.2.13 Submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

**F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

**F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

**F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

**F.2.13.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

**F.2.13.8** Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

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**F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

**F.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and, in the form, required, may be regarded by the employer as nonresponsive.

**F.2.15 Closing time**

**F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

**F.2.15.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

**F.2.16 Tender offer validity**

**F.2.16.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

**F.2.16.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

**F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

**F.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

**Note:** Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.

**F.2.18 Provide other material**

**F.2.18.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture

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agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the employer, where required.

**F.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

**F.2.20 Submit securities, bonds, policies, etc.**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

**F.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

**F.2.22 Return of other tender documents**

If so instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

**F.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

**F.3 The employer's undertakings**

**F.3.1 Respond to requests from the tenderer**

**F.3.1.1** Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- (a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- (b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or

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- (c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

**F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who drew documents.

**F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

**F.3.4 Opening of tender submissions**

**F.3.4.1** Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

**F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed and time for completion for the main tender offer only.

**F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

**F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate the quality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.

**F.3.6 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the

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final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

**F.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

**F.3.8 Test for responsiveness**

**F.3.8.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- (a) complies with the requirements of these Conditions of Tender,
- (b) has been properly and fully completed and signed, and
- (c) is responsive to the other requirements of the tender documents.

**F.3.8.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- (a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- (b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- (c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

**F.3.11 Evaluation of tender offers**

**F.3.11.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

**F.3.11.2 Method 1: Financial offer**

In the case of a financial offer:

- (a) Rank tender offers from the most favourable to the least favourable comparative offer.
- (b) Recommend the highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- (c) Re-rank all tenderers should there be compelling and justifiable reasons not to recommend the highest ranked tenderer and recommend the highest ranked tenderer,

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unless there are compelling and justifiable reasons not to do so and the process set out in this sub clause is repeated.

**F.3.11.3 Methods 2: Financial offer and preference**

In the case of a financial offer and preferences:

- (a) Score each tender in respect of the financial offer made and preferences claimed, if any, in accordance with the provisions of F.3.11.7 and F.3.11.8.
- (b) Calculate the total number of tender evaluation points (TEV) in accordance with the following formula:

$$TEV = NFO + NP$$

where: NFO is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

NP is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.

- (c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- (d) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- (e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points, and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub clause is repeated.

**F.3.11.4 Method 3: Financial offer and quality**

In the case of a financial offer and quality:

- (a) Score each tender in respect of the financial offer made and the quality offered in accordance with the provisions of F.3.11.7 and F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.
- (b) Calculate the total number of tender evaluation points (TEV) in accordance with the following formula:

$$TEV = NFO + NQ$$

where: NFO is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

NQ is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

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- (c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- (d) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- (e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this sub clause is repeated.

**F.3.11.6 Decimal places**

Score financial offers, preferences and quality, as relevant, to two decimal places.

**F.3.11.7 Scoring Financial Offers**

Score the financial offers of remaining responsive tender offers using the following formula:

$$NFO = W1 \times A$$

where: NFO is the number of tender evaluation points awarded for the financial offer.  
W1 is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the Tender Data.

A is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1 <sup>3</sup>	Option 2 <sup>3</sup>
1	Highest price or discount	$A = \left(1 + \frac{(P \cdot Pm)}{Pm}\right)$	$\square = \square \div \square \square$
Lowest price or commission/fee	2 percentage $\square = \square \square \div \square$	$A = \left(1 \cdot \frac{(P \cdot Pm)}{Pm}\right)$	
3	$\square \square$ is the comparative offer of the most favourable comparative offer. $\square$ is the comparative offer of the tender offer under consideration.		

**F.3.11.8 Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are

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not eligible for such preferences. Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

**F.3.11.9 Scoring quality**

Score each of the criteria and sub criteria for quality in accordance with the provisions of the Tender Data. Calculate the total number of tender evaluation points for quality using the following formula:

$$NQ = W2 \times SO / MS$$

where: SO is the score for quality allocated to the submission under consideration;

MS is the maximum possible score for quality in respect of a submission;  
 and

W2 is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

**F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

**F.3.13 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the tenderer:

- (a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- (b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- (c) has the legal capacity to enter into the contract,
- (d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- (e) complies with the legal requirements, if any, stated in the tender data, and
- (f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

**F.3.14 Prepare contract documents**

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- F.3.14.1** If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:
- (a) addenda issued during the tender period,
  - (b) inclusion of some of the returnable documents, and
  - (c) other revisions agreed between the employer and the successful tenderer.
- F.3.14.2** Complete the schedule of deviations attached to the form of offer and acceptance, if any.
- F.3.15**       **Complete adjudicator's contract**  
Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.
- F.3.16**       **Notice to unsuccessful tenderers**
- F.3.16.1** Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.
- F.3.16.2** After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.
- F.3.17**       **Provide copies of the contracts**  
Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.
- F.3.18**       **Provide written reasons for actions taken**  
Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

**- END OF SECTION -**

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## **PART T2 RETURNABLE DOCUMENTS**

### **T2.1 List of Returnable Documents**

<b>DESCRIPTION</b>	<b>CONTRACT No.</b>	<b>DATE</b>	<b>PAGE No.</b>
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**LIST OF RETURNABLE DOCUMENTS**

Tenderers are required to submit the following with their tenders:

<b>Schedule No.</b>	<b>Description</b>	<b>Submitted YES / NO</b>
A	Proof of company registration documents	
B	Proof of Registration with SARS (Valid PIN from SARS confirming compliance status)	
C	Certified copies of Identity Documents of Shareholders/Members/Directors of the business (not applicable if a company is a 100 % subsidiary )	
D	A certified copy of Partnership Agreement(if tenderer is a partnership or JV)	
E	Certified valid copy of BBBEE Certificate or a Sworn affidavit if company is an EME or QSE.	
F	Proof of Registration with National Treasury Central Supplier Database (CSD)	
G	COID's Letter of Good Standing	
H	Public Liability and Performance Guarantee Certificate from the insurance company or letter of intent	
I	Proof of registration with CIDB	
J	Contactable Reference Letters from Previous Employers / current Employers or complete the Returnable Schedule 12	

<b>DESCRIPTION</b>	<b>CONTRACT No.</b>	<b>DATE</b>	<b>PAGE No.</b>
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**DOCUMENT A: PROOF OF COMPANY REGISTRATION DOCUMENTS**

[Attach copies here]

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**DOCUMENT B: PROOF OF REGISTRATION WITH SARS, (VALID PIN  
FROM SARS CONFIRMING COMPLIANCE STATUS)**

[Attach copies here]

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**DOCUMENT C: CERTIFIED COPIES OF ID DOCUMENTS OF SHAREHOLDERS/ MEMBERS/ DIRECTORS OF THE BUSINESS AND PARTNERS.**

[Certified Copies of ID documents to be inserted here]

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**DOCUMENT D : A CERTIFIED COPY OF A PARTNERSHIP AGREEMENT  
(IF TENDERER IS A PARTNERSHIP OR JV)**

[Certified Copies of Partnership Agreement/JV Agreement to be inserted here]

DESCRIPTION	CONTRACT No.	DATE	PAGE No.
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**DOCUMENT E CERTIFIED VALID COPY OF BBEE CERTIFICATE OR A  
SWORN AFFIDAVIT IF COMPANY IS AN EME OR QSE.**

[Attach copies here]

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**DOCUMENT F PROOF OF REGISTRATION WITH NATIONAL  
TREASURY'S CENTRAL SUPPLIER DATABASE**

[Attach copies here]

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**DOCUMENT G LETTER OF GOOD STANDING FROM THE  
COMPENSATION COMMISSIONER**

[Attach copies here]

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**DOCUMENT H PUBLIC LIABILITY CERTIFICATE and PERFORMANCE  
GUARANTEE FROM THE INSURANCE COMPANY OR LETTER OF INTENT**

[Attach copies here]

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**DOCUMENT I PROOF OF ACTIVE REGISTRATION WITH CIDB**

[Attach copies here]

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**DOCUMENT J CONTACTABLE REFERENCE LETTERS FROM PREVIOUS  
EMPLOYERS / CURRENT EMPLOYERS**

[Attach copies here]

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**RETURNABLE SCHEDULES**

Schedule No.	Description	YES/NO
1	Compulsory Enterprise Questionnaire	
2	Authority of Signatory	
3	Schedule of Work Experience	
4	site briefing certificate	
5	Tenderer Bank Details	
6	Addenda/Notice(s) issued to Tenderers (IF ANY)	
7	Alterations/Amendments by Tenderer (IF ANY)	
8	Declaration of interest	
9	Declaration of Bidder's Past SCM practices	
10	Preferential Points Claim Form	
11	Independent Bid Determination	
12	Schedule of reference checks for purposes of tender evaluation	
13	Declaration certificate for local production and content for designated sectors (IF APPLICABLE)	
14	Schedule of Plant and Equipment	
15	Curriculum Vitae of Key personnel (Contracts Manager/Supervisor)	



## SCHEDULE 1: COMPULSORY ENTERPRISE QUESTIONNAIRE

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of Enterprise**

**Section 2: VAT registration number (if any)**

**Section 3: Particulars of sole proprietors and partners in a partnership**

Name	Identity Number	Personal Income Tax Number

**NB:** Section 3 to be completed only if a tenderer is a sole proprietor or partnership

**Section 4: Particulars of companies and close corporations**

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

Close corporation number: \_\_\_\_\_

Tax reference number: \_\_\_\_\_

**Section 5: Records in the service of the State**

Indicate by marking the relevant boxes with a cross , if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been, within the last 12 months, in service of any of the following:

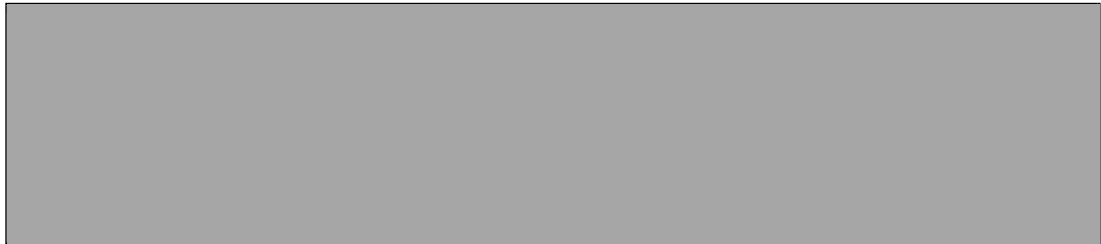
	a member of any municipal council
	a member of the National Assembly or the National Council of Province
	a member of the board of directors of any municipality
	an official of any municipality or municipal entity
	an employee of Parliament or a provincial legislature
	a member of an accounting authority of any national or provincial public entity

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		An employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
--	--	--

		a member of any provincial legislature
--	--	--

If any of the above boxes are marked, disclose the following:




**NB:** Please attach a separate page if necessary.

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**Section 6: Record of spouses, children, relatives, parents in the service of state**

Indicate by marking the relevant boxes with a cross ☒, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been, within the last 12 months, in service of any of the following

	a member of any municipal council
	a member of the National Assembly or the National Council of Province
	a member of the board of directors of any municipality
	an official of any municipality or municipal entity
	an employee of Parliament or a provincial legislature
	a member of an accounting authority of any national or provincial public entity
	An employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
	a member of any provincial legislature

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If any of the above boxes are marked, disclose the following:

Name of spouse, child, relative or parent	Name of institution, public office, board or organ of state and position held	Status of service (i.e. current or within the last 12 months)

**NB:** Please attach a separate page if necessary.

**Section 7: List of partners, proprietors and shareholders by name, identity number, citizenship, PDI status and ownership, as relevant.**

NAME	IDENTITY NUMBER	CITIZENSH IP	PDI STATUS (YES/NO)	DATE OF OWNERSHIP	% OWNED	VOTING %

**NOTE:** where owners are themselves a company, close corporation, partnerships etc. identify the ownership of the holding firm.

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The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise:

(i) confirms that neither the name of the enterprise or the name of any partner, manager, director or any other person who partly or wholly exercises or may exercise control over the

enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;

(ii) confirms that no partner, member, director or any other person, who partly or wholly exercise or may exercise control over the enterprise has, within the last five (5) years been convicted of fraud or corruption;

(iii) confirms that he/she or any of the partners, members, directors or any other person is not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;

(iv) confirms that the contents of this questionnaire are within his/her personal knowledge and are to the best of his/her belief both true and correct.

**Signed on behalf of Tenderer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position:** \_\_\_\_\_

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## SCHEDULE 2: AUTHORITY OF SIGNATORY

Tenderers shall submit with their tenders the following information:

- 1 The full First Names and Surnames of their partners and/or directors:

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

- 2 The names and addresses of the local agents, firms, or representatives who are involved in any manner whatsoever in the Tender

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

- 3 In the case of a tender being submitted on behalf of a Company, Close Corporation or Partnership; assurance shall be given at the time of submission of the tender that the tender has been signed by someone properly authorised thereto by resolution of the Directors, Members or Partners. Signatories for companies shall confirm their authority by attaching to this form a copy of the relevant resolution of the board of directors, duly signed and dated.

By resolution of the board of directors taken on (Date) .....

Mr/Ms(Print Name).....

has been duly authorized to sign all documents in connection with this tender / contract on

behalf of: .....

(Print Company Name) .....

.....  
 .....

Signed on behalf of Company : .....

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In his/her capacity as : .....

Date :.....

**SIGNED ON BEHALF OF TENDERER:** .....

**SIGNATURE OF SIGNATORY:** .....

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**SCHEDULE 3: SCHEDULE OF WORK EXPERIENCE**

Company Name Representative contact details Company (Client) Name	Details of Company Experience not older than 5 years on PANEL OF CONTRACTORS FOR THE CONSTRUCTION OF WATER AND SANITATION PROJECTS	Contract Value	Contract duration (start and end date)

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**SCHEDULE 4: CERTIFICATE OF ATTENDANCE AT SITE MEETING**

This is to certify that (tenderer) \_\_\_\_\_

of \_\_\_\_\_ (address)

\_\_\_\_\_ was represented by the person  
 named below at the compulsory meeting held for all tenderers at (location)

\_\_\_\_\_ on (date) \_\_\_\_\_ starting at (time) \_\_\_\_\_

I acknowledge that the purpose of the meeting was to acquaint myself with the site of the works and / or matters incidental to doing the work specified in the tender documents in order for me to take account of everything necessary when compiling our rates and prices included in the tender.

Particulars of person attending the meeting:

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

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

**NOTE!** Attendance Certificate to be signed by at least two representatives of Harry Gwala District Municipality and to be stamped with Harry Gwala District Municipality Supply Chain Management stamp.

The above person meeting attendance is confirmed by the Employer's representative, namely:

1. Name: \_\_\_\_\_ Capacity: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

2. Name : \_\_\_\_\_ Capacity: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SCM STAMP:**

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**SCHEDULE 5: TENDERER BANK DETAILS**

The Tenderer shall append hereto his/her banking details accompanied by a BANK CANCELLED CHEQUE or a SIGNED LETTER FROM THE BANK ON THE BANK'S LETTERHEAD.

The letter should also reflect bank rating.

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**SCHEDULE 6: ADDENDA / NOTICE(S) ISSUED TO TENDERERS**

I/We confirm that the following communication / Information / Notice(s), issued to Tenderers, was received from the Employer before the submission of this tender offer and has been taken into consideration in this tender:

(NB: Addendum/Addenda shall only be made available to Tenderers who attended the Site Clarification Meeting.)

Addendum / Notice Reference Number	Date of Issue	Subject Matter of Addendum / Notice

**NB:** Evidence of such addenda must be attached to this Schedule.

Specify number of sheets appended to this schedule \_\_\_\_\_(if none, enter NONE)

**SIGNATURE:** \_\_\_\_\_  
(On behalf of the Tenderer)

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

HARRY GWALA EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE CONSTRUCTION OF WATER, SANITATION & MAINTENANCE PROJECTS FOR A PERIOD OF 36 MONTHS	<b>HARRY GWALA DISTRICT MUNICIPALITY</b> CONTRACT NO ??????????????? <b>HARRY GWALA EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE CONSTRUCTION OF WATER, SANITATION &amp; MAINTENANCE PROJECTS FOR A PERIOD OF 36 MONTHS</b>	<b>Page 66 of 129</b> <b>FOR THE</b>
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**OF WATER, SANITATION & MAINTENCANCE PROJECTS**  
**FOR A PERIOD OF 36 MONTHS**

**SCHEDULE 7: ALTERATIONS / AMENDMENTS BY TENDERER**

The Tenderer shall record and attach to this page any deviation or alteration he/she may wish to make to the tender document. The Tenderer shall pay attention to Clause F.3.8 of the CIDB Standard Conditions of Tender with regards to how the deviations shall be dealt with by the Employer.

Page No.	Clause / Description

Specify the number of sheets appended to this schedule \_\_\_\_\_ (if none, enter NONE)

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

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

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**SCHEDULE 8: DECLARATION OF INTEREST**

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

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

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

2.1 Full Name of bidder or his or her representative: .....

2.2 Identity Number: .....

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>, member):  
 .....

2.4 Registration number of company, enterprise, close corporation, partnership agreement trust: .....

2.5 Tax Reference Number: .....

2.6 VAT Registration Number: .....

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

<sup>1</sup>"State" means –

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- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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

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

**2.7.1** If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member: .....

Name of state institution at which you or the person

connected to the bidder is employed : .....

Position occupied in the state institution: .....

Any other particulars:

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

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

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

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

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

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

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

2.8.1 If so, furnish particulars:  
 .....  
 .....  
 .....

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

2.9.1 If so, furnish particulars.  
 .....  
 .....  
 .....

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

**2.10.1** If so, furnish particulars.

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

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

2.11.1 If so, furnish particulars:

.....  
 .....

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

Full Name	Identity Number	Personal Income Tax Reference Number	State Number / Number	Employee / Pearsal

**4 DECLARATION**

I, the undersigned (name).....

Certify that the information furnished in paragraphs 2 and 3 above is correct.

I accept that the state may reject the bid or act against me should this declaration prove to be false.

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.....  
**SIGNATURE**

.....  
**DATE**

.....  
**POSITION**

.....  
**NAME OF BIDDER**

**SCHEDULE 9: DECLARATION OF BIDDER'S PAST SUPPLY CHAIN  
 MANAGEMENT PRACTICES**

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the audi alteram partem rule was applied).</b>  The Database of Restricted Suppliers now resides on the National Treasury's website( <a href="http://www.treasury.gov.za">www.treasury.gov.za</a> ) and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		

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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)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**CERTIFICATION**

**I, the undersigned (full name).....  
 certify that the information furnished on this declaration form is true and correct.**

**I accept that, in addition to cancellation of a contract, action may be taken against me should this declaration prove to be false.**

.....  
**SIGNATURE**

.....  
**DATE**

.....  
**POSITION**

.....  
**NAME OF BIDDER**

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**SCHEDULE 10: PREFERENCE POINTS CLAIM FORM**

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011**

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.**

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
  - the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).
- 1.2 The value of this bid is estimated to not exceed R1 000 000 (all applicable taxes included) and therefore the 80/20 system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price; and
  - (b) B-BBEE Status Level of Contribution.
- 1.3.1 The maximum points for this bid are allocated as follows:

**POINTS**

- 1.3.1.1.1. PRICE** 80
- 1.3.1.1.2. B-BBEE STATUS LEVEL OF CONTRIBUTION** ....

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**Total points for Price and B-BBEE must not exceed 100**

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

**2. DEFINITIONS**

2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

2.4 **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

2.7 **“consortium or joint venture”** 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;

2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;

2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less.

2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;

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- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

**3. ADJUDICATION USING A POINT SYSTEM**

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

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**4. POINTS AWARDED FOR PRICE**

**4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

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

Where

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

**5. Points awarded for B-BBEE Status Level of Contribution**

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (90/10 system)</b>	<b>Number of points (80/20 system)</b>
1	10	20
2	9	18
3	8	16
4	5	12

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5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

**6. BID DECLARATION**

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AN5.1**

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

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

**8 SUB-CONTRACTING**

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?  
 .....%
- (ii) the name of the sub-contractor?  
 .....
- (iii) the B-BBEE status level of the sub-contractor?  
 .....
- (iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

**9 DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm ..... :

9.2 VAT registration number : .....

9.3 Company registration number .....

:

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
  - One person business/sole propriety
  - Close corporation
  - Company
  - (Pty) Limited
- [TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

**9.6 COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.  
 [TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business? .....

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct;
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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

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**WITNESSES:**

1. ....

2. ....

.....  
 SIGNATURE(S) OF BIDDER(S)

DATE:.....

ADDRESS:.....

.....

.....

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**SCHEDULE 11: CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited and submitted.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a pe se prohibition meaning that it cannot be justified under any grounds.
3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a) disregard the bid of any bidder if that bidder or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b) cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
4. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bidrigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_

(Bd Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_

(Name of Institution)

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

I certify, on behalf

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

that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder,

whether or not affiliated with the bidder, who:

- a) has been requested to submit a bid in response to this bid invitation;
  - b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
  7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
    - a) prices;
    - b) geographical area where product or service will be rendered (market allocation)
    - c) methods, factors or formulas used to calculate prices;
    - d) the intention or decision to submit or not to submit, a bid;
    - e) the submission of a bid which does not meet the specifications and conditions of the bid; or
    - f) bidding with the intention not to win the bid.
  8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

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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.

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**COMPANY STAMP:**

**SCHEDULE 12 : SCHEDULE OF TENDERER'S REFERENCE CHECKS FOR PURPOSES OF  
 TENDER EVALUATION**

**f) PROJECT 1**

**TENDERER to complete A, B & E before sending to referee:**

**A : DETAILS OF TENDERER WHO IS ASKING FOR THE REFERENCE**

\_\_\_\_\_

Full tenderer's name as it will appear on the Form of Offer

**B : CONTACT DETAILS OF ORGANISATION / PERSON WHO IS PROVIDING THE REFERENCE (REFEREE)**

\_\_\_\_\_

Full details of the organisation / person providing the reference

**C : DETAILS OF THE TENDER WHICH IS CURRENTLY BEING PREPARED :**

Contract Number : \_\_\_\_\_  
 Description : \_\_\_\_\_  
 Estimated Performance Period \_\_\_\_\_ **36 months** \_\_\_\_\_

**E : DETAILS OF THE CONTRACT WHICH WAS COMPLETED FOR THE ORGANISATION PROVIDING THE  
 REFERENCE**

Description : \_\_\_\_\_  
 \_\_\_\_\_

Date completed : \_\_\_\_\_ / Value on completion : R \_\_\_\_\_ Incl. VAT

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F : Ratings on aspects below on the performance of the tenderer (A above) on the contract / project (E above)	UNACCEPT- ABLE	ACCEPTABLE
Tenderer completed the work successfully and timeously		

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

DATE : \_\_\_\_\_

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Full Names :	_____
Capacity :	_____
Landline :	_____
Cell phone :	_____
Email :	_____

**g) COMPANY STAMP: REFEREE**

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**SCHEDULE 13: DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS**

This Standard Bidding Document (SBD 6.2) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

**1. General Conditions**

1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.

1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.

1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

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The SABS approved technical specification number SATS 1286:2011 is accessible on  
[http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

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1.6 A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

**h) 2. Definitions**

2.1. **"bid"** includes written price quotations, advertised competitive bids or proposals;

2.2. **"bid price"** price offered by the bidder, excluding value added tax (VAT);

2.3. **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;

2.4. **"designated sector"** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

2.5. **"duly sign"** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).

2.6. **"imported content"** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

2.7. **"local content"** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;

2.8. **"stipulated minimum threshold"** means that portion of local production and content as determined by the Department of Trade and Industry; and

2.9. **"sub-contract"** means the primary contractor's assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

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**3. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
Clothing	100%

**4. Does any portion of the services, works or goods offered have any imported content?  
 (Tick applicable box)**

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

4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://www.reservebank.co.za).

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

**5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?  
 (Tick applicable box)**

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

5.1 If yes, provide the following particulars:

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- (a) Full name of auditor: .....
- (b) Practice number: .....
- (c) Telephone and cell number: .....
- (d) Email address: .....

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

- 6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

**LOCAL CONTENT DECLARATION**  
**(REFER TO ANNEX B OF SATS 1286:2011)**

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**LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)**

**IN RESPECT OF BID NO.** .....

**ISSUED BY:** (Procurement Authority / Name of Institution):  
.....

NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on [http://www.thdti.gov.za/industrial\\_development/ip.jsp](http://www.thdti.gov.za/industrial_development/ip.jsp). Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, ..... (full names), do hereby declare, in my capacity as ..... of ..... (name of bidder entity), the following:

(a) The facts contained herein are within my own personal knowledge.

(b) I have satisfied myself that:

(i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and

(ii) the declaration templates have been audited and certified to be correct.

(c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

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Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	
<p><b>If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.</b></p> <p>d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.</p> <p>e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).</p> <p><b>SIGNATURE:</b> _____ <b>DATE:</b> _____</p> <p><b>WITNESS No. 1</b> _____ <b>DATE:</b> _____</p> <p><b>WITNESS No. 2</b> _____ <b>DATE:</b> _____</p>	

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SATS 1286.2011

Annex C

Local Content Declaration - Summary Schedule

- (C1) Tender No.
- (C2) Tender description:
- (C3) Designated product(s)
- (C4) Tender Authority:
- (C5) Tendering Entity name:
- (C6) Tender Exchange Rate:
- (C7) Specified local content %

Note: VAT to be excluded from all calculations

Pula  EU  GBP

Calculation of local content								Tender summary			
Tender item no's	List of items	Tender price - each (excl VAT)	Exempted imported value	Tender value net of exempted imported content	Imported value	Local value	Local content % (per item)	Tender Qty	Total tender value	Total exempted imported content	Total Imported content
(C8)	(C9)	(C10)	(C11)	(C12)	(C13)	(C14)	(C15)	(C16)	(C17)	(C18)	(C19)

(C20) Total tender value	R 0
(C21) Total Exempt imported content	R 0
(C22) Total Tender value net of exempt imported content	R 0
(C23) Total Imported content	R 0
(C24) Total local content	R 0
(C25) Average local content % of tender	

Signature of tenderer from Annex B

Date:

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**SCHEDULE 14: PLANT AND EQUIPMENT**

The following are lists of major items of relevant equipment that I / we presently own or lease and will have available for this contract if my / our tender is accepted. (Please attach proof of ownership of plant owned)

**A) Details of major equipment owned by me / us and immediately available for this contract**

DESCRIPTION (type, size, capacity etc)	QUANTITY	YEAR OF MANUFACTURE

Attach additional pages if more space is required

**B) Details of major equipment that will be hired, or acquired for this contract if my / our tender is accepted**

DESCRIPTION (type, size, capacity etc)	QUANTITY	HIRE/SOURCE	BUY

Attach additional pages if more space is required

The Tenderer undertakes to bring onto site without additional cost to the Employer any

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**Failure to complete this form properly and correctly, will lead to the conclusion that the tenderer does not have the necessary plant and equipment resources at his disposal, which will negatively impact his/her tender.**

SIGNATURE: ..... IDENTITY NUMBER: .....

(of person authorised to sign on behalf of the Tenderer) DATE:.....

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**SCHEDULE 15 Curriculum Vitae of Key Personnel**

Name:		Date of Birth:	
Profession		Nationality:	
Qualification/s (Attach certified Copies):			
Professional Registration Number:			
Name of Employer (Company):			
Current Position:		No. of years with Firm:	
<b><u>Employment Record:</u></b>			
<b><u>Experience Record Pertinent to Required Service:</u></b>			

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**Certification**

I, the undersigned, certify that, to the best of my knowledge and belief, this data correctly describes me, my qualifications and my experience in relation to the required service.

.....  
Signature of person named above                  Date

**END OF SECTION –**

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**PART C1**  
**AGREEMENTS AND CONTRACT DATA**

**C1.1 Form of Offer and Acceptance**

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## FORM OF OFFER AND ACCEPTANCE

### OFFER

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

.....  
 .....

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

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

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

**Signatures** \_\_\_\_\_

**Name(s)** \_\_\_\_\_

**Capacity** \_\_\_\_\_

**Date** \_\_\_\_\_

**for the Tenderer** \_\_\_\_\_  
 (Name and address of organisation)  
 \_\_\_\_\_

**Names & signatures of witnesses**

**Signatures** \_\_\_\_\_

**Name(s)** \_\_\_\_\_

**Date** \_\_\_\_\_

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By signing this part of this Form of Offer and Acceptance, the Purchaser identified below accepts the Tenderer's Offer. In consideration thereof, the Purchaser shall pay the Supplier the amount due in accordance with the, Conditions of Contract identified in the Contract Data. Acceptance of the Tenderer's Offer shall form an agreement, between the Purchaser and the Tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

The terms of the contract, are contained in

- Part T1 Tendering Procedures
- Part T2 Returnable Documents
- Part C1 Agreements and Contract Data, (which includes this Agreement)
- Part C2 Pricing Data
- Part C3 Scope of Work

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the Tenderer and the Purchaser during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Agreement. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be duly signed by the authorised representative(s) of both parties.

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

**Signatures** \_\_\_\_\_  
**Name(s)** \_\_\_\_\_  
**Date** \_\_\_\_\_  
**for the Purchaser** \_\_\_\_\_  
\_\_\_\_\_

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**Names & signatures of witnesses**

**Signatures** \_\_\_\_\_  
**Name(s)** \_\_\_\_\_  
**Date** \_\_\_\_\_

**SCHEDULE OF DEVIATIONS**

Notes :

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

**1. Subject.....**

Details.....

**2. Subject.....**

Details.....

**3. Subject.....**

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 Details.....

**4. Subject** .....

Details.....

**5. Subject**.....

Details.....

**6. Subject**.....

Details.....

By the duly authorised representatives signing this Schedule of Deviations, the Purchaser and the Tenderer agree to and accept the foregoing Schedule of Deviations as the only deviations from the amendments to the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, as well as any confirmation, clarification or change to the terms of the offer agreed by the Tenderer and the Purchaser during this process of offer and acceptance.

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

**FOR THE TENDERER:**

**Signatures** \_\_\_\_\_

**Name(s)** \_\_\_\_\_

**Capacity** \_\_\_\_\_

**Date** \_\_\_\_\_

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**for the Tenderer** \_\_\_\_\_ (Name and address of organisation)  
 \_\_\_\_\_  
 \_\_\_\_\_

**Names & signatures of witnesses**

**Signatures** \_\_\_\_\_  
**Name(s)** \_\_\_\_\_  
**Date** \_\_\_\_\_

**FOR THE EMPLOYER:**

**Signatures** \_\_\_\_\_  
**Name(s)** \_\_\_\_\_

**Capacity**

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

**for the Purchaser** \_\_\_\_\_ (Name and address of organisation)  
 \_\_\_\_\_  
 \_\_\_\_\_

**Names & signatures of witnesses**

**Signatures** \_\_\_\_\_  
**Name(s)** \_\_\_\_\_  
**Date** \_\_\_\_\_

- **END OF SECTION** -

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## **PART C1 AGREEMENTS AND CONTRACT DATA**

### **C1.2 Contract Data**

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**HARRY GWALA EMERGING CONTRACTORS DEVELOPMENT PROGRAMME PANEL FOR THE**  
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**CONTRACT DATA**

The General Conditions of Contract for the Supply and Delivery of Goods, 3<sup>rd</sup> Edition (2008) published by Construction Industry Development Board (CIDB), is applicable to this contract. These general conditions are found on Section C1.3 of this document (General Conditions of Contract).

The Contract Data consist of two parts. Part 1 contains information provided by the Purchaser, while Part 2 contains information to be provided by the Supplier.

The General Conditions of Contract for the Supply and Delivery of Goods make reference to the Contract Data. The following Contract Data applies to this Contract.

**Part 1: Data Provided by the Employer**

Clause	Contract Data
1	<p>The Employer is:  <b>HARRY GWALA DISTRICT MUNICIPALITY</b></p> <p>The authorised and designated representative of the Employer is:  <b>Name</b> : Mr D Gqiba</p> <p>The address for receipt of communication is:  <b>Telephone</b> : (039) 834 3939  <b>Fax</b> :  <b>E-Mail</b> : gqibad@harrygwaladm.gov.za  <b>Address</b> : 40 Chapel Street  Ixopo  3276</p>
2	<p>The Consultant's Representative: details are as follows:</p> <p><b>Name</b> : Mr V. Khuboni</p> <p><b>Address</b> : ERF 358  76 Hope Street  Kokstad  4700</p> <p>Tel. No. : (011) 466 8576  Fax No. : (011) 466 8813  E-Mail : <a href="mailto:vuyisani@zimile.co.za">vuyisani@zimile.co.za</a></p>
5.4	<p>Goods are to be delivered on weekdays between 08:00 and 15h30 at a place to be communicated to the supplier.</p>
12.1.2	<p>Interim settlement of disputes is to be by mediation.</p>

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**Part 2: Data Provided by the Supplier**

Clause	Contract Data
1	<p><b>Name of Supplier:</b></p> <p>_____</p> <p><b>Address:</b></p> <p>_____</p> <p>_____</p> <p>_____</p> <p><b>Telephone:</b></p> <p>_____</p> <p><b>Fax:</b></p> <p>_____</p> <p>The authorised and designated representative of the Supplier is:</p> <p><b>Name:</b></p> <p>_____</p> <p><b>Address:</b></p> <p>_____</p> <p>_____</p> <p>_____</p> <p><b>Telephone:</b></p> <p>_____</p> <p><b>Fax:</b></p> <p>_____</p>

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**END OF SECTION**

**PART C1  
AGREEMENTS AND CONTRACT DATA**

**C1.3 General Conditions of Contract**

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## 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 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.

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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 ancillaries to the supply of the goods, such as transportation and any other incidental services, such as installation,

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1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

**2. Application** 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

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

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

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

**5. Use of** 5.1 The supplier shall not, without the purchaser's prior written contract consent, disclose the contract, or any provision thereof, or any document specification, plan, drawing, pattern, sample, or information s and furnished by or on behalf of the purchaser in connection information therewith, to any person other than a person employed by the n; supplier in the performance of the contract. Disclosure to any inspection. 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.

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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,

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but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
  - 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
  - 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
  - 8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal, the rejected supplies shall be returned at the 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

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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** 10.1 Delivery of the goods shall be made by the supplier in accordance **and documents** 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.** 12.1 Should a price other than an all-inclusive delivered price be **Transportation** required, this shall be specified in the SCC.

**13. Incidental** 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

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(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 Whiteprints, drawings, and specifications of the spare parts, if requested.

**15. Warranty** 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

**16. Payment** 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice

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16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

**17. Prices**

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

**18. Contract amendments**

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

**19. Assignment**

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

**20. Subcontracts**

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

**21. Delays in the supplier's performance** 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

**21.2** If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

**21.3** No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

**21.4** The right is reserved to procure outside of the contract small quantities or to have

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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.

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**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

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(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.
- (v)

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

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

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

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**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.

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

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(a) 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.

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**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.

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**PART C2 PRICING DATA**

**C2.1 Pricing Data - Pricing Instructions**

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## **PRICING INSTRUCTIONS**

1. The Conditions of Contract, the Contract Data, and the Specifications (including the Project Specifications) shall be read in conjunction with the Schedule of Activities.
2. The Schedule of Activities comprises items covering the Supplier's profit and costs of general liabilities associated with the execution of the Contract

Although the Tenderer is at liberty to insert a rate of his own choosing for each item in the Schedule of Activities, he/she should note the fact that the Supplier is entitled, under various circumstances, to payment for additional work carried out and that the Employer is obliged to base his assessment of the rates to be paid for such additional work on the rates the Supplier inserted in the Schedule of Activities.

3. Descriptions in the Schedule of Quantities are abbreviated and may differ from those in the Standardized and Project Specifications. No consideration will be given to any claim by the Supplier submitted on such a basis.
4. The amounts and rates to be inserted in the Schedule of Activities shall be the full inclusive amounts to the Employer for the work described under the several items. Such amounts shall cover all the costs and expenses that may be required in and for the construction of the work described, and shall cover the costs of all general risks, profits, taxes (but excluding value-added tax), liabilities and obligations set forth or implied in the documents on which the Tender is based.
5. An amount or rate shall be entered against each item in the Schedule of Quantities, whether or not quantities are stated. An item against which no amount or rate is entered will be considered to be covered by the other amounts or rates in the Schedule.

The tendered rates, prices and sums shall, subject only to the provisions of the Conditions of Contract, remain valid irrespective of any change in the quantities during the execution of the Contract.

6. The quantities of work as measured and accepted and certified for payment in accordance with the Conditions of Contract, and not the quantities stated in the Schedule of Activities, will be used to determine payments to the Contractor. The validity of the Contract shall in no way be affected by differences between the quantities in the Schedule of Activities and the activities certified for payment.
8. For the purposes of this Schedule of Activities, the following words shall have the meanings hereby assigned to them:

Unit : The unit of measurement for each item of work as defined in the

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Quantity : The number of units of work for each item

Rate : The payment per unit of work at which the Tenderer tenders to do the work

Amount : The quantity of an item multiplied by the tendered rate of the (same) item

Sum : An amount tendered for an item, the extent of which is described in the Schedule of Activities, the Specifications or elsewhere, but of which the quantity of work is not measured in units

9. The units of measurement indicated in the Schedule of Quantities are metric units. The following abbreviations may appear in the Schedule of Activities:

hrs	=	hours
mm	=	millimetre
m	=	metre
km	=	kilometre
km-pass	=	kilometre-pass
m <sup>2</sup>	=	square metre
m <sup>2</sup> -pass	=	square metre-pass
ha	=	hectare
m <sup>3</sup>	=	cubic metre
m <sup>3</sup> -km	=	cubic metre-kilometre
kW	=	kilowatt
kN	=	kilo-newton
kg	=	kilogram
t	=	ton (1 000 kg)
%	=	per cent
MN	=	mega-newton
ML	=	mega litres
MN-m	=	meganewton-metre
PC Sum	=	Prime Cost Sum
Prov Sum	=	Provisional Sum

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**C3**

**SCOPE OF WORK**

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**Section C3.1 – Generic Scope of Works**

**1. BACKGROUND**

Harry Gwala District Municipality (HGDM) is a water services authority (WSA) which has the executive authority and the right to administer water services as authorised in terms of the Municipal Structure Act, 1998 (act No. 117 of 1998), established in terms of the **Water Services Act, 1997 (Act No. 108 of 1997)**. Its core operation is to ensure that potable water supplied to the consumers complies with SAN 241-2015 DRINKING WATER QUALITY STANDARDS, ensure that waste water discharged to a water course complies with DWS GENERAL LIMIT STANDARDS FOR WASTE WATER. Harry Gwala District Municipality invites Tenderers to submit bids for Harry Gwala Emerging Contractors Development Programme Panel for the Construction of Water, Sanitation & Maintenance Projects for a period of 36 Months.

**2. OBJECTIVE**

Harry Gwala District Municipality is responsible for the ensuring that basic water and sanitation services are affordable, Accessing intergovernmental grants for new infrastructure and exertion as well as development of project business plans choosing of delivery mechanism and monitoring of project implementation, monitoring access to water and sanitation services (monitoring the reduction of water and sanitation backlogs). These projects includes construction, operations, maintenance and rehabilitation of the entire district infrastructure assets which comprises of dams, Weirs, Reservoirs, pipelines, hydro-mechanical equipment, cranes and lifting equipment, pump stations, Waste Water Treatment Plants (WWTP's), Water Treatment Plants (WTP's), Buildings and associated infrastructure.

The prospective member of the Panel of Preferred Contractors will be expected to be capable of successfully constructing water related infrastructure assets including but not limited to **Boreholes, Springs, Reservoirs, pipelines, hydro-mechanical equipment, pump-stations, sanitation infrastructure, Buildings and associated electrical/mechanical infrastructure. This includes emergency construction work that might be necessary.**

**3. CONTRACT DURATION**

The contract is for the period of 36 months subject to a performance agreement to be entered into between the service provider and the employer.

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