



SA FARMERS
DEVELOPMENT
Association

**PROVISION OF PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR
THE DEVELOPMENT AND IMPLEMENTATION OF SIX FARMERS PRODUCTION SUPPORT UNIT
(FPSU) PRECINCT IN THE PROVINCE OF KWAZULU NATAL.**

TENDER No: SAFDA-PS/07/22/002

CLOSING DATE: 02 SEPTEMBER 2022

CLOSING TIME: 12H00

SOUTH AFRICAN FARMERS DEVELOPMENT ASSOCIATION (SAFDA)

170 Flanders Drive
Blackburn Estate
MOUNT EDGECOMBE
4302

Contact Person

Name: Mduduzi Dube
Telephone: 031 508 7283 or 073 179 6920
email: mdube@sa-fda.org.za

NAME OF RESPONDENT:.....

TOTAL BID PRICE (Incl. VAT):.....

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T1.1 TENDER NOTICE

**BID NO: SAFDA-PS/07/22/002****PROVISION OF PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR DEVELOPMENT OF SIX (6) FARMERS PRODUCTION SUPPORT UNIT (FPSU's).**

Proposals are hereby invited from suitably qualified and accredited service providers for the **PROVISION OF PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR DEVELOPMENT OF SIX (6) FARMERS PRODUCTION SUPPORT UNIT (FPSU's).**

It is compulsory that service providers download a copy of the bid document that will only be available as from **19 August 2022** on the SAFDA website on the procurement folder, free of charge. Compulsory briefing will take place on the 24 August 2022 at 11H00, 170 Flanders Drive, Kwa Shukela Building, MOUNT EDGECOMBE. Technical inquiries may be directed to the Project Manager through the email address: mdube@sa-fda.org.za

Duly completed bid documents and supporting documents, viz. **TAX COMPLIANCE STATUS, CERTIFIED COPY OF B-BBEE CERTIFICATE / SWORN AFFIDAVIT FOR B-BBEE, RATES AND TAXES CLEARANCE FROM RELEVANT LOCAL AUTHORITY / PROOF OF RESIDENCE FROM A TRIBAL AUTHORITY (PTO.)** (If the business directors reside or the business operates in a rural area) **/ LEASE AGREEMENT FOR THE BUSINESS AND BUSINESS DIRECTORS & CSD REGISTRATION FULL REPORT (SUMMARY WILL NOT BE ACCEPTED)**, together with the bid document must be sealed in an envelope clearly marked: "BID NO: SAFDA-PS/07/22/002, **PROVISION OF PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR THE DEVELOPMENT AND IMPLEMENTATION OF SIX FARMERS PRODUCTION SUPPORT UNIT (FPSU) PRECINCTS IN THE PROVINCE OF KWAZULU NATAL. CLOSING DATE: 02 September 2022**" with the name of the bidder shall be placed in the bid box at 170 Flanders Drive, Kwa Shukela Building MOUNT EDGECOMBE 4302, before 12:00 on the closing date.

Bids received by telegram, fax or e-mail will not be considered. Late bids shall not be accepted nor considered

A preferential point system shall apply whereby this contract will be allocated to a bidder in accordance with the Preferential Procurement Policy Framework Act, no 5 of 2000 and as defined in the conditions of bid in the bid document, read in conjunction with the Preferential Procurement Regulations, 2017, where 80 points will be allocated in respect of price and 20 points in respect of B-BBEE status level of contribution.

Administrative Enquiries**Ayanda Khulu**

Tel No: 031 508 7283 or 060 547 4240

Email: akhulu@sa-fda.org.za**Technical Enquiries****Mduduzi Dube**

Tel No: 031 508 7283 or 073 179 690

Email: mdube@sa-fda.org.za**Employer :South African Farmers Development Association (SAFDA)**

170 Flanders Drive, Blackburn Estate, **MOUNT EDGECOMBE** 4302

T1.2 TENDER DATA: PROVIDED BY THE CLIENT

The conditions of tender are the Standard Conditions of Tender as contained in Annex F of Board Notice 136 Government Gazette No 38960 of 10 July 2015, Construction Industry Development Board (CIDB) Standard for Uniformity in Construction Procurement. (See www.cidb.org.za), to which tenderers are referred to for their information purposes in relation to this 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.

The following variations, amendments and additions to the Standard Conditions of Tender as set out in the Tender Data below shall apply to this tender:

Clause number	
F.1.1	<p>The Client is:</p> <p>South African Farmers Development Association 170 Flanders Drive, Blackburn Estate MOUNT EDGECOMBE 4302</p>
F.1.2	<p>The tender documents issued by the Employer consists of the following documents:</p> <p>THE TENDER</p> <p>Part T1: Tendering Procedures</p> <p>T1.1 Tender Notice and invitation to tender</p> <p>T1.2 Tender Data</p> <p>Part T2: Returnable documents</p> <p>T2.1 List of returnable documents</p> <p>T2.2 Returnable Schedule</p> <p>THE CONTRACT</p> <p>Part C1: Agreement and Contract Data</p> <p>C1.1 Form of offer and acceptance</p> <p>C1.2 Contract data</p> <p>C1.3 Occupational Health and Safety Agreement</p> <p>Part C2: Pricing data</p> <p>C2.1 Pricing Assumption</p> <p>C2.2 Pricing Data</p> <p>Part C3: Scope of Works</p> <p>C3 Scope of work</p> <p>Part C4: Site Information</p> <p>C4.1 Site information</p> <p>CIDB Professional Services Contract, Edition 3 (July 2009)</p>

F.1.4	The Client is: South African Farmers Development Association (SAFDA)											
	Name: Mduduzi Dube Tel Office: (031) 508 7283 or (073) 179 6920 Email: mdube@sa-fda.org.za		Address: 170 Flanders Drive Blackburn Estate MOUNT EDGECOMBE 4302									
	Attention is drawn to the fact that verbal information given by the employer's agent prior to the close of tenders will not be regarded as binding on the Employer. Only information issued formally by the employer in writing to tenderers will be regarded as amending the tender documents.											
F.1.5	The employer reserves the right to reject award to highest scoring tenderer (as calculated according to clause F.3.11.3) should the offer pose a commercial (and/or) delivery risk to the successful completion of the project and to the employer											
F.2.1	<p>Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders, and to have their tender submissions evaluated:</p> <p>1. The tenderer has in its employ registered professionals and experts as listed below. that are in compliance with the requirements stated below, or has obtained a firm undertaking from professional service providers who have in their employ such professionally registered persons as listed below, that are in compliance with the requirements stated below, and that are capable of providing such services listed in the table below:</p> <table><tr><th>Key Resource/expert</th><th>No</th><th>Minimum Services and Category of Professional registration and experience</th><th>Key Service (s) Discipline</th></tr><tr><td>Project Manager: Project and Program Management</td><td>1x</td><td>Registration as a Professional Construction Project Manager in terms of the Project and Construction Management Professions Act, 2000. Must have at least 10 years' post registration experience in infrastructure and Structural design</td><td>Project Manager</td></tr></table> <p>2. The tenderer's primary business is to provide professional services in the built environment and the tenderer has experience in the provision of consulting engineering, infrastructure planning and related services.</p> <p>3. The tenderer confirms that it has put in place specifically for the purpose of this tender, professional indemnity insurance cover (which cover is effective from not later than the closing date of this tender) issued by a reputable insurer of an amount of not less than R10 million in respect of a claim without limit to the number of claims. In the case of a Joint Venture, Consortium or Association, the lead party must have met this minimum requirement.</p> <p>4. The tenderer (including all parties in a Joint Venture, Consortium, or Association) submits with his tender an original tax clearance certificate (active Tax Compliance Status (TCS) PIN) issued by the South African Revenue Services (SARS) which must be valid for the duration of the tender validity period.</p> <p>5. The Tenderer, or a member of the tenderer's team, is not on the lists of tender defaulters published by National Treasury in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector. In addition, the tenderer, or any of his principals, is not/are not under any restriction(s) to do business with the employer.</p>				Key Resource/expert	No	Minimum Services and Category of Professional registration and experience	Key Service (s) Discipline	Project Manager: Project and Program Management	1x	Registration as a Professional Construction Project Manager in terms of the Project and Construction Management Professions Act, 2000. Must have at least 10 years' post registration experience in infrastructure and Structural design	Project Manager
Key Resource/expert	No	Minimum Services and Category of Professional registration and experience	Key Service (s) Discipline									
Project Manager: Project and Program Management	1x	Registration as a Professional Construction Project Manager in terms of the Project and Construction Management Professions Act, 2000. Must have at least 10 years' post registration experience in infrastructure and Structural design	Project Manager									
F.2.7	<p>The tender clarification meeting will be held in respect of this tender. Attendance of said clarification meeting is compulsory.</p> <p>The particular of said clarification meeting are:</p> <p>Location: Kwa Shukela Building 170 Flanders Drive Blackburn Estate Mount Edgcombe</p> <p>Date: 24 August 2022 Starting time: 11H00.</p>											
F.2.13.3	Each tender offer communicated on paper shall be submitted as an original document.											
F.2.13.4	The tender shall be signed by a person duly authorized to do so. Tenders submitted by joint ventures of two or more firms shall be accompanied by the document of formation of the joint venture, authenticated by a notary public or other official deputed to witness sworn statements, in which is defined precisely the conditions under which the joint venture will function,											

	its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning.
F.2.13.5	The clients' address for delivery of Bid offers and identification details to be shown on each Bid offer package are: Location of Bid box: Main Entrance. 170 Flanders Drive Kwa Shukela Building MOUNT EDGECOMBE 4302 Physical address: 170 Flanders Drive, Kwa Shukela Building, MOUNT EDGECOMBE 4302 Identification details: Bid Box ground floor
F.2.13.6	A two-envelope procedure will not be followed.
F.2.13.9	Telephonic, telegraphic, telex, facsimile or e-mailed Bid offers will not be accepted.
F.2.15	The closing time for submission of Bid offers is 12h00 on 02 September 2022.
F.2.15	The identification details that are to be shown on each tender offer package are: Identification details: Tender Reference number, Title of Tender and the closing date and time of the tender.
F.2.16.1	The tender validity period is 90 calendar days, from the closing time for submission.
F.2.19	The tenderer shall provide access for inspections to his office as may be required by the Employer
F.2.22	No bids will return after the expiry of the validity period
F.2.23	The tenderer is required to submit with his tender all documents listed in T2 Returnable Documents
F.3.4	The time and location for opening of the Bid offers are: Time: 12h00, 02 September 2022 Location: Kwa Shukela Building 170 Flanders Drive, Blackburn Estate MOUNT EDGECOMBE 4302
F.3.5	A two-envelope procedure will not be followed
F.3.11.3	The procedure for the evaluation of responsive tenders is Method 2 (Option 2a) In the case of a functionality, price and preference: 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data. 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation. 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in F.11.7 and F.11.8 below.
F.3.11.7	Scoring financial offers The formula to determine points for price is: $NFO = W1 \times A$ where: $NFO =$ is the number of tender evaluation points awarded for price. $W1 =$ is the number of tender evaluation points for financial offer and equals: 1) 90 where the financial value inclusive of VAT of all responsive tenders received have a value in excess of R50 million or 2) 80 where the financial value inclusive of VAT of one or more responsive tender offers have a value that equals to or above R 30 000 and up to R50 million. $A = Pm/P$ (As described in Table F.1 below) Where: $Pm =$ the lowest acceptable tender offer $P =$ the tender offer under consideration Table F.1: Formular for calculating the value of A

	Formula	Comparison aimed at achieving	Option 1a	Option 2 a																				
	1	Highest price or discount	$A = (1 + (\frac{P - P_m}{P_m}))$	$A = P / P_m$																				
	2	Lowest price or percentage commission / fee	$A = (1 - (\frac{P - P_m}{P_m}))$	$A = P_m / P$																				
	A P _m is the comparative offer of the most favourable comparative offer. P is the comparative offer of the tender offer under consideration.																							
F.3.11.8	Scoring for preferences: Tender evaluation points will be awarded to the Service Provider who submits a valid original or certified copy of its B-BBEE Status Level Verification Certificate which is in compliance with the requirements of instructions and guidelines issued by National Treasury and is in accordance with notices published by the Department of Trade and Industry in the Government Gazette Only a B-BBEE Status Level Verification Certificate issued by a registered auditor, accounting officer as contemplated in S60(4) of the Close Corporation Act, 60 of 1984, or an accredited verification agent will be accepted. A consortium or joint venture will qualify for points for its B-BBEE status level only if such consortium or joint venture submits a consolidated B-BBEE status certificate which covers the consortium or joint venture as a combined unit as if it were a single enterprise. Service Providers anticipating tendering in consortium or joint venture must allow sufficient time for obtaining such status level verification. Preference points will be allocated according to the following table																							
	<table><tr><th>B-BBEE status level of contributor</th><th>Number of points</th></tr><tr><td>1</td><td>20</td></tr><tr><td>2</td><td>18</td></tr><tr><td>3</td><td>14</td></tr><tr><td>4</td><td>12</td></tr><tr><td>5</td><td>8</td></tr><tr><td>6</td><td>6</td></tr><tr><td>7</td><td>4</td></tr><tr><td>8</td><td>2</td></tr><tr><td>Non-compliant contributor</td><td>0</td></tr></table>				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
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																							
F.3.11.9	Scoring Functionality The functionality criteria and maximum score in respect of each of the criteria are as follows: The pre-qualification criteria and maximum score in respect of each of the criteria are given in the table below. Sufficient detail must be provided in experience sheets/supporting documentation included with the tender submission for evaluation purposes. Total maximum evaluation points for Functionality for the items is 100. The minimum total number of evaluation points for Functionality shall be 80% (80 points) , below which value the tender shall be regarded as being non-responsive. Unclear or incomplete information provided will result in no points being allocated. The Bid Evaluation Committee reserves the right to request any documentation required to perform a meaningful pre-evaluation. Bidders must therefore ensure that all relevant information is provided.																							

The following criteria will be used to calculate points for the functionality of Tenders and Bidders should ensure that they submit all information in order to be pre-evaluated on the criteria mentioned below:		
Functionality Criteria	Sub Criteria	Maximum Points Score
Tenderers Experience	<p>Note: Similar projects are for comparable works, for planning and implementation of infrastructure projects:</p> <p>Company experience in complete project planning and implementation for a development, tenderers are to provide proof of experience i.e tender shall provide details of similar project, which include Commercial, Industrial and Public building projects.</p> <p>Only signed completion certificates and reference letters on the letterhead of the previous client/employer with clear description of works, contract value, contact person and contact details of the contact person (day telephone number and company email address) will be accepted.</p> <ul style="list-style-type: none"> Completed built environment project worth: <ul style="list-style-type: none"> - More than 150 million = 30 - R 120 million to R 149 million = 20 - R100 million to R119 million = 10 - R75 million to R99 million = 5 	30
Preliminary Program	<p>Excellent = 10 points In addition to the requirements of level below, the programme covers all activities, meetings, requirements and is sufficiently flexible to accommodate changes that may be required during execution within project completion time.</p> <p>Good = 9 points Programme covers all the applicable individual activities which are in an acceptable sequence, with appropriate durations, and is in accordance with generally accepted construction practice, and is in line with the scope of works indicated on C.3.1</p> <p>Program must show the critical path</p> <p>Acceptable= 7 points The programme does not adequately deal with the critical characteristics of the project or the plan and manner in which risk is to be managed.</p> <p>Poor = 4 points The tenderer has misunderstood certain aspects of the Scope of Work and does not deal with the critical aspects of the project</p> <p>Non-responsive = 0 point No information provided, or submission of no substance/ irrelevant information provided</p>	10
Key Personnel	<p>Scoring of the Tenderers Key Personnel will be as follows:</p> <ul style="list-style-type: none"> Project Manager Recognised degree/B Tech or equivalent in Built environment and should be registered with SACPCMP as Professional Construction Project Manager. <ul style="list-style-type: none"> - 20 years or more experience = 40 points - 15 to 19 years' experience =30points - 10 to 14 years' experience =20 points - 5 to 9 years' experience = 10 points 	40

Approach and Methodology	Excellent = 20 points The important issues are approached in an innovative and efficient way, indicating that the Tenderer has outstanding knowledge of state-of-the-art approaches. The approach paper details ways to improve the project outcomes and the quality of the outputs	20
	Good = 10 points The approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The quality plan and approach to managing risk etc. are specifically tailored to the critical characteristics of the project.	
	Acceptable = 7 points The approach is generic and not necessarily tailored to address the specific project objectives. The approach does not meaningfully deal with the critical characteristics of the project. The quality plan, and approach to managing risk etc. are too generic.	
	Poor = 4 points The technical approach and / or methodology is poor / is unlikely to satisfy project objectives or requirements. The Tenderer has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of the project.	
	Non-responsive = 0 point No response. Failed to address the methodology and approach.	
Maximum possible score for functionality (Ms)		100

Each evaluation criteria will be assessed in terms of five indicators-no response, poor, satisfactory, good, and very good. Scores 0, 40, 70, 90, 100 will be allocated to no response, poor, satisfactory, good, and very good, respectively. The prompt for judgement and the associated scores used in the evaluation of Functionality shall be as follows:

Level	Score	Prompt for Judgement
0	0	Failed to address the question/ issue
1	40	Less than acceptable- response/answer/solution lacks convincing evidence of skill/experience sought or medium risk that relevant skills will not be available.
2	70	Acceptable response/ answer/solution to the particular aspect of the requirements and evidence given of skill/experience sought.
3	90	Above acceptable- response/ answer/solution demonstrating real understanding of requirements and evidence of ability to meet it
4	100	Excellent- response/ answer/solution gives real confidence that the tenderer will add real value

Evaluation criteria will be adjudicated according to submissions made in accordance with the following schedule which are found in **Part T2.2: Returnable Schedules**:

Functionality Scoring	Returnable Schedules
Tenderers Experience	<ul style="list-style-type: none"> Experience of a Tenderer
Experience of Key Resources in executing work of a similar nature	<ul style="list-style-type: none"> Key Personnel CVs with Experience of Key Personnel
Preliminary Programme	<ul style="list-style-type: none"> Preliminary Programme
Approach and Methodology	<ul style="list-style-type: none"> Approach Methodology and Quality Control Plant and Equipment

	Unless otherwise stated, evaluation criteria will be adjudicated with respect to the contract specific Scope of Work as specified in Part C3 . In this regard the following definitions apply to the evaluation criteria prompt for judgement:
F3.13	<p>In addition to the requirements of the Condition of Tender, offers will only be accepted if it complies/submit the following:</p> <ol style="list-style-type: none"> 1) The Form of Offer and Contract Data (Part 2) are correctly completed in full and signed. 2) An original Tax Clearance/ Tax Pin issued by the South African Revenue Services (SARS) (Failure to comply shall lead to the disqualification of bids) 3) Company Registration Documentation (Failure to comply shall lead to the disqualification of bids) 4) Proof of Registration with the full Central Suppliers Database report drawn from the National Department of National Treasury website not older than 10 days from the closing date summary will not be accepted. (Failure to comply shall lead to the disqualification of bids) 5) Bidder to submit audited annual financial statements for the past three years or since the date of establishment if establishment if established during the past three years. (Failure to comply shall lead to the disqualification of bids) 6) BBBEE Verification certificate or Sworn Affidavit (Failure to comply shall lead to the disqualification of bids) 7) All members in the Joint Venture (JV's) must also attached the Mandatory Documentation above (Failure to comply shall lead to the disqualification of bids) 8) The tenderer or any of its directors, partners or principals is not in arrears for more than 3 months with municipal rates and taxes and municipal services charges. 9) The tenderer or any of its directors is not listed on the registered 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 10) The tenderer has not: <ol style="list-style-type: none"> a. Abused the Employers Supply Chain Management, or b. Failed to perform on any previous contract and has been given a written notice to this effect 11) The tenderer has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderers ability to perform the contract in the best interest of the employer or potentially compromise the tender process and 12) No person or persons in the employ of the state have been found to be involved in or associated with the submission of the tender or will participate in the contract in any manner whatsoever. 13) The tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer 14) Usage of pencil or Erasable ink and Tippex is prohibited <p>NB: For any cancellations in the tender document, a date and signature must be appended. Certified copies of documentation must not be older than three months to be regarded as valid. Copies of "certified copies" will not be acceptable as true copies of original documents. Failure to adhere will lead to immediate disqualification.</p>
F.4.1 (Additional)	<p>Tender Restriction</p> <p>SAFDA brought to attention that the Professional Service for the entire Project Management and Design Team. To ensure accountability in implementation of the project SAFDA reserve a right to not appoint one company for both components.</p> <p>Tenderers has right to submit both tenders.</p>

T.1.3 THE ADDITIONAL CONDITIONS OF TENDER ARE:

(As published in Annexure F of the CIDB Standard for Uniformity for construction Procurement, Board Notice 136 Government Gazette No 38960 of 10 July 2015)

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:

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 organization 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 organization which employs that employee.

b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilized to have been taken into consideration;

- c) **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;
- d) **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;
- e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body;
- f) **functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service and technical capacity and ability of a Tenderer.

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 Cancellation and Re-Invitation of Tenders

F1.5.1 An organ of state may, prior to the award of the tender, cancel a tender if-

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable tenders are received.

F1.5.2 The decision to cancel a tender must be published in the CIDB website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

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, fine-tuning 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 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.

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 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

F.2.2.1 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.2.2.2 The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

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.

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.

F.2.12 Alternative tender offers

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.2.12.3 An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

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.
- 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 non-responsive.

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 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 and policies

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
 - 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, number of points claimed for its B-BBEE status level 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 functionality 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 functionality evaluation more than the minimum number of points for functionality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any points claimed on B-BBEE status level. Return unopened financial proposals to Tenderers whose technical proposals failed to achieve the minimum number of points for functionality.
- 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 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.3.9 Arithmetical errors, omissions and discrepancies

F.3.9.1 Check the highest ranked tender or Tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
 - d) line-item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
 - i) the summation of the prices.

F3.9.2 The employer must correct the arithmetical errors in the following manner:

- a) Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
- b) If bills of quantities or pricing schedules apply and there is an error in the line-item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line-item total as quoted shall govern, and the unit rate shall be corrected.
- c) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the Tenderer's addition of prices, the total of the prices shall govern, and the Tenderer will be asked to revise

selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

Consider the rejection of a tender offer if the Tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

F.3.10 Clarification of a tender offer

Obtain clarification from a Tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

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: Price and Preference

In the case of a price and preference:

- 1) Score tender evaluation points for price
- 2) Score points for B-BBEE contribution
- 3) Add the points scored for price and B-BBEE.

F.3.11.3 Method 2: Functionality, Price and Preference

In the case of a functionality, price and preference:

- 4) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 5) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 6) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

The 80/20 preference point system for acquisition of services, works or goods up to Rand value up to R50 million

- 4)(a) (i) The following formula must be used to calculate the points for price in respect of tenders(including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R 50 000 000 (all applicable taxes included):

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

Where

P_s = Points scored for comparative price of tender or offer under consideration; P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

- 4)(a) (ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate:
Subject to subparagraph(4)(c), points must be awarded to a tender for 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

(4)(c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)

(4)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).

(4)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

The 80/20 preference points system for acquisition of services, works or goods with a Rand value of R 50 million or less.

(5)(a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value of R 50 000 000 (all applicable taxes included):

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

Where

P_s = Points scored for comparative price of tender or offer under consideration; P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

(5)(b) Subject to subparagraph(5)(c), points must be awarded to a tender for attaining the B- BBEE status level of contributor in accordance with the table below:

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

(5)(c) A maximum of 10 points may be allocated in accordance with subparagraph (5)(b).

(5)(d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (5) (b) must be added to the points scored for price as calculated in accordance with subparagraph (5)(a). The tenderer must include an original Sworn Affidavit

(5)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

F.3.11.6 Decimal places

Score price, preference and functionality, as relevant, to two decimal places.

F.3.11.7 Scoring Price

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

$$NFO = W1 \times A$$

where: *NFO is the number of tender evaluation points awarded for price.*

W1 is the maximum possible number of tender evaluation points awarded for price 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: Formular for calculating the value of A

Formula	Comparison aimed at achieving	Option 1a	Option 2 a
1	Highest price or discount	$A = (1 + (\frac{P - P_m}{P_m}))$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 - (\frac{P - P_m}{P_m}))$	$A = P_m / P$
A P _m is the comparative offer of the most favourable comparative offer. P 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 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 functionality

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 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, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, 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

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.

F.3.19 Transparency in the procurement process

- F3.19.1** The cidb prescripts require that tenders must be advertised and be registered on the cidb i-Tender system.
- F3.19.2** The employer must adopt a transparency model that incorporates the disclosure and accountability as transparency requirements in the procurement process.
- F3.19.3** The transparency model must identify the criteria for selection of projects, project information template and the threshold value of the projects to be disclosed in the public domain at various intervals of delivery of infrastructure projects.
- F3.19.4** The client must publish the information on a quarterly basis which contains the following information:
- Procurement planning process
 - Procurement method and evaluation process
 - Contract type
 - Contract status
 - Number of firms tendering
 - Cost estimate
 - Contract title
 - Contract firm(s)
 - Contract price
 - Contract scope of work
 - Contract start date and duration
 - Contract evaluation reports
- F3.19.5** The employer must establish a Consultative Forum which will conduct a random audit in the implementation of the transparency requirements in the procurement process.
- F3.19.6** Consultative Forum must be an independent structure from the bid committees.
- F3.19.7** The information must be published on the employer's website.
- F 3.19.8** Records of such disclosed information must be retained for audit purposes

PART T 2: RETURNABLE DOCUMENTS**T 2.1 List of Returnable Document**

- a) Failure to fully complete the **compulsory** returnable documents shall render such a tender offer unresponsive.
- b) Tenderers shall note that their signatures appended to each returnable form **represents a declaration that they vouch for the accuracy and correctness of the information provided**, including the information provided by candidates proposed for the specified key positions.
- c) Notwithstanding any check or audit conducted by or on behalf of the Employer, the information provided in the returnable documents is accepted in good faith and as justification for entering into a contract with a tenderer. **If subsequently any information is found to be incorrect such discovery shall be taken as willful misrepresentation by that tenderer to induce the contract.** In such event the Employer has the discretionary right under contract condition 8.4 to terminate the contract.

T 2.2 Returnable Schedules required for Tender evaluation purposes

FORM A	CERTIFICATE OF ATTENDANCE AT CLARIFICATION MEETING
FORM B	RECORD OF ADDENDA TO TENDER DOCUMENT.
FORM C	COMPULSORY QUESTIONNAIRE
FORM D	DECLARATION OF INTEREST
FORM E	DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APLICABLE TAXES INCLUDED)
FORM F	PREFERENCE POINTS CLAIM FORM IN TERMS
FORM G	CONTRACT FROM- RENDERING OF SERVICES
FORM H	DECLARATION OF TENDERS PAST SUPPLY CHAIN MANAGEMENT PRACTICES SBD 9
FORM I	CERTIFICATE OF INDEPENDENT TENDER
COMPULSORY RETURNABLE	
FORM J	AUTHORITY OF SIGNATORY
FORM K	COMPANY REGISTRATION DOCUMENTS
FORM L	VALID TAX CLEARANCE CERTIFICATE
FORM M	BBBEE VERIFICATION CERTIFICATE
FORM N	CENTRAL SUPPLIERS DATABASE REPORT
FORM O	CERTIFICATE OF INSURANCE COVER
FORM P	SCHEDULE OF RELEVANT COMPANY EXPERIENCE
RETURNABLE FOR QUALITY CRITERIA	
FORM Q	KEY PERSONNEL
FORM R	COMPANY EXPERIENCE: PREVIOUS RELATED PROJECTS
FORM S	APPROACH AND METHODOLOGY/ PROGRAMME

FORM A CERTIFICATE OF ATTENDANCE AT CLARIFICATION MEETING

Notes to Tenderer:

1. Unless the attendee's name, details and signature also appear on the attendance register this Certificate of Attendance shall not be accepted and the tenderer's offer shall be deemed non- responsive.

This is to certify that

Representative of

Of (Address)

Telephone Number

Fax Number

Email Address

Attended Clarification
Meeting on (date)

Signature of
Representative

Employers Representative

Signature

Stamp

FORM B RECORD OF ADDENDA TO TENDER DOCUMENT

We confirm the following communications received from the employer before the submission of this tender offer, amending the tender documents, have been taken into consideration in this tender offer:

Addendum Number	Date	Title or Details
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Attach additional pages if more space is required.

I, undersigned, warrant that I am duly authorized to do so on behalf of the enterprise and confirm that the contents of this schedule are, to my personal knowledge and best belief, both true and correct.

Signed.....

Date.....

Name.....

Position.....

Tenderer.....

FORM C

COMPULSORY ENTERPRISE QUESTIONNAIRE

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

Section 1: Name of enterprise:.....

Section 2: VAT Registration number, if any:.....

Section 3: CIDB Registration number, if any:.....

Section 4: Particular of sole proprietor and partners in partnership

Name	Identity Number	Personal Income Tax Number

*Complete only if sole proprietor or partnership and attach separate page is more than 3 partners.

Section 5: Particulars of companies and close corporations

Company Registration number:.....

Close corporation number:.....

Tax Reference number:.....

Section 6: The attached SBD 4 must be completed for each tender and attached as a tender requirement

Section 7: The attached SBD 6.1 must be completed for each tender and attached as a tender requirement.

Section 8: The attached SBD 8 must be completed for each tender and attached as a tender requirement

Section 9: The attached SBD 9 must be completed for each tender and attached as a tender requirement

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

- i. Authorised the Employer to obtain a tax clearance certificate from the South African Revenue Services that my/our tax matters are in order,
- ii. Confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly 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,
- iii. Confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption,
- iv. Confirms that I/we are not associated, linked or involved with any other tendering entities submitting tender offers and have no 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, and
- v. Confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct

Signed:

Date:

Name:

Position:

Enterprise Name:

FORM D

DECLARATION OF INTEREST

SBD 4

1. No bid will be accepted from persons in the service of the state*
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favoritisms, 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 authorized representative declare their position in relation to the evaluating/adjudication authority and/or take an oath declaring his/her interest.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.
 - 3.1 Full Name:
 - 3.2 Identity Number:
 - 3.3 Company Registration Number:
 - 3.4 Tax Reference Number:
 - 3.5 VAT Registration Number:
 - 3.6 Are you presently in the service of the state* YES / NO
 - 3.6.1 If so, furnish particulars.
.....
.....
 - 3.6.2 Have you been in the service of the state for the past twelve months?
YES / NO
 - 3.6.3 If so, furnish particulars
.....
.....

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

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
 - (b) a member of the board of directors of any municipal entity;
 - (c) an official of any municipality or municipal entity;
 - (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999)
 - (e) a member of the accounting authority of any national or provincial public entity; or
 - (f) an employee of Parliament or a provincial legislature.
- 3.7 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

3.7.1 If so, furnish particulars

.....
.....

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

3.8.1 If so, furnish particulars

.....
.....

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

3.9.1 If so, furnish particulars.

.....
.....

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

3.10.1 If so, furnish particulars.

.....
.....

CERTIFICATION

I, THE UNDERSIGNED.....CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT. I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

FORM E DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)

This form shall only be completed if the Tender Sum exceeds R10 million (all applicable taxes included).

- Are you by law required to prepare annual financial statements for auditing?

YES / NO (Delete whichever is not applicable)

- 1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

.....

.....

2. Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?

YES / NO (Delete whichever is not applicable)

- 2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

- 2.2 If yes, provide particulars.

.....

.....

3. Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?

YES / NO (Delete whichever is not applicable)

- 3.1 If yes, furnish particulars

.....

.....

4. Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?

YES / NO (Delete whichever is not applicable)

- 4.1 If yes, furnish particulars

.....

.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

FORM F **PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017** **SDB 6.1**

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

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

1. GENERAL CONDITIONS

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

the **80/20** preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million (all applicable taxes included); and
the **90/10** preference point system for acquisition of goods or services with Rand value above R50 million (all applicable taxes included).

1.2. The value of this bid is estimated to be below R50 million (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
1.3.1.3. 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

- a. "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- b. "B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad - Based Black Economic Empowerment Act;

- c. "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;
- d. "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;
- e. "Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- f. "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;
- g. "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;
- h. "contract" means the agreement that results from the acceptance of a bid by an organ of state;
- i. "EME" means any enterprise with an annual total revenue of R5 million or less.
- j. "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 tendering costs of any service, for the execution of the contract;
- k. "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;
- l. "non-firm prices" means all prices other than "firm" prices;
- m. "person" includes a juristic person;
- n. "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;
- o. "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;
- p. "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;
- q. "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
- r. "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. ADJUDICATION USING A POINT SYSTEM

- a. The bidder obtaining the highest number of total points will be awarded the contract.

- b. 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;
- c. Points scored must be rounded off to the nearest 2 decimal places.
- d. 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.
- e. 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.
- f. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

3. POINTS AWARDED FOR PRICE

a. THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$\begin{array}{ccc}
 \text{80/20} & \text{or} & \text{90/10} \\
 \text{Ps= 80} & & \text{Ps= 90} \\
 \frac{\{Pt - P_{min}\}}{P_{min}} & & \frac{\{Pt - P_{min}\}}{P_{min}}
 \end{array}$$

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

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

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

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

- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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.

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

- a. 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) and also include original Sworn Affidavit for EMEs.

7. SUB-CONTRACTING

- a. Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)
- i. If yes, indicate:
 - 1) What percentage of the contract will be sub-contracted? _____
 - 2) The name of the contractor? _____
 - 3) the BBBEE status level of the sub-contractor? _____
 - 4) whether the sub-contractor is an EME? YES/NO (delete which is not applicable)

8. DECLARATION WITH REGARD TO COMPANY/FIRM

- a) Name of the Firm _____

b) VAT registration Number _____

c) Company Registration Number _____

d) Type of company

- ☐ Partnership/Joint Venture/Consortium
- ☐ One person business/ Sole Proprietor
- ☐ Close Corporation
- ☐ Company
- ☐ (Pty) Limited

[Tick applicable box]

e) DESCRIBE PRINCIPAL BUSINESS
ACTIVITIES

f) Company Classification

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional Service Provider
- ☐ Other service provider e.g., Transport etc.

[Tick applicable box]

g) Municipal Information

Municipal where it is situated

Registered Account Number

Stand Number

h) Total Number of Years the company has
been in business

i) 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:

- 1) The information furnished is true and correct;
- 2) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- 3) 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;
- 4) 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 favorable 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 forward the matter for criminal prosecution.

WITNESSES

Date

Address

NAME (PRINT) _____
CAPACITY _____
SIGNATURE _____

Signature of the bidder _____

FORM G

CONTRACT FORM- RENDERING OF SERVICES

SBD7.2

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

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

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution) in accordance with the requirements and task directives/ proposal specifications stipulated in Bid Number.....at the price/s quoted. My offers remain binding upon me and upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and constructed as part of this agreement:
 - i. **Bidding documents, viz**
 - Invitation to bid,
 - Tax Clearance certificate,
 - Pricing Schedule (s),
 - Filled in task directive/proposal,
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011,
 - Declaration of interest,
 - Declaration of bidders past SCM practices,
 - Certificate of Independent Bid Determination,
 - Special Condition of Contract.
 - ii. **General Conditions of Contract and**
 - iii. **Other (Specify).**
3. I confirm that I have satisfied myself as to the correctness and validity of my bid, that the price(s) and rates(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at your own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign the contract

WITNESSES:

1. _____
2. _____

CONTRACT FORM - RENDERING OF SERVICES**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

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

DESCRIPTION OF SERVICES	PRICE (ALL TAXES APPLICABLE INCLUDED)	COMPLETION DATE	BBBEE STATUS OF LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

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

SIGNED ATON.....

NAME (PRINT)

SIGNATURE.....

OFFICIAL STAMP

WITNESSES

1

2

DATE:

FORM H DECLARATION OF TENDERERS PAST SUPPLY CHAIN MANAGEMENT PRACTICE SBD 9**Note to tenderer:**

1. This tender document must form part of all tenders invited.
2. This form 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 tender of any tenderer may be disregarded if that tenderer or any of its directors have:
 - a) Abused the institutions supply chain management system,
 - b) Committed fraud or any other improper conduct in relation to such system,
 - 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 this tender.

Item	Question	Yes	No
4.1	Is the tenderer or any of its directors listed on the National Treasury's Database or Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/ Authority of the institution that imposed the restriction after the audi alteram partem rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the homepage.	<input type="checkbox"/>	<input type="checkbox"/>
4.1.1	If so, furnish particulars		
4.2	Is the tenderer 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)? For Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the homepage.	<input type="checkbox"/>	<input type="checkbox"/>
4.2.1	If so, furnish particulars		
4.3	Was the tenderer or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	<input type="checkbox"/>	<input type="checkbox"/>
4.3.1	If so, furnish particulars		
4.4	Does the tenderer or any of its directors owe any municipality rates or taxes or municipal charges to the municipality/ municipal entity, or to any other municipality/ municipal entity, that is in arrears for more than three months?	<input type="checkbox"/>	<input type="checkbox"/>
4.4.1	If so, furnish particulars		
4.5	Was any contract between the tenderer and the municipality/ municipal entity or any other organ of the state terminated during the past five years on account of failure to perform on or comply with the contract?	<input type="checkbox"/>	<input type="checkbox"/>
4.5.1	If so, furnish particulars		

CERTIFICATION

I, THE UNDERSIGNED (NAME)CERTIFY THAT THE
INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT. I ACCEPT THAT THE STATE MAY ACT AGAINST ME
SHOULD THE DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

FORM I

CERTIFICATE OF INDEPENDENT TENDER

SBD 9

Notes to tenderer:

- a) This certificate conforms to Treasury Regulation 16A9 and the requirement of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, that 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 tendering.
- b) Collusive tendering is a conspiracy between businesses that would normally be expected to compete, to agree not to compete, in a tender process.
- c) This certificate serves as a declaration by the tenderer that the tender submitted is free from any collusion with a competitor.

CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying tender:

(Tender Number and Description)

in response to the invitation for the tender made by:

(Name of Client)

do hereby make the following statements that I certify to be true and complete in every respect: I certify, on behalf of: that: _____

(Name of Tenderer)

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

as collusive bidding.

- vii) 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 tender;
 - e) the submission of a tender which does not meet the specifications and conditions of the tender; or
 - f) bidding with the intention not to win the tender.
- viii) 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 tender invitation relates.
- ix) The terms of the accompanying tender have not been, and will not be, disclosed by the tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening or of the awarding of the contract.

I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to tenders and contracts, tenders that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

Signature

Date

Capacity under which Tender is Signed

Name of Tenderer

COMPULSORY RETURNABLE

FORM J AUTHORITY OF SIGNATORY**Tenderer shall attach to this page a certificate of Authority of Signatory.**

The certificate shall be printed on the company letterhead and shall be a duly signed and dated copy of the relevant resolution of the board of directors/partners duly authorizing the person to sign all documents in connection with the tender.

In the event that the tenderer is a joint venture/ consortium, a certificate is required from each member of the joint venture or consortium clearly setting out the following:

- a) Authority for signatory
- b) Undertaking to formally enter into a joint venture/ consortium contract should an award be made of the joint venture or consortium,
- c) Name of designated lead member of the intended joint venture/consortium, as required by Clause F2.13.4 of the Conditions of Tender.

NB: The resolution below given as **an example** of an acceptable format for authorization. Submission of this page with the example completed shall not be accepted as authorization of the tenderer's signatory.

EXAMPLE

By resolution of the board of directors/ partners passed at a meeting held on (insert place and date).....Mr/Ms.....whose signature appears below, has been duly authorised to sign all documents in connection with the tender or Contract No (insert contract number and Description).....and any contract which may arise therefrom on behalf of (insert tenderer Company Name in BLOCK CAPITALS)

SIGNED ON BEHALF OF THE COMPANY:.....

IN HIS/HER CAPACITY AS:.....

DATE:.....

SIGNATURE OF DULY AUTHORISED SIGNATORY:.....

WITNESSES:

- | | |
|---------------|-----------------|
| 1. Name:..... | Signature:..... |
| 2. Name:..... | Signature:..... |

FORM K COMPANY REGISTRATION DOCUMENT

Certified copy of Company registration Document and ID of director(s). In case of Joint Venture, attach Joint Venture Agreement as well as documents for each Joint venture member.

FORM L

VALID TAX CLEARANCE

An active Tax Compliance Status (TCS) Pin issued by the South African Revenue Services

FORM M BBBEE VERIFICATION CERTIFICATE OR SWORN AFFIDAVIT

Bidders who qualify as EMEs in terms of the BBBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the Close Corporation Act (CCA) or a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor, or an original affidavit. The required format for such affidavit is included on the next page of this Bid document. Registered auditors do not need to meet the prerequisite for the independent Regulatory Board of Auditors (IRBA) approval for the purpose of conducting verification and issuing EMEs with BBBEE Status Level Certificates.

Bidders other than EMEs must submit their original and valid BBBEE status level verification certificate or a certified copy thereof, substantiating their BBBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS, or an original sworn affidavit is included on the next page of this Bid document.

IMPORTANT NOTE It is **not** a requirement for bidders to submit a BBBEE certificate **as well as** a sworn affidavit; bidders are required to submit **either** the BBBEE certificate **or** the sworn affidavit.

FORM N CENTRAL SUPPLIERS DATABASE REPORT

Tenderer to submit a FULL report not older than 10 days. Please note that Summary Report will not be acceptable.

FORM O CERTIFICATE OF INSURANCE COVER

In the event of the tenderer being joint venture/ consortium, the details of the individual members must be provided.

The tenderer shall provide the following details of the insurance cover and attach to this page a copy of proof of the stated Professional Indemnity Cover:

- i. Name of Tenderer:.....
- ii. Period of Validity:.....
- iii. Value of Insurance:
 - o **Professional Indemnity (for each and every case) Minimum R5 million**
Company:.....
Value:.....

I, undersigned, warrant that I am duly authorised to do so on behalf of the enterprise and confirm that the contents of this schedule are, to my personal knowledge and best belief, both true and correct.

Signed: Date:.....

Name:..... Position:.....

Enterprise Name:.....

FORM P SCHEDULE OF RELEVANT EXPERIENCE

Tenderer are required to demonstrate their ability to undertake the work and provide proof of previous experience and expertise to undertake a project of this nature. Bidders shall provide details (including traceable references) of similar projects currently in progress or carried out in the past five years.

Tenderer need only provide details of projects in the past five years. It is essential that full details of the projects and of the Employer/ Engineer references be provided. Failure to provide the necessary information will compromise the tender.

RELEVANT PERSONNEL	KEY	EMPLOYER OR REFEREE (CONTACT NAME: TEL No: EMAIL)	DETAILS OF PROJECT INCLUDING THE ROLE PLAYED BY THE TENDERER AND THE NOMINATED KEY PERSONNEL	VALUE OF PROJECTS (TOTAL)	YEAR

I, undersigned, warrant that I am duly authorized to do so on behalf of the enterprise and confirm that the contents of this schedule are, to my personal knowledge and best belief, both true and correct.

Signed..... Date.....

Name..... Position.....

Tenderer.....

RETURNABLE FOR QUALITY CRITERIA

FORM Q**KEY PERSONNEL**

The Tenderer shall list below the **KEY PERSONNEL** which will be to utilize on the project and their relevant experience. The information will be verified with the references provided. Any information found to be untruthful will lead to the immediate disqualification of the Service Provider.

The Key Personnel offered by the Service Provider must meet the minimum experience for this tender, as specified below. Failure to meet the minimum criteria will lead to the disqualification of the tender submission. The project team offered by the Service Provider must meet the following minimum criteria:

Personal particulars	Qualifications	Skills	Name of current employer and position in enterprise	Outline of recent assignments / experience that has a bearing on the scope of work
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Criterion: Experience of Key Resources in executing work of similar nature								
Job Title	Minimum Qualification Required	Professional Registration Required	Numbers of Years Relevant Experience on projects of a similar nature					Total Points
			Level 0 0 pts	Level 1 40 pts	Level 2 70 pts	Level 3 90 pts	Level 4 100 pts	
Project Manager	BSc Eng. Or B.Eng. or BSc Arch. or BSc QS or BTech	Pr. CPM	No submission	< 5 ≤ 9	< 10 ≤ 14	< 15 ≤ 19	> 20	40
Note 1: "experience" implies experience on projects of a similar nature with respect to the scope								
Note 2: "accredited degree/ diploma" implies a minimum 3-year qualification with the built environment from a registered University or Institute of Technology.								

FORM R COMPANY EXPERIENCE PREVIOUS RELATED PROJECTS

The experience of the tendering entity or joint venture partners in the case of an incorporated joint venture or consortium, as opposed to the key staff members/ experts, in similar projects completed over the last five years will be evaluated.

Tenderers should very briefly describe their experience in this regard and attach this to this schedule. Proof of participation/ case studies and contact details of clients of the relevant projects must also be provided.

The description should be put in tabular form with the following headings:

Employers, contact person and telephone number, where applicable	Description of Event	Detail of work undertaken nature of work & nature	Date undertaken
---	-----------------------------	--	------------------------

The scoring of the tenderer's experience will be as follows

Level	Pts	Criterion: Tenderers Experience
0	0	No information provided, or submission of no substance/ irrelevant information provided
1	40	The tenderer scores a minimum of 12 points claimed according to clause F.3.11.9
2	70	The tenderer scores a minimum of 21 points claimed according to clause F.3.11.9
3	90	The tenderer scores a minimum of 27 points claimed according to clause F.3.11.9
4	100	The tenderer scores a minimum of 30 points claimed according to clause F.3.11.9

FORM S**APPROACH PAPER/ METHODOLOGY/ PROGRAMME**

The approach paper must respond to the scope of work and outline the proposed approach/ methodology including proposals for outsourcing (including details of the companies to be used), leading to the delivery of the design and construction monitoring deliverables listed in the scope of the works. The approach paper should articulate what value add the tenderer will provide in achieving the stated objectives for the project.

The tenderer must explain their understanding of the objectives of the assignment and the Employer's stated and implied requirements, highlight the issues of importance, and explain the technical approach they would adopt to address them. The approach should explain the methodologies to be adopted and should also include a project plan and programme which outlines processes, procedures, an associated resource, indicates how risks will be managed and identifies what contribution can be made regarding value management.

Tenderers must attach their approach paper to this page. The approach paper should not be longer than 6 pages.

The scoring will be as follows:

Level	Pts	Criterion: Approach, Methodology and Quality Control
0	0	No information provided, or submission of no substance/ irrelevant information provided
1	40	The proposed approach does not satisfy the project objectives and requirements. The tenderer's understanding of the project deliverables is vague and does not adequately address the critical aspects of the project.
2	70	The technical approach is tailored to address the specific project objectives and methodology. The approach does adequately deal with the critical characteristics of the project. The project plan and manner in which risk is to be managed etc is tailored to the key aspects of the programme
3	90	The approach is tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The project plan and approach to managing risk etc is tailored to the critical characteristics of the project. The programme is good and has allowed for all critical aspects.
4	100	Besides meeting the good rating, the important issues are approached in an innovative and efficient way, indicating that the tenderer has excellent knowledge of working state of the art approaches. The programme is well throughout and makes allowance for all key issues

Level	Pts	Criterion: Preliminary Program
0	0	No information provided, or submission of no substance/ irrelevant information provided
1	40	The tenderer has misunderstood certain aspects of the Scope of Work and does not deal with the critical aspects of the project
2	70	The programme does not adequately deal with the critical characteristics of the project or the plan and manner in which risk is to be managed.
3	90	Programme covers all the applicable individual activities which are in an acceptable sequence, with appropriate durations, and is in accordance with generally accepted construction practice, and is in line with Clause 1.1.8.7 of the conditions of Contract (time for Completion). Program must show the critical path
4	100	In addition to the requirements of level 3, the programme covers all activities, meetings, requirements and is sufficiently flexible to accommodate changes that may be required during execution within project completion time.

PART C1

CONTRACT DATA

C.1.1 FORM OF OFFER AND ACCEPTANCE**TENDER NUMBER: SAFDA-PS/07/22/002****FORM OF OFFER**

The Client, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

Provision of Professional Construction Project Management Services for the Development of six Farmers Production Support Unit (FPSU) Precinct in the Province of KwaZulu Natal.

The Tenderer, identified in the offer signature block, has examined the documents listed in the Tender data and addenda thereto as listed in the returnable schedules, and by submitting this offer has accepted the conditions of Tender.

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the Tenderer offers to perform all of the obligations and liabilities of the service provider 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.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS: AS PER PRICING INSTUCTIONS OFFERED RATES R.....Words.....

.....

This offer may be accepted by the Client 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 service provider in the conditions of contract identified in the contract data.

Signature

Name

Capacity

for the Tenderer

(Name and
 address of
 organization)

Name and
 signature
 of witness

Date

ACCEPTANCE

By signing this part of this form of offer and acceptance, the client identified below accepts the Tenderer's offer. In consideration thereof, the client shall pay the service provider 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 client 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 C1: Agreements and contract data, (which includes this agreement)
- Part C2: Pricing data
- Part C3: Returnable schedules
- Part C4: Scope of work.

Deviations from and amendments to the documents listed in the Tender data and any addenda thereto as listed in the Tender schedules as well as any changes to the terms of the offer agreed by the Tenderer and the client 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.

The Tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the client's representative (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. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the Tenderer (now the Consultant) within five working days of the date of such receipt notifies the client in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

Signature

Name

Capacity

for the

Client

South African Farmers Development Association (SAFDA)

170 Flanders Drive, Blackburn Estate,

MOUNT EDGECOMBE

4302

Name and

signature

of witness

Date

SCHEDULE OF DEVIATIONS

1 Subject

Details

.....

2 Subject

Details

By the duly authorized representatives signing this agreement, the client and the Tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and 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 changes to the terms of the offer agreed by the Tenderer and the client 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:

Signature(s)

Name(s)

Capacity

(Name and
address of
organization)Name and
signature
of witness Date**For the Client:**

Signature(s)

Name(s)

Capacity

(Name and
address of
organization)Name and
signature
of witness Date

C.1.2 CONTRACT DATA

GENERAL CONDITIONS OF CONTRACT

1. DEFINITIONS

In the Contract, the following words and expressions shall have the meanings indicated, except where the context otherwise requires. Defined terms and words are signified in the text of the Contract by the use of capital initial letters.

Contract

The Contract signed by the Parties and of which these General Conditions of Contract form part.

Contract Data

Specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the Contract.

Contract Price

The price to be paid for the performance of the Services in accordance with the Pricing Data.

Day

A calendar day.

Defect

A part of the Services, as performed, which does not comply with the requirements of the Contract.

Deliverable

Any measurable, tangible, verifiable outcome, result or item that must be produced or completed.

Employer

The contracting party named in the Contract who employs the Service Provider.

Force Majeure

An event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

Key Persons

Persons who are named as such in the Contract Data who will be engaged in the performance of the Services.

Others

Persons or organizations who are not the Employer, the Service Provider or any employee, Subcontractor, or supplier of the Service Provider.

Parties

The Employer and the Service Provider.

Period of Performance

The period within which the Services are to be performed and completed.

Personnel

Persons hired by the Service Provider as employees and assigned to the performance of the Services or any part

thereof.

Personnel Schedule

A schedule naming all Personnel and Key Persons.

Pricing Data

Data that establishes the criteria and assumptions that were taken into account when developing the Contract Price and the record of the components that make up the Contract Price.

Project

The project named in the Contract Data for which the Services are to be provided.

Scope of Work

The document which defines the Employer's objectives and requirements and specifies the Services which must, or may, be provided under the Contract.

Service Provider

The contracting party named in the Contract Data who is employed by the Employer to perform the Services described in the Contract, and legal successors to the Service Provider and legally permitted assignees.

Services

The work to be performed by the Service Provider pursuant to the Contract as described in the Scope of Work.

Subcontractor

A person or body corporate who enters into a subcontract with the Service Provider to perform part of the Services.

2. INTERPRETATION

2.1 Unless inconsistent with the context, an expression which denotes :

- a) any gender includes the other genders;
- b) a natural person includes a juristic person and vice versa;
- c) the singular includes the plural and vice versa.

2.2 If there is any conflict between the provisions of these General Conditions of Contract and the Contract data, the provisions of the Contract Data shall prevail.

2.3 The clause headings shall not limit, alter or affect the meaning of the Contract.

3. GENERAL**3.1 Governing law**

Law governing the Contract shall be the law of the Republic of South Africa.

3.2 Change in legislation

If after the commencement of the Contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract Price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14 Days of first having become aware of the change, the Provider furnished the Employer with detailed justification for the adjustment to the Contract Price or Period of Performance (or both)..

3.3 Language

3.3.1 The language of the Contract and of all communications between the Parties shall be English.

3.3.2 All reports, recommendations and reports prepared by the Service Provider under the Contract shall be in English.

3.4 Notices

3.4.1 Any notice, request, consent, approvals or other communication made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract Data. Such communication shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or one week after having been sent by registered post, or unless otherwise indicated in the Contract Data, when sent by e-mail or facsimile to such Party

3.4.2 A Party may change its address for receipt of communications by giving the other Party 30 Days advance notice of such change.

3.5 Location

The Services shall be performed at such locations as are specified in the Contract Data, and where the location of a particular task is not so specified, at such locations as the Employer may approve.

3.6 Publicity and publication

Unless otherwise stated in the Contract Data, the Service Provider shall not release public or media statements or publish material related to the Services or Project within two (2) years of completion of the Services without the written approval of the Employer, which approval by the Employer shall not be unreasonably withheld.

3.7 Confidentiality

Both parties shall keep all sensitive information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other Party.

3.8 Variations

3.8.1 The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services in writing or may request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services.

3.8.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by the Employer, including any change in the Contract Price, shall be agreed between the Service Provider and the Employer.

3.8.3 Where a variation is necessitated by default or breach of Contract by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

3.9 Sole agreement

The Contract constitutes the sole agreement between the Parties for the performance of the Services and any representation not contained therein shall be of any force or effect. No amendments will be of any force or effect unless reduced to writing and signed by both Parties.

3.10 Indemnification

The Service Provider shall, at his own expense, indemnify, protect and defend the Employer, its agents and employees, from and against all actions, claims, losses and damage arising from any negligent act or omission by the Service Provider in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trade marks and other forms of intellectual property such as copyrights.

3.11 Penalty

- 3.11.1 If due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract or in law, be entitled to levy a penalty for every Day or part thereof, of the which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.
- 3.11.2 If the Employer has become entitled to the maximum penalty amount referred to in 3.11.1, he may after giving notice to the Service Provider :
- a) terminate the Contract
 - b) complete the Services at the Service Provider's cost.

3.12 Equipment and materials furnished by the Employer

- 3.12.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.
- 3.12.2 The Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.12.1 for their full replacement value.

3.13 Illegal and impossible requirements

The Service Provider shall notify the Employer immediately, on becoming aware that the Contract requires him to undertake anything which is illegal or impossible.

3.14 Programme

- 3.14.1 The Service Provider shall, within the time period set out in the Contract Data, submit to the Employer a programme for the performance of the Services which shall, *inter alia*, include:
- a) the order and timing of operations by the Service Provider and any actions required of the Employer and Others;
 - b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them; and
 - c) other information as required in terms of the Scope of Work or Contract Data.
- 3.14.2 The Employer may, during the course of the Contract, request the Service Provider to amend the programme. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.
- 3.14.3 The Service Provider shall regularly update the programme to reflect actual progress to date and expected future progress.

4. EMPLOYER'S OBLIGATIONS**4.1 Information**

- 4.1.1 The Employer shall timeously provide to the Service Provider, free of cost, all available information and data in the Employer's possession which may be required for the performance of the Services.

- 4.1.2 The Employer shall provide the Service Provider with reasonable assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

4.2 Decisions

The Employer shall, within a reasonable time, give his decision on any matter properly referred to him in writing by the Service Provider so as not to delay the performance of Services.

4.3 Assistance

- 4.3.1 The Employer shall co-operate with the Service Provider and shall not interfere with or obstruct the proper performance of the Services. The Employer shall as soon as practicable:

- a) authorize the Service Provider to act as his agent insofar as may be necessary for the performance of the Services.
- b) provide all relevant data, information, reports, correspondence and the like, which become available.
- c) procure the Service Provider's ready access to premises, or sites, necessary for the performance of the Services;
- d) assist in the obtaining of all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data.

- 4.3.2 Unless otherwise communicated, the authorized and designated person named in the Contract Data has complete authority in giving instructions and receiving communications on the Employer's behalf and interpreting and defining the Employer's policies and requirements in regard to the Services.

4.4 Services of Others

The Employer shall, at his own cost, engage such Others as may be required for the execution of work not included in the Services, but which is necessary for the completion of the Project.

4.5 Notification of material change or defect

The Employer shall immediately advise the Service Provider on becoming aware of:

- a) any matter other than a change in legislation which will materially change, or has changed the Services; or
- b) a material defect or deficiency in the Services.

4.6 Issue of instructions

Where the Service Provider is required to administer the work or services of Others, or any contract or agreement, on behalf of the Employer, then the Employer shall issue instructions related to such work, services, contract or agreement only through the Service Provider.

4.7 Payment of Service Provider

The Employer shall pay the Service Provider the Contract Price in accordance with the provisions of the Contract.

5. SERVICE PROVIDER'S OBLIGATIONS

5.1 General

- 5.1.1 The Service Provider shall perform the Services in accordance with the Scope of Work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.
- 5.1.2 If the Service Provider is a joint venture or consortium of two or more persons, the Service Provider shall designate one person to act as leader with authority to bind the joint venture or consortium. Neither the composition nor the

constitution of the joint venture or consortium shall be altered without the prior consent in writing of the Employer, which shall not be unreasonably withheld.

5.2 Exercise of authority

The Service Provider shall have no authority to relieve Others appointed by the Employer to undertake work or services on the Project of any of their duties, obligations, or responsibilities under their respective agreements or contracts, unless expressly authorized by the Employer in response to an application by the Service Provider in writing to do so.

5.3 Designated representative

Unless otherwise communicated, the authorized and designated person named in the Contract Data has complete authority to receive instructions from and give information to the Employer on behalf of the Service Provider.

5.4 Insurances to be taken out by the Service Provider

5.4.1 The Service Provider shall as a minimum and at his own cost take out and maintain in force all such insurances as are stipulated in the Contract Data.

5.4.2 The Service Provider shall, at the Employer's request, provide evidence to the Employer showing that the insurance required in terms of Clause 5.4.1 has been taken out and maintained in force.

5.5 Service Provider's actions requiring Employer's prior approval

The Service Provider shall obtain the Employer's prior approval in writing before taking, inter alia, any of the following actions:

- a) appointing Subcontractors for the performance of any part of the Services,
- b) appointing Key Persons not listed by name in the Contract Data.
- c) any other action that may be specified in the Contract Data.

5.6 Co-operation with Others

If the Service Provider is required to perform the Services in co-operation with Others he may make recommendations to the Employer in respect of the appointment of such Others. The Service Provider shall, however, only be responsible for his own performance and the performance of Subcontractors unless otherwise provided for.

5.7 Notice of change by Service Provider

On becoming aware of any matter which will materially change or has changed the Services, the Service Provider shall within 14 Days thereof give notice to the Employer.

6. CONFLICTS OF INTEREST

6.1 Service Provider not to benefit from commissions, discounts, etc.

The remuneration of the Service Provider under the Contract shall constitute the Service Provider's sole remuneration in connection with the Contract, or the Services, and the Service Provider shall not accept for his own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the Contract, or in the discharge of his obligations under the Contract, and shall use his best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them shall, similarly, not receive any additional remuneration.

6.2 Royalties and the like

The Service Provider shall not have the benefit, whether directly or indirectly, of any royalty or of any gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the Contract, or Project, unless so agreed by the Employer in writing.

6.3 Independence

The Service Provider shall refrain from entering into any relationship which could be perceived as compromising his independence of judgement, or that of Subcontractors or Personnel.

7. SERVICE PROVIDER'S PERSONNEL**7.1 General**

7.1.1 The Service Provider shall employ and provide all qualified and experienced Personnel required to perform the Services.

7.1.2 Where required in terms of the Contract, the Service Provider shall provide Key Persons as listed in the Contract Data to perform specific duties. If at any time, a particular Key Person cannot be made available, the Service Provider may engage a replacement who is equally or better qualified to perform the stated duty, subject to the Employer's approval, which approval shall not be unreasonably withheld.

7.1.3 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement to a named Key Person shall not exceed that which would have been payable to the person replaced.

7.1.4 The Service Provider shall bear all additional costs arising out of or incidental to replacement of Personnel, except where such replacement is otherwise provided for in the Contract.

7.1.5 The Service Provider shall take all measures necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

7.2 Provision of Personnel in terms of a Personnel Schedule

7.2.1 The Service Provider shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.

7.2.2 Where the Service Provider proposes to utilise a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval. Should the Employer not object in writing within 10 Days of receipt of such notification, the replacement shall be deemed to have been approved by the Employer.

7.2.3 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.2.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.

7.2.4 The Service Provider shall, if required in terms of Clause 7.2.1:

- a) forward to the Employer for approval, within 15 Days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
- b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
- c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION**8.1 Commencement of Services**

The Service Provider shall commence the performance of the Services within the period stated in the Contract Data.

8.2 Completion

8.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when the Service Provider has completed all Deliverables in accordance with the Scope of Work.

8.2.2 The Service Provider may request an extension to the Period of Performance if he is or will be delayed in completing the Contract by any of the following causes:

- a) additional Services ordered by the Employer;
- b) failure of the Employer to fulfil his obligations under the Contract;
- c) any delay in the performance of the Services which is not due to the Service Provider's default;
- d) *Force Majeure*; or
- e) suspension.

8.2.3 The Service Provider shall within 14 Days of becoming aware that a delay may occur or has occurred, notify the Employer of his intention to make a request for the extension of the Period of Performance to which he considers himself entitled and shall within 30 days after the delay ceases deliver to the Employer full and detailed particulars of the request.

8.2.4 The Employer shall, within 30 Days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the Services and the matter shall be dealt with as a dispute in terms of Clause 12.

8.3 Force Majeure

8.3.1 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of *Force Majeure*, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Contract, and has informed the other Party as soon as possible about the occurrence of such an event.

8.3.2 in the event that the performance of the Services has to be suspended on the grounds of *Force Majeure*, the Period of Performance shall be extended by the extent of the delay plus a reasonable period for the resumption of work.

8.3.3 During the period of his inability to perform the Services as a result of an event of *Force Majeure*, the Service Provider shall be entitled to any payment due in terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by him in suspending, delaying and re-activating the performance of the Services.

8.4 Termination

8.4.1 The Employer may terminate the Contract:

- (a) where the Services are no longer required;
- (b) where the funding for the Services is no longer available;
- (c) if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) Days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;

- (d) if the Service Provider becomes insolvent or liquidated; or
- (e) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days;

8.4.2 The Employer shall give the Service Provider not less than thirty (30) Days written notice of any termination made in terms of 8.4.1 (a) or (b).

8.4.3 The Service Provider may terminate the Contract, by giving not less than thirty (30) Days written notice to the Employer after the occurrence of any of the following events:

- (a) if the Employer fails to pay any monies due to the Service Provider in terms of the Contract and not subject to dispute pursuant to Clause 12 within forty-five (45) Days after receiving written notice from the Service Provider that such payment is overdue; or
- (b) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days; or
- (c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds the period stated in the Contract Data, or it is clear to the Service Provider that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded the period stated in the Contract Data; or
- (d) if the Employer is in material breach of a term of the Contract and fails to rectify such breach within 30 Days of the receipt of written notice requiring him to do so.

8.4.4 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

8.4.5 Should the Service Provider, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond his control from performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights of either Party against the other.

8.5 Suspension

8.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the performance of the Services and minimize further expenditure.

8.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties

Completion, suspension or termination of the Contract shall not prejudice or affect the accrued rights or liabilities of the Parties.

9. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

9.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

9.2 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall,

after payment by the Employer, lie with the Employer.

- 9.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

10. SUCCESSION AND ASSIGNMENT

- 10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.
- 10.2 An assignment shall be valid only if it is a written agreement, by which the Service Provider transfers his rights and obligations under the Contract, or part thereof, to others.
- 10.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract or any part thereof, or any benefit or interest there under, except in the following cases:
- (a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or
 - (b) by assignment to the Service Provider's insurers of the Service Provider's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider's loss or liability.
- 10.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned.
- 10.5 If the Service Provider has assigned his Contract or part thereof without authorization, the Employer may forthwith terminate the Contract and the third party will have no claim against the Employer resulting from such termination.

11. SUBCONTRACTING

- 11.1 A Service Provider may not subcontract any work which he has the skill and competency to perform, unless otherwise permitted in the Contract Data.
- 11.2 A subcontract, where permitted in terms of the Contract Data, shall be valid only if it is a written agreement by which the Service Provider entrusts performance of a part of the Services to Others.
- 11.3 The Service Provider shall not subcontract to nor engage a Subcontractor to perform any part of the Services without the prior written authorization of the Employer. The services to be sub- contracted and the identity of the Subcontractor shall be notified to the Employer. The Employer shall, within 14 Days of receipt of the notification and a full motivation why such services are to be subcontracted, notify the Service Provider of his decision, stating reasons, should he withhold such authorization. If the Service Provider enters into a subcontract with a Subcontractor without prior approval, the Employer may forthwith terminate the Contract.
- 11.4 The Employer shall have no contractual relationships with Subcontractors. However, if a Subcontractor is found by the Employer to be incompetent, the Employer may request the Service Provider either to provide a Subcontractor with qualifications and experience acceptable to the Employer as a replacement, or to resume the performance of the relevant part of the Services himself.
- 11.5 The Service Provider shall advise the Employer without delay of the variation or termination of any subcontract for performance of all or part of the Services.
- 11.6 The Service Provider shall be responsible for the acts, defaults and negligence of Subcontractors and their agents or employees in the performance of the Services, as if they were the acts, defaults or negligence of the Service Provider, his agents or employees. Approval by the Employer of the subcontracting of any part of the Contract or of the engagement by the Service Provider of Subcontractors to perform any part of the Services shall not relieve the Service

Provider of any of his obligations under the Contract.

12. RESOLUTION OF DISPUTES

12.1 Settlement

12.1.1 The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed.

12.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be settled between the Parties shall in the first instance be referred by the Parties to either mediation or adjudication as provided for in the Contract Data.

12.2 Mediation

12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than 14 Days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.

12.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.

12.2.3 The mediator is authorised to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Parties.

12.2.4 If either Party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such Party may require that the dispute be referred to arbitration or litigation in a competent civil court, as provided for in the Contract Data.

12.3 Adjudication

12.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.

12.3.2 The adjudicator shall be appointed in terms of the Adjudicator's Agreement bound in the Construction Industry Development Board's Adjudication Procedure.

12.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data. The Adjudicator shall be appointed in accordance with the Adjudicator's Agreement contained in the CIDB Adjudication Procedure.

12.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party notice of dissatisfaction within 28 Days of the receipt of that decision and refer the dispute to arbitration or litigation in a competent civil court as provided for in the Contract Data. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding on the Parties.

12.4 Arbitration

12.4.1 Arbitration, where provided for in the Contract Data, shall be by a single arbitrator in accordance with the provisions of the Arbitration Act of 1965 as amended and shall be conducted in accordance with such procedure as may be agreed between the Parties or, failing such agreement, in accordance with the Rules for the Conduct of Arbitrations published by the Association or Arbitrators current at the date the arbitrator is appointed.

- 12.4.2 The arbitrator shall be mutually agreed upon or, failing agreement, to be nominated by the person named in the Contract Data.

13. LIABILITY

13.1 Liability of the Service Provider

- 13.1.1 The Service Provider shall be liable to the Employer arising out of or in connection with the Contract if a breach of Clause 5.1 is established against him.
- 13.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time stated in a notification and the Defect arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.
- 13.1.3 All persons in a joint venture or consortium shall be jointly and severally liable to the Employer in terms of this Contract and shall carry individually the minimum levels of insurance stated in the Contract Data, if any.

13.2 Liability of the Employer

The Employer shall be liable to the Service Provider arising out of or in connection with the Contract if a breach of an obligation of his in terms of the Contract is established. The Service Provider shall have no separate Legal right of action against the Employer.

13.3 Compensation

If it is established that either Party is liable to the other, compensation shall be payable only on the following terms:

- (a) Compensation shall be limited to the amount of reasonably foreseeable loss and damage suffered as a result of the breach.
- (b) In any event, the amount of compensation will be limited to the amount specified in Clause 13.5.

13.4 Duration of Liability

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within the period stated in the Contract Data or, where no such period is stated, within a period of three years from the date of termination or completion of the Contract.

13.5 Limit of Compensation

- 13.5.1 Unless otherwise indicated in the Contract Data, the maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to:

- a) the sum insured in terms of 5.4 in respect of insurable events; and
- b) the sum stated in the Contract Data or, where no such amount is stated, to an amount equal to twice the amount of fees payable to the Service Provider under the Contract, excluding reimbursement and expenses for items other than salaries of Personnel, in respect of non- insurable events.

- 13.5.2 Each Party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

- 13.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for his reasonable costs incurred as a result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.

13.6 Indemnity by the Employer

Unless otherwise indicated in the Contract Data, the Employer shall indemnify the Service Provider against all claims by third parties which arise out of or in connection with the performance of the Services save to the extent that such claims do not in the aggregate exceed the limit of compensation in Clause 13.5, if applicable, or are covered by the insurances arranged under the terms of Clause 5.4.

13.7 Exceptions

13.7.1 Clauses 13.5 and 13.6 shall not apply to claims arising from deliberate misconduct.

13.7.2 The Service Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

- a) the Employer omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Service Provider, or requiring the Service Provider to implement a decision or recommendation with which the Service Provider disagrees or on which he expresses a serious reservation; or
- b) the improper execution of the Service Provider's instructions by agents, employees or independent contractors of the Employer.

14. REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

The Employer shall remunerate and reimburse the Service Provider for the performance of the Services as set out in the Pricing Data. If not otherwise stated in the Pricing Data, the following shall apply:

14.1 The Service Provider shall be entitled to render interim monthly accounts for fees and reimbursements throughout the duration of the Contract. Interim amounts of lump sum fees due shall be based on progress.

14.2 Amounts due to the Service Provider shall be paid by the Employer within thirty (30) Days of receipt by him of the relevant invoices. If the Service Provider does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Employer, at the prime interest rate charged by his bank and certified by such bank, plus 2% per annum, and calculated from the due date of payment.

14.3 If any item or part of an item in an invoice submitted by the Service Provider is disputed by the Employer, the latter shall, before the due date of payment, give notice thereof with reasons to the Service Provider, but shall not delay payment of the balance of the invoice. Clause 14.2 shall apply to disputed amounts which are finally determined to be payable to the Service Provider.

14.4 In respect of Services charged for on a time basis and all other reimbursable expenses the Service Provider shall maintain records in support of such charges and expenses for a period of twenty four months after the completion or termination of the Contract. Within this period the Employer may, on not less than 14 Day notice, require that a reputable and independent firm of accountants, nominated by him at his expense, audit any claims made by the Service Provider for time charges and expenses by attending during normal working hours at the office where the records are maintained.

15 AMOUNTS DUE TO THE EMPLOYER

Amounts due to the Employer shall be paid by the Service Provider within thirty (30) Days of receipt by him of the relevant invoices. If the Employer does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Service Provider, at the rate stated in the Contract Data, calculated from the due date for payment.

C.1.3 CONTRACT SPECIFIC DATA PROVIDED BY THE CLIENT

The following **contract specific data** are applicable to this Contract: C1.2.1 Standard Professional Services Contract
The conditions applicable to this Contract are the **Standard Professional Services Contract (July 2009)** published by the Construction Industry Development Board, and are attached hereto as appendix B.

C1.2.2 Data provided by the Employer

Clause			
	<p>The General Conditions of Contract in the Standard Professional Services Contract (July 2009) make several references to the Contract Data for details that apply specifically to this tender. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the General Conditions of Contract.</p> <p>Each item of data given below is cross-referenced to the clause in the General Conditions of Contract to which it mainly applies (appendix B).</p>		
1	The Employer is the South African Farmers Development Association (SAFDA) .		
1	The Period of Performance is from inception of this Contract until the Service Provider has completed all Deliverables in accordance with the Scope of Services.		
1	<p>The Project is:</p> <p>Provision of PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES for the Development and Implementation of Six Farmers Production Support Unit (FPSU) Precinct in the Province of KwaZulu Natal.</p> <p>Tender No: SAFDA-PS/07/22/002</p>		
3.4 and 4.3.2	The authorized and designated representative of the client is :		
	Name: Mduduzi Dube Technical Department		
	The client's address for receipt of communications:		
	<table><tr><td>Physical Address 170Flanders Drive Blackburn Estate MOUNT EDGECOMBE 4302</td><td>Postal Address P.O Box 1769 MOUNT EDGECOMBE 4302</td></tr></table>	Physical Address 170Flanders Drive Blackburn Estate MOUNT EDGECOMBE 4302	Postal Address P.O Box 1769 MOUNT EDGECOMBE 4302
	Physical Address 170Flanders Drive Blackburn Estate MOUNT EDGECOMBE 4302	Postal Address P.O Box 1769 MOUNT EDGECOMBE 4302	
Telephone Number: (031) 508 7283			
3.5	The Services shall be executed in the Service Provider's own office and on the Project site as described in item C3.2.2 Project description. No portion of the work may be performed by a person employed by the State. No portion of the work may be sublet to any other person or persons without the prior written approval of the Employer.		
3.6	Omit the following: "... within two (2) years of completion of the Service ...".		
3.12.1	<p>Period of Performance shall be sub dividable in separate target dates according to the programme to be submitted in terms of clause 3.14 hereof.</p> <p>A Penalty amount of R500 per day will be applicable per target date, to a maximum equal to R15 000, after which the contract may be terminated.</p>		

3.15	<p><u>For fees stipulated as “value based” in C2.1 Pricing Instructions, C2.1.1.1: Programme:</u></p> <p>A programme for the performance of the Service shall be submitted by the Service Provider, identified as the principal agent in terms of C3.5.1 Service Providers, to the departmental project manager, within a period of two (2) weeks following the briefing meeting.</p> <p>The programme will be the result of the co-ordination of all appointed Service Providers’ inputs and shall be in sufficient detail describing key milestones, events and activities linked to the fastest realistic timeframes in which the Service can be delivered. Milestones and events are to be listed based on the Scope of Services described in part C3 of the various appointed Service Providers’ tender documents and presented in bar chart format. No milestones may, at the co-ordination stage, be extended beyond the timeframes outlined in C3.2.2.3 Project Programme without</p>
	<p>acceptable reasons. The programme thus compiled and presented by the principal agent must be counter-signed by all appointed Service Providers as proof that programme was agreed upon by all during the said co-ordination action.</p> <p>The Employer retains the right to negotiate such submitted programme with the principal agent in consultation with the appointed Service Providers, if required, to promote the interest of the project.</p> <p><u>For fees stipulated as “time based” in C2.1 Pricing Instructions, C2.1.1.1: Project Execution Plan (PEP):</u></p> <p>A PEP for the performance of the Service shall be submitted by the Service Provider, to the departmental project manager, within a period of two (2) weeks following the briefing meeting.</p> <p>In the event of the Employer not being satisfied with the submitted PEP, the Parties will negotiate in good faith towards a PEP that will be agreeable to both. Such an agreed-upon PEP will form the basis for the management of the appointment and remuneration purposes. Should circumstance change from the initial briefing, the Service Provider and the Employer will negotiate a revised PEP to satisfy such change(s). Should the Parties fail to reach agreement on the PEP or revised PEP, the matter will be dealt with in terms of clause 12.1.2 of the General Conditions of Contract (appendix B). Should the mediation process fail, the Contract will be deemed to have been mutually terminated and any reasonable fees accrued at that stage settled by the Employer.</p>
4.1.1	<p>Briefing meeting:</p> <p>The departmental project manager shall arrange a briefing meeting, which won’t be compulsory for interested Service Providers, as soon as practicable after the appointment of the professional team as referred to in C3.5.1 Service Providers, or after the appointment of the core members of the professional team required to commence with the Services if not appointed at the same time, during which meeting the departmental project manager, together with any supporting advisors, will verbally brief the professional team comprehensively regarding the requirements of the project and the Scope of Services and hand over, to the Service Providers, all documentation relevant to the execution of the Service.</p>
4.4	<p>Others providing Services on this Project are as listed in C3.5.1 Service Providers.</p>
5.4.1	<p>Minimum professional insurance cover of R 10 million for each company , with the first amount payable not exceeding 5% of the value of indemnity, and/or personal liability – all as more comprehensively described in C1.2.3 Data provided by the Service Provider and in respect of which the Service Provider must provide data as required. Proof of Professional Indemnity Insurance shall b e requested from the successful bidder at a time of signing the Contract.</p>
5.5	<p>The Service Provider is required to obtain the Employer’s prior approval in writing before taking any of the following actions:</p> <ol style="list-style-type: none"> 1. Travelling for which payment will be claimed, as defined in C2.1.7 Travelling and subsistence arrangements and tariffs of charges; 2. Deviate from the final programme as in clause 3.14 above; 3. Deviate from the programme (delayed or earlier);

	<p>4. Deviate from or change the Scope of Services;</p> <p>5. Change Key Personnel on the Service.</p>
8.1	The Service Provider is to commence the performance of the Services immediately after the Contract becomes effective and execution to be as per the programme in clause 3.14 above (see C3 Scope of Services, C3.6 Brief).
8.4.3 (c)	The period of suspension under clause 8.5 is not to exceed two (2) years.
9.1	Copyright of documents prepared for the Project shall be vested with the Employer.
12.1.2	Interim settlement of disputes is to be by mediation.
12.2.1	In the event that the Parties fail to agree on a mediator, the mediator is to be nominated by the president of the Association of Arbitrators (Southern Africa).
12.2.4 / 12.3.4	Final settlement is by litigation.
13.1.3	All partners in a joint venture or consortium shall carry the same professional indemnity insurance as per clause 5.4.1 of the General Conditions of Contract (appendix B).
13.4	Neither the Employer nor the Service Provider is liable for any loss or damage resulting from any occurrence unless a claim is formally made within 10 years from the date of termination or completion of the Contract.
13.6	The provisions of clause 13.6 do not apply to the Contract.
14.4	In the first sentence, change "... period of twenty four months after ..." to "... period of thirty six months after ...".
15	In respect of any amount owed by the Service Provider to the Employer, the Service Provider shall pay the Employer interest at the rate as determined by the Minister of Finance, from time to time, in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act no1 of 1999).

C1.2.3 Data provided by the Service Provider

Clause	
	Each item of data given below is cross-referenced to the clause in the General Conditions of Contract to which it mainly applies (appendix B).
1	The Service Provider is the company, close corporation, natural person or partnership named in C1.1 Form of Offer and Acceptance by the tendering Service Provider.
5.3	The authorised and designated representative of the Service Provider is the person named in the resolution PA-15.1 or PA-15.3 by the tendering Service Provider.

5.4.1	<p><u>Indemnification of the Employer</u></p> <p>I, the undersigned, being duly authorized by the Service Provider, in terms of the completed resolution (PA-15.1 or PA-15.3)</p> <p>.....(Name of authorized person)</p> <p>hereby confirm that the Service Provider known as:</p> <p>..... (Legal name of entity tendering herein)</p> <p>tendering on the project:</p> <p>.....</p> <p>.....(Name of project as per C1.1 Form of offer and acceptance)</p> <p>holds professional indemnity insurance cover, from an approved insurer, duly registered with the Finance Services Board, of not less than R 10 million, with the first amount payable not exceeding 5% of the value of indemnity. I further confirm that the Service Provider will keep such professional indemnity fully subscribed. I further confirm that should the professional indemnity insurance, with no knowledge of the Employer, be allowed to lapse at any time or in the event of the Service Provider cancelling such professional indemnity insurance, with no knowledge of the Employer, at any time or if such professional indemnity cover is not sufficient, then the Service Provider, (i) accepts herewith full liability for the due fulfilment of all obligations in respect of this Service; and (ii) hereby indemnifies,</p>
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	<p>and undertakes to keep indemnified, the Employer in respect of all actions, proceedings, liability, claims, damages, costs and expenses in relation to and arising out of the agreement and/or from the aforesaid Service Provider's intentional and/or negligent wrongful acts, errors and/or omissions in its performance on this Contract.</p> <p>I confirm that the Service Provider undertakes to keep the Employer indemnified, as indicated above, beyond the Final Completion Certificate/Final Certificate by the Employer (whichever is applicable) for a period of ten (10) years after the issue of such applicable certificate.</p> <p>I confirm that the Service Provider renounces the benefit of the <i>exceptionis non causa debiti, non numeratae pecuniae</i> and <i>excussionis</i> or any other exceptions which may be legally raised against the enforceability of this indemnification.</p> <p>Notwithstanding the indemnification required above, the Employer reserves the right to claim damages from the Service Provider for this Project where the Service Provider neglects to discharge its obligations in terms of this agreement.</p> <p>NAME:</p> <p>CAPACITY:</p> <p>SIGNATURE:</p>
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7.1.2	<p>As an extension of the definitions contained in clause 1 hereof, Key Persons must, for the purposes of this Contract, include one or more of the professionally registered principal(s) of the Service Provider, and/or, one or more professional(s) employed to render professional services, for whom certified copies of certificates or other documentation clearly proving current professional registration with the relevant council, including registration numbers, must be included with the tender as part of the returnable documentation.</p> <p>The Key Persons and their jobs / functions in relation to the Services are:</p>		
	Name	Principal and/or employed professional(s)	Specific duties
	1.		
	2.		
	3.		
	4.		
	5.		
	6.		
	7.		
7.2	A Personnel Schedule is not required.		

PART C2

PRICING DATA

PART C.2: PRICING DATA**C.2.1 PRICING DATA & INSTRUCTIONS**

1. All activities must be invoiced on a monthly basis, based on the completion of the activity but not exceeding the allocated budget that has been priced for that activity.
2. Payment will be based on the completion of activities provided that reasonable progress towards the completion of the activity within the estimated budget is demonstrated.
3. The total price for the activities shall not be exceeded without the prior written approval and agreement of the Client.
4. The Schedule of Activities and the Bills of Quantities comprises items covering the service provider's profit and costs of general liabilities and includes costs of all services.
5. **All rates and amounts must be completed by hand in black ink.**
6. The schedule items covering the service provider's profit or general liabilities and the construction of temporary and permanent risk.
7. Although the tenderer is at liberty to insert a rate at his own choice for each item in the schedule, his attention is drawn to the fact that the employer has the right, under various circumstances, to payment for additional work carried out and that the engineer is obliged to base his assessment and the payment to be paid for such additional work on the rates inserted in the schedule by the tenderer.
8. The prices and rates to be inserted in the schedule of quantities are to be the full inclusive prices to be the employer for the work described under several items. The prices shall be exclusive of Value Added Tax (VAT). Such prices shall cover all costs and expenses that may be required in and for the work described, and shall cover the cost of all general risks, liabilities and obligations set forth or implied in the document on which the tender is based.
9. In the event of the tenderer failing to price any item it will be construed that the tenderer has made adequate allowance under other items for all labour, material and costs required, for the exclusion, not only for the quantum of work covered by the unpriced item, but also for any increase in the said quantum which may have to be undertaken during the course of the contract.
10. For the purposes of this Schedule of Activities and Bills of Quantities, the following words shall have the meanings hereby assigned to them:
 - Unit: The unit of measurement for each item of Service provided as defined in the Standardized, Project or Particular Specifications.
 - Quantity (Qty): The number of units of work/service provision for each item.
 - Rate: The payment per unit of work/provision of services 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 scope of works or elsewhere, but of which the quantity of work is not measured in units.

C.2.2 SCHEDULE OF ACTIVITIES FEE PROPOSAL

Please NOTE:

- The offered professional fees by the South African Farmers Development Association is based on the Guideline Scope of Services and Recommendations Guidelines Tariff of fees for Persons Registered in terms of the Project and Construction Management Professions Act 2000 (Act No: 48 of 2000)
- The tendered amount in respect of Construction Monitoring and Site Supervision shall be fixed for the duration of the contract period
- Additional Services required as part of the project such as Survey, Geotechnical, Traffic Impact, Environmental, Safety etc., will be selected at the sole discretion of South African Farmers Development Association through reasonable and cost-effective methodology.

Item No.	Description	Unit	Qty	Rate	Amount
1.1	Section 1 : Precinct Design				
a	Project Management	Hr	400		
Sub Total for Section 1 carried forward to summary					

2	Section 2 : Project Management fees	% per stages		Rate	Amount
Estimated construction cost:		R 171,000,000.00			
2.1	Stage 1: Inception	5%	171,000,000.00		
	Stage 2: Concept and viability	25%	171,000,000.00		
	Stage 3: Design Development	25%	171,000,000.00		
	Stage 4: Tender documentation & procurement	15%	171,000,000.00		
	Stage 5: Contract administration	25%	171,000,000.00		
	Stage 6: Close out	5%	171,000,000.00		
Sub Total for section 2 carried forward to summary		100%	171,000,000.00		

5	Section 3 : Disbursements		Qty	Rate	Amount
5.1	Travelling	Prov. Sum	1	R 172,320.00	R 172,320.00
5.2	Copying, printing and accommodation	Prov. Sum	1	R 50,000.00	R 50,000.00
Sub Total for Section 5 carried forward to summary					R 222,320.00

PROVISION OF PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES FOR THE DEVELOPMENT OF
SIX FARMERS PRODUCTION SUPPORT UNIT (FPSU) PRECINCT IN THE PROVINCE OF KWAZULU NATAL.

SUMMARY

Section	Description	Amount
Section 1	Precinct Designs	
Section 2	Professional fees breakdown (Normal Services)	
Section 3	Disbursements	R 222 320.00
	Subtotal	
	Contingency @ 10%	
	Subtotal	
	Add 15% VAT	
	TOTAL	

PART C3: SCOPE OF WORK

C3.1 Employer's objectives

The South African Farmer Development Association (SAFDA) wishes to appoint a suitably qualified and competent service provider who is currently registered as a professional construction project manager with the South African Council for the project and construction manager professional (SACPCMP) for the development of 6 farmer production support units [FPSU] in the province of Kwa Zulu Natal .

The purpose of the appointment is to finalize the precinct planning plan for farming communities within the identified regions in the province of Kwa Zulu Natal.

The scope of work will be amongst others as per the following guidelines and frameworks, namely

- a) South African council for the project and construction management professions has, under section 34(2) of the construction management profession act, 2000 (act no 48 of 2001 the guideline scope of services and tariff of fees in the schedule

The **SERVICE PROVIDER** shall perform the following standard services under the following stages;

- a) Planning, studies, investigations and assessment
- b) Normal services and service providers key deliverables
 - 1) **Stage 1- Inception**
 - Project Brief.
 - Project Procurement Policy.
 - Signed Consultant/Client Agreement.
 - Project Initiation Programme.
 - Record of all meetings.
 - Approval by Client to proceed to Stage 2
 - 2) **Stage 2- concept and Viability (also termed Preliminary Design)**
 - Signed Consultant/ Client Agreements.
 - Indicative Project Documentation and Construction Programme.
 - Approval by Client to proceed to Stage 3
 - 3) **Stage 3- Design Development (also termed Detailed Design)**
 - Signed Consultant/ Client Agreement
 - Detailed Design and Documentation Programme
 - Updated Indicative Construction Programme
 - Record of all meetings
 - Approval by Client to proceed to Stage 4
 - 4) **Stage 4- Documentation and Specification**
 - Contractors, subcontractors, and suppliers Procurement Strategy.
 - Project Procurement Programme.
 - Record of all meetings.
 - Approval by Client of tender recommendation(s).
 - 5) **Stage 5- Construction**
 - Signed contractor(s) Agreements.
 - Agreed Contract Programme.
 - Adjudication and award of contractual claims.
 - Construction Documentation Schedule.
 - Monthly progress payment certificates
 - Record of all meetings.
 - Certificates of Practical Completion.
 - 6) **Stage 6- Close-out**
 - Works Completion Certificate.
 - Certificate of Final Completion

- Record of all meetings
- Project Closeout Report

c) Additional Services should be costed separately and when required.

C3.2 Description of the Services

C3.2.1 Services

The general descriptions of the services required are defined as Provision of PROFESSIONAL CONSTRUCTION PROJECT MANAGEMENT SERVICES for the Development and implementation of six (6) Farmers Production Support Unit (FPSU) Precinct in the Province of KwaZulu Natal

Specific services required are set out in Section C3.3 Extent of Services.

C3.2.2 Project description

C3.2.2.1 Background

SAFDA is Non-profit Organization, founded with profound interest in farmer development and prosperity as the bedrock of its mandate. Being a member of the South African Sugar Association, and they represent a membership of over 100 000 small scale growers, 300 black commercial land reform and an increasing number of progressive white growers in the industry.

SAFDA has developed a Business Plan for the establishment of the FPSU development, with immediate focus on the target beneficiaries identified in the business plan.

SAFDA is then required to prepare a precinct planning plan for the development of the FPSUs as contemplated in the SAFDA's FPSU Business Plan.

Agriculture in general and farmers in particular, as producers of food, the basic essential of life and, by extension, stimulates our economy. SAFDA, in conjunction with participating stakeholders, largely the public sector has joined forces to spearhead the FPSU initiative to enhance food production, crucial in food security.

SAFDA's mandate is to facilitate transformation in the agricultural sector, placing particular focus on supporting black farmers especially, as previously disadvantaged, to provide an enabling environment to grow and become sustainable, vibrant agricultural enterprises, becoming

The intention of this initiative is to stimulate development and provide support to the agricultural sector and enterprise development in these areas to contribute to economic growth, job creation and poverty reduction.

Farmers therefore, require optimum support to function and produce optimally. For that to be achieved, all aspects of support have to be of quality, thus professional intervention is essential

It is against this background, combined with SAFDA's mandate, vision, and objectives that your services have to be procure

C3.2.2.2 Location of the Project

The office of the Employer to which this contract applies is located at the physical address in Contract Data F3.4 above. The Service Provider shall execute all work in relation to this project in its own offices. The proposed projects are located across the KwaZulu Natal Province in all the 5 District Municipalities, refer to C 4.0: Site Information for the Provincial Map.

C3.2.2.3 Project Cost Estimate

The estimated construction costs for the project is R171 000 000.00 including preliminaries and general contingencies and excluding. Vat has been used in the estimation of normal fees, the successful service provider must ensure that the construction budget for this project does not exceed the available budget of R171 000 000.00 exclusive of VAT without acceptable motivation and approval, by the Employer

C3.2.2.4 Project Programme

The service provider is expected to complete all the planning, investigation and the assessment of the construction bid document within a month of appointment (complete construction tender document has been issued). An allowance of 3 months should be made for SAFDA to appoint the construction contractor.

C3.2.2.5 Information available from Employer

The SAFDA will make all information relating to the 5 District Municipality available to the successful service provider upon appointment. The Service Provider must make arrangements to collect any additional information to render any service required. The Service Provider must also make provision in its pricing for any extra cost that would be incurred in obtaining any other information and data.

C3.2.2.6 Other Contracts on Site

There will be no other contracts that will run concurrently with this contract that the Employer is aware of

Any other contact not anticipated by the Employer shall be brought to the attention of the Employer and coordinated by the Service Provider. The Service Provider shall duly inform the Employer of any impact associated with such contract

C3.2.2.7 Reporting Requirements and Approval Procedure

The Service Provider shall meet with the Employer as and when reasonably instructed by the Employer to discuss and minute progress of the services. Notwithstanding any other requirements, the Service Provider shall submit a bi-weekly progress report to the Employer in a format approved by the Employer.

All project milestones including associated reports are to be approved by the SAFDA Project Manager prior to proceeding to the next stage of the project. Budgets, cashflows and execution programmes are also subject to the approval of the SAFDA Project manager.

C3.3 Extent of the Services

C3.3.1 The following services as defined in the C3.2.2.1 above. C3.3.3
Additional Services (Other)

C3.3.3.1 The Employer may order duties that fall outside the scope of the project as tendered. Any such additional services that may be required will be remunerated as set out in the Pricing Data.

C3.4 Use of reasonable skill and care

It will be expected of the Service Provider to apply reasonable skills and due diligence in the execution of the duties stipulated in this document which shall include *inter alia* the following:

Although the Service Provider's documents may be scrutinised by the Employer, this shall in no way relieve him of his professional responsibility for the proper and prompt execution of his duties. The Employer shall also be entitled to have any documentation or calculations verified by Others. In the event of malperformance, default or negligence, the Employer shall have the right to claim compensation or damages and set off such against any amount payable.

During assessment of any existing facilities, which may have a direct bearing on the Project, the Service Provider shall

determine deficiencies with such facilities in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), the SANS 10400, etc. and recommend measures to rectify those during the project execution phase.

The SAFDA project manager shall be notified by the Service Provider and his personnel of any transgression of *inter alia* the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and

environmental legislation during the Service Provider's operation pertaining to the Contract regardless of who may be involved.

C3.5 Role Players

It will be required of the Service Provider to co-operate with the following role players:

Local, provincial and national authorities, statutory bodies, governmental SAFDAs, Others, as may be required from time to time, including the client SAFDA/end user(s).

C3.6 Brief

C3.6.1 Target dates and times

The Service Provider will be expected throughout to give preference to the execution of the work involved in this commission.

The work of all Service Providers will be coordinated by the principal agent. All work is to be performed by the persons listed as Key Persons and persons under their supervision and further be executed as described in the Programme according to clause 3.14 of the Contract Data (and/or PEP according to the same clause, if applicable).

During the construction phase of the Project it will be expected of the principal agent to obtain a construction programme from the main contractor to continuously monitor his progress against that programme for compliance and to take whichever steps have been described in the relevant manual and the Working Guideline for Project Managers. This should be done in collaboration with the rest of the professional team, should the progress not be according to the said programme.

C3.6.2 Reporting requirements

Notwithstanding any other requirements as listed elsewhere, the Service Provider shall submit a monthly report indicating progress of the Services.

C3.6.3 Local content

It is the policy of the Employer to give preference to materials and equipment of South African manufacture. The Service Provider is to ensure that, wherever feasible, designs are based on locally manufactured equipment and materials which can meet requirements at competitive prices.

C3.6.4 Design innovation

Given the need for energy efficiency and environmental sustainability in the built environment, each member of the professional team, is required, wherever possible and applicable, to demonstrate design innovation in all aspects of the Service towards "green" design solutions. Aspects to be considered and incorporated in all new building and/or maintenance designs are, *inter alia* but not limited to,

- a.) sustainable development
 - eg. in building form, material choice, construction detailing and methods, recycling ability;
- b.) energy efficiency eg.
 - i) passive design methods towards energy conservation and consumption: building orientation, exploitation of nature's inherent energy sources),
 - ii) energy efficient solutions and installations for lighting, ventilation, cooling, heating, etc (eg. energy efficient light fittings),
 - iii) alternative or renewable energy sources where practical/feasible/economical;

- c.) water conservation/saving/re-use methods; and
- d.) environmental friendliness (eg. respect for natural habitat, blending of building with site/ environment/surrounding fabric, positioning of buildings, consideration of neighbouring sites' access to sun, wind, view, etc).

C3.6.5 Final disposal of documents

Upon approval and finalization of the final account of projects requiring a security clearance, it is a requirement that the Service Provider forward to the Employer all documents relating to this service. The same may also be requested on projects not requiring a security clearance.

C3.7 Applicable legislation and standards

This section applies to legislation emanating from national and provincial governments as well as that of any local authorities in whose area of jurisdiction the subject of the appointment falls and which has a bearing on the activities and facilities under this appointment.

All the applicable legislation, which do not specifically allow discretion in respect of compliance by the State, shall be followed exactly as intended by such legislation regardless of any instructions, verbal or in writing, to the contrary. (Refer *inter alia* to Section 41 of the Occupational Health and Safety Act, 1993 (Act 85 of 1993)).

Should any applicable legislation allow discretion in respect of compliance by the State, it shall be followed exactly as intended by the relevant legislation as if no discretion is allowed until such time as specific instructions in writing are issued to the appointed professional team by the SAFDAal project manager.

The Service Provider undertakes to ensure that his actions and outcome thereof including, but not limited to, the facilities to be affected by the Service shall be in accordance with all relevant legislation and upon delivery, will function as required by said relevant legislation. The Service Provider's actions and the outcome thereof will in no way be detrimental to the health and safety of the occupants or persons present therein or in the vicinity thereof. Similarly it must not be detrimental to any aspects of the environment in its structure or operation if operated as specified in operation manual(s). The relevant legislation meant herein, as amended, consist of *inter alia* the following, but not limited to:

- Atmospheric Pollution Prevention Act, 1965 (Act 45 of 1965);
- Construction Industry Development Board Act, 2000 (Act 38 of 2000);
- Council for the Built Environment Act, 2000 (Act 43 of 2000);
- Electricity Act, 1987 (Act 41 of 1987);
- Engineering Profession Act, 2000 (Act 46 of 2000);
- Environmental Conservation Act, 1998 (Act 107 of 1998);
- Fire Brigade Services Act, 2000 (Act 14 of 2000);
- Local Government Municipal Systems Act, 2000 (Act 32 of 2000), municipal by-laws and any special requirements of the local service supply authority;
- National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);
- National Environmental Management Act, 1998 (Act 107 of 1998);
- National Heritage Resources Act, 1999 (Act 25 of 1999);
- National Water Act, 1998 (Act 36 of 1998);
- Occupational Health and Safety Act, 1993 (Act 85 of 1993);
- Telecommunications Act, 1996 (Act 103 of 1996);
- Water Services Act, 1997 (Act 108 of 1997) and general authorizations;
- the latest issue of SANS 10142: "Code of Practice for the Wiring of Premises";
- the Regulations of the local Gas Board, where applicable and
- all regulations promulgated under the above Acts.

This will be a continuous process throughout the appointment, which will manifest itself during the following phases:

- development of plans and documentation;

- supervision of any Service Providers under the appointment;
- ensuring compliance of the end product;
- compiling and issuing of Instruction/Operational Manuals indicating *inter alia* what the legal and safety requirements entail for the user(s)/operator(s) of the facilities;
- providing instruction to the intended users/operators.

The Service Provider accepts full and complete responsibility (both contractually and/or in delict) regarding compliance with the Occupational Health and Safety Act, 1993 (Act 85 of 1993) for his acts and omissions as well as those of his employees and indemnifies the Employer against any legal action in this regard.

The Service provider undertakes to ensure that the requirements of the Occupational Health and Safety Act, 1993 will similarly apply to the agreement with any sub service providers inclusive of indemnifying the Employer against any legal action regarding the actions and/or omissions by them.

C3.9 Access to land/buildings/sites

Access to the land/buildings/sites shall be negotiated in consultation with the SAFDA project manager.

C3.10 Software application for programming

The Service Provider must avail himself of software to be used in the Project documentation for compatibility with other Service Providers as well as the Employer. Specific requirements for compatibility are specified in the relevant manuals.

C3.11 Security clearance

It is an explicit condition of this agreement that partners, directors and/or the members of staff who will have insight into the planning of projects requiring security clearance, be kept to a minimum and that such persons will not object to being submitted to a security clearance, if the Employer so requires.

If the latter is applicable, the necessary forms will accompany this tender or be provided to the Service Provider at any stage thereafter. These forms must be completed, if attached, and returned with the tender. It is important to furnish information which is complete in every respect.

Should the authority responsible for the clearance, for security reasons not be satisfied with the classification obtained of any of the staff members of the Service Provider, it will be a further condition of this appointment that none of such staff members be involved with any aspect of the Project.

All documents pertaining to these projects must be stored in a safe place when not in use so as to ensure that the level of security of the projects is maintained.

The Employer will not accept liability for any costs in this regard. FINGER PRINTS
(except Defence projects)

Persons of whom security clearance is required can obtain a finger print form SAP 91(a) from any police station. Kindly ensure that the police official responsible for taking the finger prints certifies the form since non-certification will result in the form being unacceptable.

C3.12 Forms for contract administration

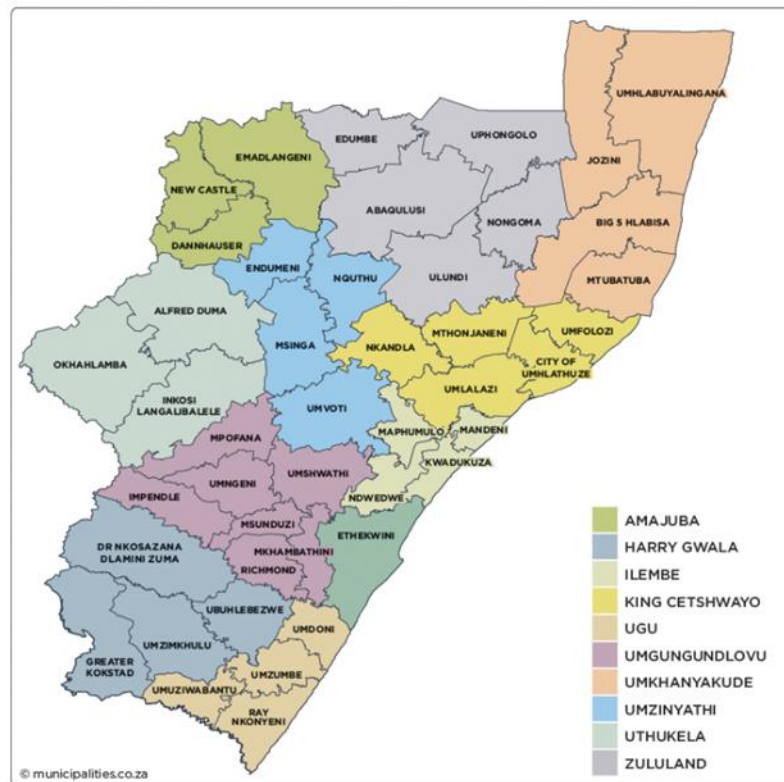
All forms required during contract administration, called PRM forms, are available on the Employer's website at <http://www.publicworks.gov.za/> under "Consultants Guidelines" item 14. The agreement and conditions of contract to be entered into with the main contractor shall be the GCC 2015 contract.

C3.13 Condition to accept unregistered persons with suitable built environment qualifications on secondment

It is an express term of the contract that the Service Provider, after award of tender, accept unregistered, suitably qualified (built environment) persons in his office for the purpose of exposing the latter to the full extent of professional work, or as may be required according to specific circumstances, in order to gain experience which can be presented to the relevant Council for consideration towards professional registration. The secondment of such unregistered persons will be negotiated with the Service Provider in terms of numbers, periods of training and extent of professional work opportunity to be afforded. The conditions of secondment will be the subject of a separate Memorandum of Understanding with the Service Provider which will serve as an annexure hereto. Any secondment arrangements will cease upon the professional registration of the seconded person or as agreed on and so included in the aforesaid Memorandum of Understanding. The responsibility for salaries of seconded persons will remain with the Employer, but responsibility for operational expenses, necessary for the execution of the work, will vest with the Service Provider, all of which will be dealt with in the Memorandum of Understanding.

C4: SITE INFORMATION

C4.1 This project will be undertaken in all 5 Districts in the province as per the list and map below.



The following are the co-ordinates for the above- mentioned identified sites namely:

Jozini (Bhanjana Village)	27°26'42.38"S 32° 8'28.48"E
Macekane (Empangeni) Ideal site	28°48'1.90"S 31°46'51.81"E
Amatikulu (Eshowe)	28°59'2.14"S 31°36'55.55"
Qwabe (Maphumulo)	29°17'48.34"S 31°05'00.57"E
Swayimana (Umgungundlovu)	29°30'10.50"S 30°41'45.80"E
Sezela (Umzinto)	30°24'20.67"S

30°38'13.91"E

