

TERMS OF REFERENCE

FOR

THE ESTABLISHMENT OF A PANEL OF SERVICE PROVIDERS SPECIALIZING IN THE INFORMATION AND COMMUNICATIONS TECHNOLOGY SECTOR

Closing Date: 13 July 2021
Closing Time: 11H00

Information Contacts:

- **For all ICT-related/ technical queries:**

Mr. S. Ndlovu
Tel: 032 946 1256
E-mail: siyabongan@enterpriseilembe.co.za

- **For Tender-related queries:**

Mr. S. Sibiya
Tel: 032 946 1256
E-mail: siyabongasi@enterpriseilembe.co.za

SERVICE PROVIDER TERMS OF REFERENCE

It is the intention of Enterprise iLembe to enter into a formal contract with a single service provider or consortium to provide the services described herein. These Terms of Reference and the service providers' proposal will form the basis of the contract.

Section 1: Details

Province: KwaZulu-Natal

Agency: Enterprise iLembe Economic Development Agency

Project Name: Establishment of a Panel of Service Providers Specializing in the Information and Communications Technology Sector

Enterprise iLembe is an economic development agency wholly-owned by the iLembe District Municipality mandated to pursue and facilitate investment, economic development and empowerment in iLembe. The objective of Enterprise iLembe is to improve the competitiveness of the iLembe Region by creating an environment that will enable local business to compete successfully on the international level.

Section 2: Project Brief

Enterprise iLembe hereby invites service providers to submit proposals for inclusion on a panel of service providers who specialize in the Information and Communications Technology (ICT) sector.

It must be noted that this is a panel appointment on an ad hoc basis (as and when the need arises) for a duration of three years from the date of appointment. Once the appointment of the panel has been made, Enterprise iLembe will request quotations from at least three panel members according to their areas of expertise (as indicated on pages 11-12 of this document) as and when ICT-related goods and/or services are required.

Section 3: Project Description

3.1 Description of services required on an ad hoc basis (as and when the need arises):

- Planning, design, procurement, implementation, management and maintenance of the agency's information and communication technology (ICT) network infrastructure and **network monitoring tool**;
- Planning, design, procurement, implementation, management and maintenance of the agency's information and communication technology (ICT) of **wireless connectivity**;
- Planning, design, procurement, implementation, management and maintenance of the agency's information and communication technology (ICT) of **biometric access control**;
- Planning, design, development, implementation and maintenance of an **Enterprise Resource Planning (ERP) system** integrated (but not limited) with the agency's Financial Management System, Project Management System, Human Resource Management amongst others as well as integration with the iLembe District ICT systems/ processes where applicable;
- Planning, design, development, implementation and maintenance of a **Telephone Management System** for Enterprise iLembe;
- Planning, design, development, implementation and maintenance of an **integrated Call/Fault Logging System** for Enterprise iLembe;
- Configuration, procurement, implementation, management and maintenance of the agency's **application servers, file servers and print servers**;
- Planning, design, development, management and maintenance of daily, weekly and monthly back-end processing procedures including "housekeeping" and system backups for all servers, DRP and BCP; (**Veeam Backup and Replication for VMWare**);
- Procurement of ICT equipment and software (according to standards in force from time to time) on behalf of the agency;
- Installation, commissioning and repair and upgrade (where applicable) of ICT infrastructure equipment;
- Planning, design, development, implementation and maintenance of corporate application system (and certain departmental systems);
- Planning, design, development, and maintenance of interfaces between in-house developed systems and package solutions;
- Bulk data capture for certain application system;
- Maintaining and monitoring access rights to the agency's ICT facilities and enforcing adherence to the Information Security Management Policy (ISMP);

- Development and review of ICT policies, plans, standards and procedures, frameworks etc. Planning, design and development of integration and business process automation;
- Planning, design, development, maintenance and hosting of website/s;
- Supply of Cell Phones, Devices, Data, etc. either on prepaid or on contract as required by the agency;
- Repairs of Cell Phones, iPads and other electronic equipment;
- Supply of accessories for Cell Phones, iPads and Computers i.e. chargers, cables, connectors, etc.

3.2 Time frame

The appointment to the ICT panel will be for a duration of three years.

Section 4: Requirements Related to the Tender

Submission of Proposals

Failure to submit required registration and compliance documentation as per the list below, as well as any other required documents may result in your proposal being disqualified.

Proposals must be submitted in a sealed envelope clearly marked “**PROPOSAL FOR: The Establishment of a Panel of ICT Service Providers**” and must be hand delivered and deposited into the tender Box located at **Sangweni Tourism Centre, Cnr. Link Road & Ballito Drive, Ballito** and addressed to;

The Acting Chief Executive Officer

Enterprise iLembe,

Sangweni Tourism Centre,

Cnr Link Road & Ballito Drive;

The closing date for submission of proposals is **11H00 on 13 July 2021.**

Please note the following:

- All proposals must be hand-submitted to the tender box. Incomplete, faxed, emailed and late applications/submissions WILL NOT be considered. Bidders arriving at the Enterprise iLembe offices outside of business hours as well as bidders using a courier service to deliver their proposals are responsible for ensuring that such documents are physically deposited into the tender box before the closing date and time.
- Proposals received after 11h00 on 13 July 2021 will not be accepted and therefore not considered.
- Enterprise iLembe does not bind itself to accepting the lowest or any of the bids received and reserves the right to accept the whole or part of the bid/proposal.
- The validity period is 90 days from date of closure of this tender.
- No briefing session will be held for this tender
- Due to compliance with the Disaster Management Regulations, the tender opening will be limited to the first eight bidders that arrive at the tender opening. The results of the tender opening will be published on the Enterprise iLembe website.
- Please note that no proposals will be accepted from bidders listed as a person prohibited from doing business with the public sector and/ or persons in service of the state. If a bidder is identified as being restricted or in service of the state as per the Central Suppliers Database (CSD) for government, the bidder will automatically be disqualified unless proof to the contrary is submitted in the bidder's proposal.

Section 5: Adjudication Criteria

The Entity supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local assets, goods and services from:

- Firstly – suppliers and businesses within the iLembe District;
- Secondly – suppliers and businesses within the Province of KwaZulu-Natal;
- Thirdly – suppliers and businesses within the Republic.

Procurement Policy

Bids will be evaluated in terms of the Procurement Policy of Enterprise iLembe and shall firstly be evaluated on functionality and thereafter only those who qualify for the next stage of evaluation will be evaluated in terms of the PPPFA No.5 of 2000 read together with the 2017 PPPFA Regulations and the B-BBEE Regulations.

5.1 Functionality Evaluation

The functionality evaluation will be based on the requirements as per the following table:

No.	Competency	Point Allocation	Maximum
1	Experience of Service Providers with similar projects (service providers to include a brief summary of previous projects undertaken up to a maximum of the past 11 years – this must include traceable references) (Please submit the experience in the table format as specified below) (Compulsory)	<ul style="list-style-type: none"> • 0 years – 0 points • 1-5 years – 20 points • 6-9 years – 25 points • Above 10 years – 30 points 	30 points
2	Qualifications of proposed team members (certified copies of qualifications relevant to ICT and Telecommunications to be attached) (Please submit the certified qualifications for a maximum of 5 Team Members) (Compulsory)	<ul style="list-style-type: none"> • No qualification- 0 points • National Certificate- 15 points • Degree/ Diploma- 20 points • Post Grad Qualification- 30 points 	30 points
3	Reference Letters for any relevant ICT work undertaken (Please submit up to a maximum of five (5) letters) (Compulsory)	<ul style="list-style-type: none"> • 1 Letter - 10 points • 2 Letters- 20 points • 3 Letters- 25 points • 4 Letters & above – 30 points 	30 points
4	Proof of Residence (Compulsory):	<ul style="list-style-type: none"> • Within the iLembe District (i.e. KwaDukuza, Mandeni, Maphumulo or Ndwedwe) – 10 points • Within the Province of KwaZulu-Natal – 6 points • Within the republic of South Africa – 5 points 	10 points

NB: In order to be awarded points for the **experience competency (competency number 1)** listed above, service providers **must** submit details of past experience relevant to this project with traceable references in the format below. Bidders may copy this format into an editable format and include a copy of the table on the proposal. Bidders may add/ remove rows as deemed necessary (**compulsory**):

Client Name	Nature of Work Undertaken	Start Date	Date of Completion	Client Contact Person	Tel No.

Only bidders who achieve a total of 60 points for functionality in terms of the above will be considered for this panel. Bidders wishing to claim preferential points must attach B-BBEE certificate.

5.2 Price Evaluation

The 80/20 preference point scoring system will be applied with points allocated as follows:-

- 80 points for the price;
- 20 points for B-BBEE status level

The 20 preference points will be allocated based on B - BBEE status level of contribution and shall be allocated as per the table below:-

Status Level of Contributor	Preference Points on scorecard (80/20 System)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-contributor	0

Please note that the Price Evaluation will be performed only after the panel has been established, whenever quotations are requested from the panel members.

REQUIRED ANNEXURES

- **Annexure A: Compulsory Information Sheet (see below)**
- **Annexure B: Areas of Specialization of the bidder (Compulsory)**
- **Detailed Proposal**
- **Registration details & Compliance**
 - **Company registration documents**
 - All interested bidders must be registered on the Central Supplier Database for Government. Please visit <https://secure.csd.gov.za/> to register on the Central Supplier Database. It is **compulsory** for service providers to be registered on the Central Suppliers Database and to submit proof thereof in their proposals
 - Valid tax compliance status (TCS) Pin issued by SARS (compulsory). This will be used by Enterprise iLembe to verify the tax compliance status of the bidder during bid evaluation.
 - Utility Bills/ Statement(s) providing that water, electricity, rates and/or levy account of the owners or directors of company, including the business are up to date or proof that formal payment arrangement have been made OR a signed affidavit that the bidder is exempt from paying for these services.
 - General Conditions of contract must be read, initialed and signed and returned with the proposal
 - MBD 1, 4 and 6.1 Forms. **Please note that the MBD 6.1 Forms have been revised. Please ensure that the 2017 MBD 6.1 Forms are submitted (Pages 28-40 of this document). These forms are available upon request via e-mail or on our website www.enterpriseilembe.co.za (Compulsory).** Please note that the **SBD** forms will not be accepted.
 - Bank confirmation Letter (**Compulsory**).
 - Power of Attorney/ Signing authority where applicable
 - Proof of B-BBEE status level of contributor – i.e. B-BBEE Status level certificate issued by an authorized body or person OR A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice OR any other requirement as prescribed in terms of the B-BBEE Act. (Please attach the approved B-BBEE accreditation certificate or supporting Affidavit, if available to claim points)
 - Experience of Service Providers with similar projects in the tabular format specified on page 6 of this document. Bidders are allowed to replicate the table in their proposals, as long as the format remains the same. (**Compulsory**)
 - **Certified** qualifications for up to a maximum of 5 Team Members (**Compulsory**)
 - Reference Letters for any relevant ICT work undertaken- up to a maximum of five (5) letters (**Compulsory**)
 - Proof of residence (i.e. a Utility Bill or **Original Signed Councillor Letter**) (**Compulsory**)

Points to note regarding the B-BBEE Status Level:

- 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.

- 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.
- 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.
- 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.

The following rules applicable ONLY to consortia / joint ventures / sub-contracting MUST be adhered to (Compulsory):

- In bids where Consortia / Joint Ventures / Sub-contractors are involved, **each party** must submit the following:
 - SARS TCS Pin,
 - Proof of registration on the Central Supplier Database (CSD) e.g. registration number/ CSD registration report.
 - MBD 1, 4 and 6.1 Forms. **Please note that the MBD 6.1 Forms have been revised. Please ensure that the 2017 MBD 6.1 (Pages 28-40 of this document). Forms are submitted. These forms are available upon request via e-mail or on our website www.enterpriseilembe.co.za (Compulsory).** Please note that the **SBD** forms will not be accepted.
- In bids where Consortia / Joint Ventures / Sub-contractors are involved, the **relevant agreement** between all parties involved must be submitted, which clearly outlines the roles and responsibilities specific to this tender.

It must be noted that once appointed to the panel, the bidder will not be allowed to sub-contract to a new company or enter into a Consortium/ Joint Venture with a new company in order to meet the requirements of a specific request for quotations. Therefore, all Consortium/ Joint Venture/ Sub-contracting arrangements must be provided as part of your proposals in response to this tender.

ANNEXURE A – MANDATORY INFORMATION

Name of Company: _____

Contact Person/s: _____

Contact Number/s: _____

E-mail Address: _____

Postal Address: _____

Details	Please Provide a Reference Number as to where your response to this requirement can be found
Experience of Service Providers with similar projects in the tabular format specified on page 6 of this document. Bidders are allowed to replicate the table in their proposals, as long as the format remains the same.	
Reference Letters for any relevant ICT work undertaken-up to a maximum of five (5) letters	
Certified qualifications for up to a maximum of 5 Team Members	
Proof of residence (i.e. a Utility Bill or Original Signed Councillor Letter)	
All other required annexures as per pages 8-9 of this Terms of Reference	

Above information certified correct:

Signature: _____

Name: _____

Date: _____

NB: By signing this annexure, the bidder accepts the clauses contained within these Terms of Reference.

ANNEXURE B – AREAS OF SPECIALIZATION OF THE BIDDER

Description of Services	Please select the services offered by the bidder (Tick the applicable services)
Planning, design, procurement, implementation, management and maintenance of the agency's information and communication technology (ICT) network infrastructure and network monitoring tool	
Planning, design, procurement, implementation, management and maintenance of the agency's information and communication technology (ICT) of wireless connectivity	
Planning, design, procurement, implementation, management and maintenance of the agency's information and communication technology (ICT) of biometric access control	
Planning, design, development, implementation and maintenance of an Enterprise Resource Planning (ERP) system integrated (but not limited) with the agency's Financial Management System, Project Management System, Human Resource Management amongst others as well as integration with the iLembe District ICT systems/ processes where applicable	
Planning, design, development, implementation and maintenance of a Telephone Management System for Enterprise iLembe	
Planning, design, development, implementation and maintenance of an integrated Call/ Fault Logging System for Enterprise iLembe	
Configuration, procurement, implementation, management and maintenance of the agency's application servers, file servers and print servers	
Planning, design, development, management and maintenance of daily, weekly and monthly back-end processing procedures including "housekeeping" and system backups for all servers, DRP and BCP; (Veeam Backup and Replication for VMWare)	
Procurement of ICT equipment and software (according to standards in force from time to time) on behalf of the agency	
Installation, commissioning and repair and upgrade (where applicable) of ICT infrastructure equipment	

Annexure B- Table Continued...

Description of Services	Please select the services offered by the bidder (Tick the applicable services)
Planning, design, development, implementation and maintenance of corporate application system (and certain departmental systems)	
Planning, design, development, and maintenance of interfaces between in-house developed systems and package solutions	
Bulk data capture for certain application system	
Maintaining and monitoring access rights to the agency's ICT facilities and enforcing adherence to the Information Security Management Policy (ISMP)	
Development and review of ICT policies, plans, standards and procedures, frameworks etc. Planning, design and development of integration and business process automation	
Planning, design, development, maintenance and hosting of website/s	
Supply of Cell Phones, Devices, Data, etc. either on prepaid or on contract as required by the agency	
Repairs of Cell Phones, iPads and other electronic equipment	
Supply of accessories for Cell Phones, iPads and Computers i.e. chargers, cables, connectors, etc.	

Above information certified correct:

Signature: _____

Name: _____

Date: _____

GENERAL CONDITIONS OF CONTRACT (ISSUED BY NATIONAL TREASURY)

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information inspection
6. Patent Rights
7. Performance security
8. Inspections, tests and analyses
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental Services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Variation orders
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Anti-dumping and countervailing duties and rights
25. Force Majeure
26. Termination for insolvency
27. Settlement of Disputes
28. Limitation of Liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. Transfer of contracts
34. Amendments of contracts
35. Prohibition of restricted practices

General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 “Closing time” means the date and hour specified in the tender documents for the receipt of Tenders.
 - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 “Day” means calendar day.
 - 1.8 “Delivery” means delivery in compliance of the conditions of the contract order.
 - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
 - 1.10 “Delivery into consignee's store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad markets its goods on its 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 Tender submission) designed to establish Tender 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 tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the Tender will be manufactured.
- 1.17 "Local content" means that portion of the tender 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 tender documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 "Supplier" means the successful bidder who is awarded the

contract to maintain and administer the required and specified service(s) to the State.

- 1.26 "Tort" means in breach of contract.
- 1.27 "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the fullend product / service required by the contract.
- 1.28 "Written" or "in writing" means hand-written in ink or any form of electronic ormechanical writing.

2. Application

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

3. General

- 3.1 Unless otherwise indicated in the tender documents, the purchaser shall notbe liable for any expense incurred in the preparation and submission of a Tender. Where applicable a non-refundable fee for documents may be charged.
- 3.2 Invitations to Tender are usually published in locally distributed news mediaand on the municipality/municipal entity website.

4. Standards

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

5. Use of contract documents and information inspection

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employedperson shall be made in confidence and shall extend only so far as may be necessary for purposes of such

performance.

- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent Rights

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

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC (if applicable).
- 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 tender documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque

- (a) The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

8. Inspections, tests and analyses

- 8.1 All pre-tender testing will be for the account of the bidder.
- 8.2 If it is a Tender condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 8.3 If there are no inspection requirements indicated in the tender documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the supplier's cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

9. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation

during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

10.1 Delivery of the goods and arrangements for shipping and clearance obligations shall be made by the supplier in accordance with the terms specified in the contract.

11. Insurance

11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.

12. Transportation

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

13. Incidental Services

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;

- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
 - (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

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

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

otherwise.

- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.

17. Prices

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

18. Variation orders

18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.

21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an

extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.

- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

24. Antidumping and countervailing duties and rights

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

25. Force Majeure

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

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties

shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

28. Limitation of Liability

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

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

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

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

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable law

- 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

31. Notices

- 31.1 Every written acceptance of a Tender 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 Tender or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a Tender SARS must have certified that the tax matters of the preferred bidder are in order.

32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.

33. Transfer of contracts

33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser

34. Amendment of contracts

34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

35. Prohibition of restricted practices

35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding.

35.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.

35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

MBD1: INVITATION TO BID- PART A

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF ENTERPRISE iLEMBE					
Bid Number	T02-2021	Closing Date	13 July 2021	Closing Time	11H00
Description					
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM					

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

ENTERPRISE iLEMBE SANGWENI TOURISM CENTRE CNR. LINK ROAD & BALLITO DRIVE BALLITO 4420				
SUPPLIER INFORMATION				
Name of Bidder				
Postal Address				
Street Address				
Telephone Number	Code		Number	
Cellphone Number				
Facsimile Number	Code		Number	
E-Mail Address				
Vat Registration Number				
Tax Compliance Status	TCS PIN:		OR	CSD No:
B-BBEE Status Level Verification Certificate [Tick Applicable Box]	<input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE Status Level Sworn Affidavit	<input type="checkbox"/> Yes <input type="checkbox"/> No	
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]				
Are you the Accredited Representative in South Africa for the Goods /Services /Works Offered?	<input type="checkbox"/> Yes <input type="checkbox"/> No (if yes enclose proof)	Are you a Foreign Based Supplier for the Goods /Services /Works Offered?	<input type="checkbox"/> Yes <input type="checkbox"/> No (if yes, answer part B:3)	
Total Number of Items Offered		Total Bid Price:		
Signature of Bidder		Date:		
Capacity under which this bid is signed:				

1. BID SUBMISSION:

- 1.1. Bids must be delivered by the stipulated time to the correct address. Late bids will not be accepted for consideration.
- 1.2. All bids must be submitted on the official forms provided–(not to be re-typed) or online**
- 1.3. This bid is subject to the Preferential Procurement Policy Framework Act and the Preferential Procurement Regulations, 2017, the GCC contract and, if applicable, any other special conditions of contract.

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 Bidders must ensure compliance with their tax obligations.
- 2.2 Bidders are required to submit their unique Personal Identification Number (Pin) issued by SARS to enable the organ of state to view the taxpayer’s profile and tax status.
- 2.3 Application for the Tax Compliance Status (TCS) certificate or Pin may also be made via e-filing. In order to use this provision, taxpayers will need to register with SARS as e-filers through the **website www.sars.gov.za**.
- 2.4 Foreign suppliers must complete the Pre-Award Questionnaire in part B:3.
- 2.5 Bidders may also submit a printed TCS certificate together with the bid.
- 2.6 In bids where consortia / joint ventures / sub-contractors are involved each party must submit a separate TCS certificate / Pin / CSD number.
- 2.7 Where no TCS is available but the bidder is registered on the Central Supplier Database (CSD), a CSD number must be provided.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. Is the entity a resident of the Republic of South Africa (RSA)? Yes No
- 3.2. Does the entity have a branch in the RSA? Yes No
- 3.3. Does the entity have a permanent establishment in the RSA? Yes No
- 3.4. Does the entity have any source of income in the RSA? Yes No
- 3.5. Is the entity liable in the RSA for any form of taxation? Yes No

If the answer is “no” to all of the above, then it is not a requirement to register for a Tax Compliance Status System Pin Code from the South African Revenue Service (SARS) and if not register as per 2.3above.

MBD 4: DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1	Full Name of bidder/ Representative	
3.2	Identity Number	
3.3	Position occupied in the Company (director, trustee, shareholder²)	
3.4	Company Registration Number	
3.5	Tax Reference Number	
3.6	Tax Reference Number	

¹MSCM Regulations: “in the service of the state” means to be –

(a) a member of –

- (i) any municipal council;**
- (ii) any provincial legislature; or**
- (iii) the national Assembly or the national Council of provinces;**

(b) a member of the board of directors of any municipal entity;

(c) an official of any or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

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

Please circle the applicable responses below:

3.7. The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8	Are you presently in the service of the state*?	Yes	No
3.8.1	If yes, furnish particulars.		
3.9	Have you been in the service of the state for the past twelve months	Yes	No
3.9.1	If yes, furnish particulars.		
3.10	Do you, have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?	Yes	No
3.10.1	If yes, furnish particulars.		
3.11	Are you, aware of any relationship (family, friend, other) between a bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?	Yes	No
3.11.1	If yes, furnish particulars.		
3.12	Are any of the company's directors, managers, principal shareholders or stakeholders in service of the state?	Yes	No
3.12.1	If yes, furnish particulars.		
3.13	Are any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in service of the state?	Yes	No
3.13.1	If yes, furnish particulars.		

3.14	Do you or any of the directors, trustees, managers, principal shareholders or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract.	Yes	No
3.14.1	If yes, furnish particulars.		

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

Full Name	Identity Number	State Number	Employee Number

Name of Bidder			
Signature		Name (print)	
Capacity		Date	

MBD 6.1
(EFFECTIVE FROM APRIL 2017)

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

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 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 R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 **The value of this bid is estimated not to exceed R50 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 PRICE	80
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION	20
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 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;
- 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;
- 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.
- 2.19 “**proof of B-BBEE status level of contributor**” means B-BBEE Status level certificate issued by an authorized body or person; OR A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; OR Any other requirement prescribed in terms of the B-BBEE Act.
- 2.20 “**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.

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.

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:

$$\begin{array}{ccc}
 \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\
 \\
 P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \mathbf{or} & P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)
 \end{array}$$

Where

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_{\min} = Rand value of lowest acceptable bid

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

5.1 In terms of Regulation 5 (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:

80/20 System

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

- 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 AND 5.1

- 7.1 B-BBEE Status Level of Contribution: =(maximum of 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 OR QSE? YES / NO (delete which is not applicable)

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

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

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of 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

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

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

Municipality where business is situated

.....
Registered Account Number
Stand Number

9.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS?

.....

9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-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

SIGNATURE(S) OF BIDDER(S)

1. 2.

DATE:

ADDRESS:.....
.....
.....
.....

WITNESSES

1. 2.