



TENDER DOCUMENT

In terms of the Supply Chain Management Regulations (Government Gazette 27636 of 30 May 2005)

TENDER NO: 438S/2009/2010

ENTERPRISE AGREEMENT FOR PORTABLE DOCUMENT FORMAT AND DRAWING STANDARDS

CONTRACT PERIOD: 1 July 2010 until 30 June 2013

CLOSING DATE: 26 April 2010

CLOSING TIME: 10:00

TENDER BOX NUMBER: 44

NON REFUNDABLE FEE: R50.00
(Not applicable on web downloads)

NB: TENDERS must be properly received and deposited in the above mentioned Tender box on or before the closing date and before the closing time. No late tender offers will be accepted under any circumstances. Tender offers must be submitted in a sealed envelope properly marked in terms of the tender number and tender description as indicated above, at the Tender Office situated at the 5th floor (Tower Block) Civic Centre, Hertzog Boulevard, Cape Town. If the tender offer is too large to fit into the abovementioned box, please enquire at the public counter opposite the tender boxes for assistance. No tender offers will be accepted via facsimile, telegram or email.

TENDERER / TENDER OFFERER	
NAME OF Company/Close Corporation/Partnership/Sole Proprietor /Joint Venture	<hr style="border: 0; border-top: 1px solid black;"/>
TRADING AS	<hr style="border: 0; border-top: 1px solid black;"/>
DATABASE: Registration on the City of Cape Town's Vendor Database is compulsory for all contracts and registration processes must be completed within 7 days of being requested to do so. Please be aware that City of Cape Town utilizes Quadrem, administrator of the Western Cape Supplier Database, to evaluate and issue the HDI Score of an organization. Please insert registration number if registered on the Western Cape Suppliers Database	REGISTRATION NUMBER(S): City of Cape Town's Vendor No: _____ WCSD No.: _____

TENDER INVITATION ISSUED BY: CITY MANAGER, CIVIC CENTRE, HERTZOG BOULEVARD, CAPE TOWN — TELEPHONE 021 400 2481 OR 021 400 2405.

For this Tender to be provisionally valid at tender opening stage on the closing date at the closing time, the Tender Form must be **signed** on **page 8** and the price/s must be entered.

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Do not dismember this Tender Document (do not take it apart or put documents between its pages)

A covering letter and all other documents of your submission must be attached behind this Tender Document.

1. DETAILS OF TENDERER

1.1

Name of firm / entity / enterprise	
Trading as (if different from above)	
Company registration no.	
Company Income Tax no.	
VAT registration no.	
Any other registration applicable to this Industry	
Postal address	Postal Code _____
Physical address	Postal Code _____
Contact details of the Person signing the Tender	Name: _____ Telephone: (____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____
Contact Details of the Tenderer's proposed Project Manager who represent the Tenderer in the implementation processes	Name: _____ Telephone: (____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____
Contact Details of the Person responsible for Accounts / Invoices	Name: _____ Telephone: (____) _____ Fax:(____) _____ Cellular Telephone: _____ e-mail address: _____

2. RESOLUTION TAKEN BY THE BOARD OF DIRECTORS / MEMBERS / PARTNERS

RESOLUTION of a meeting of the Board of Directors / Members / Partners of

(NAME OF TENDERER)

Held at _____ (place)

On _____ (date)

RESOLVED THAT:

1. The enterprise submits a Tender to the City of Cape Town in respect of the following project:

TENDER NO: 438S/2009/10 Enterprise Agreement for Portable Document Format and Drawing Standards

2. Mr/Mrs/Ms _____

In his/her capacity as _____

and who will sign as follows:

(SPECIMEN SIGNATURE)

be, and is hereby, authorised to sign the Tender and any and all other documents and/or correspondence in connection with and relating to the Tender, as well as to sign any contract, and or all documentation resulting from the award of the Tender to the enterprise mentioned above.

Note: The resolution must be signed by all the directors or members / partners of the Tendering enterprise. Should the space provided below not be sufficient for all directors to sign, please provide a separate sheet in the same format.

	Name	Capacity	Signature
1			
2			
3			
4			
5			
6			

3 RESOLUTION TAKEN BY THE BOARD OF DIRECTORS TO ENTER INTO A CONSORTIUM OR JOINT VENTURE

1. Full registered Names of the Joint Venture **Partners**:

and

and

2. The **Joint Venture** shall carry on business under the **name**:

(NAME BY WHICH THE JOINT VENTURE SHALL BE KNOWN)

3. **Name of the Tenderer:**

(If the Joint Venture is not registered in its own name and verified on the City of Cape Town’s supplier database, as well as registered in its own name as an enterprise with the SA Revenue Service). The J/V nominates the following Partner / Member as its “Lead Partner” for the purposes of this contract, which shall be the entity submitting this tender and shall be responsible for the financial administration of the contract on behalf of the Joint Venture (to handle correspondence, receive instructions and purchase order/s, issue the tax invoice/s, receive/make payment/s on behalf of the J/V, etc):

(NAME OF THE JOINT VENTURE PARTNER WHO WILL REPRESENT THE JOINT VENTURE)
(NOTE THAT THIS MUST ALSO BE **THE NAME UNDER WHICH THE TENDER IS SUBMITTED**)

4. **Parameters and objectives:**

Outline of the **main business** of the Joint Venture, and the **objectives** of the J/V intended to be **in line with** the relevant **contract** for which we are bidding:

Main Business / Objectives: _____

5. **Split of Responsibilities / Participation in Contract:**

[This is applicable where HDI participation points are claimed for a specific Council tender]
Split of responsibilities in terms of the Tender specifications, i.e. percentage of work to be performed by each partner. In the event of the tender being successful, the participation in this contract by the J/V partners in the total value will be:

Name of J/V Partner	% Participation
Total:	100%

6. **Duration** of Joint Venture:

We agree that the City of Cape Town shall be properly covered in relation to the existence of the J/V until the final performance / completion of the original project / contract tendered for, including any extension of the contract period and any applicable guarantee / warranty period.

7. Bank Account:

We agree that if the tender is successful and the contract is awarded to this Joint Venture, the City shall be provided with the bank details of the Joint Venture and we explicitly stipulate that should there be any change in the Joint Venture or disagreement among Joint Venture Partners / Members that the City will continue any due payments to the initially agreed upon bank account and only a Court Order or a unanimous agreement of change of bank account (submitted in writing by the Joint Venture) would be complied with by the City.

Banking Details:

Financial Institution:
 Branch Code:
 Account No.:

8. Strict Compliance to Signing Powers:

In as much as the City would be always complying with the initial tendered terms and conditions, the Joint Venture Partners / Members agree always to ensure that their signatory would be treated in the same manner. The signatory will only be varied in terms of a Court Order or by a unanimous agreement by all Partners / Members.

9. Successor in title:

Unless the context indicates otherwise, the rights and obligations of any party arising from the Joint Venture agreement shall devolve upon and bind its successor in title.

10. Dissolution:

Should the Joint Venture be dissolved before completion of any City project or contract that they undertook to complete, it is agreed that then the City reserves all its rights to legal recourse.

11. Breach:

Notwithstanding any other clause contained in any document, any form of breach shall entitle the City of Cape Town to sue any or all of the **Joint Venture partners jointly and severally** for any damages suffered by the City as a result of such breach. We, the parties to this Joint Venture, specifically renounce the benefits of excussion and division and all other legal exceptions that may be pleaded against the validity of our **joint and several liabilities** in terms of this undertaking.

Signatures:

THUS DONE AND SIGNED

at on the day of 20.....
 (PLACE) (DATE) (MONTH) (YEAR)

 SIGNATURE FULL NAMES

REPRESENTING _____
 (NAME OF J/V PARTNER – COMPANY, CLOSE CORPORATION, - AS APPLICABLE)

 SIGNATURE FULL NAMES

REPRESENTING _____
 (NAME OF J/V PARTNER – COMPANY, CLOSE CORPORATION, - AS APPLICABLE)

 SIGNATURE FULL NAMES

REPRESENTING _____
 (NAME OF J/V PARTNER – COMPANY, CLOSE CORPORATION, - AS APPLICABLE)

4. THE TENDER OFFER

- 1.1 I/we, Mr/Mrs/Messrs _____ duly assigned to represent the Tenderer for the purpose of this Tender, hereby Tender to supply all or any of the goods and/or render all or any of the services described in the attached documents to the City Of Cape Town on terms and conditions stipulated in this Tender and in accordance with the specifications stipulated in the Tender documents (which shall be taken as part of, and incorporated into this Tender) at the prices reflected in Pricing Schedule.
- 1.2 I/we agree that this offer shall remain valid for a period of 120 days commencing from the closing date and time of this Tender.
- 1.3 I/We further agree that:
- 1.3.1 this Tender and its acceptance shall be subject to the terms and conditions contained in the City of Cape Town's Supply Chain Management and Procurement Policies;
 - 1.3.2 if I/we withdraw my/our Tender within the period for which I/we have agreed that the Tender shall remain open for acceptance, or fail to fulfil the contract when called upon to do so, the City of Cape Town may, without prejudice to its other rights, agree to the withdrawal of my/our Tender or cancel the contract that may have been entered into between me/us and The City of Cape Town and I/we will then pay to the City Of Cape Town any additional expense incurred by the City of Cape Town having either to accept any less favourable Tender or, if fresh Tenders have to be invited, the additional expenditure incurred by the invitation of fresh Tenders and by the subsequent acceptance of any less favourable Tender; the City of Cape Town shall also have the right to recover such additional expenditure by set-off against moneys which may be due or become due to me/us under this or any other Tender or contract or against any guarantee or deposit that may have been furnished by me/us or on my/our behalf for the due fulfilment of this or any other Tender or contract and pending the ascertainment of the amount of such additional expenditure to retain such moneys, guarantee or deposit as security for any loss the City of Cape Town may sustain by reason of my/our default;
 - 1.3.3 if my/our Tender is accepted the acceptance may be communicated to me/us by letter or order by certified mail or registered mail. Such posting shall be deemed to be proper service of such notice with effect from the date of posting/dispatch of such notice;
 - 1.3.4 the law of the Republic of South Africa shall govern the contract created by the acceptance of my/our Tender and that I/we choose *domicilium citandi et executandi* in the Republic of South Africa, where any and all legal notices may be served at (full street address of this place).
-
- 1.4 I/we furthermore confirm that I/we have satisfied myself/ourselves as to the correctness and validity of my/our Tender; that the price(s) and rate(s) quoted cover all the work/-item(s) specified in the Tender documents and that the price(s) and rate(s) cover all my/our obligations under a resulting contract and that I/we accept that any mistakes regarding price(s) and calculations will be at my/our risk.
- 1.5 I/we hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the Principal(s) liable for the due fulfilment of this contract.
- 1.6 I/we agree that any action arising from this contract may in all respects be instituted against me/us and I/we hereby undertake to satisfy fully any sentence or judgement which may be pronounced against me/us as a result of such action.
- 1.7 I/we declare that I/we have participation/no participation* in the submission of any other offer for the supplies/services described in the attached documents. *If in the affirmative, state name(s) of Tender(s) involved.

Name: _____ Signature _____

5. THE TENDER FORM

This Tender shall remain binding and valid for a period of 120 days calculated from the closing date of the Tender

Tender no: 438S/2009/10
Closing date: 26 April 2010

THE CITY MANAGER
CITY OF CAPE TOWN
P O BOX 298
CAPE TOWN
8000
ATTENTION: Tender Office, 5th Floor, 12 Hertzog Boulevard, Cape Town

Post Tender (at sender's risk) to the address directly to the left of this notice in good time so as to reach the City of Cape Town before the above-mentioned closing date, or deposit Tender in the designated box on the 5th Floor, Civic Centre before 10h00 on the above-mentioned closing date.

TENDER NO: 438S/2009/10: Enterprise Agreement for Portable Document Format and Drawing Format and Drawing Standards

1. THE FOLLOWING LEGAL ENTITY: (cross out block which is not applicable)

Company with Limited Liability or Close Corporation:

OR

Natural Person or Partnership:

 Whose Identity Number(s) is/are:

(HEREINAFTER REFERRED TO AS "THE TENDERER")

AND WHO IS (if applicable):

Trading under the name and style of

AND WHO IS:

Represented herein by: Mr/Mrs/Ms <small>(FULL NAME OF REPRESENTATIVE IN BLOCK LETTERS)</small> and who is duly authorised to do so, in his/her capacity as (TITLE):	Note: A Resolution / Power of Attorney, signed by all the Directors / Member / Partners of the Legal Entity must be completed in this Tender, authorising the Representative to make this offer
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Hereby offer to the City of Cape Town herein represented by the City Manager to execute, complete and (where specified) maintain the above-mentioned Service in accordance with the Specification, Special Conditions of Tender and General Conditions of Tender to the entire satisfaction of the City Manager and subject to the Conditions stipulated in this Tender document for the amount indicated hereunder, and to provide all the labour, workmanship, plant, consumables and everything that is or may become necessary.

Tenderers must submit prices on Page 9 – Price Schedule

2. The Tenderer acknowledges that it is fully acquainted with the contents of all the conditions of this Tender contained in this document and that it accepts the conditions in all respects.

.....
 Signature(s) of Tenderer(s)

THUS DONE AND SIGNED for and on behalf on the Tenderer / Contractor

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)
 in the presence of the subscribing witnesses.

AS WITNESSES:

- 1 Name in Block Letters:
(SIGNATURE)
- 2 Name in Block Letters:
(SIGNATURE)

Failure to complete and/or sign this form shall invalidate your bid at opening stage

6. PRICE SCHEDULE

Assume 2,000 licences of PDF/A-1a and .DWG licences.

Unit cost	Single (desktop) licence cost (we assume no server licensing is required) within the price break volume
Price break volume	Bulk volume pricing for discounts (for example, 1 – 1,000; 1,001 – 2,000; 2,001 – – enterprise agreement

Description	Price break volume	Unit cost (Incl. vat, SLA, software upgrade)
PDF/A-1a		
.DWG		

7. TENDER SPECIFICATIONS

1. How to Provide the Information Requested

- 1.1 Please provide an electronic copy in a single Word-format file, together with a hard copy with the required accompanying documents inserted at the appropriate places in the same file. Name the file 'CoCT_PDF_Draw_<your company name>.doc'. Do not provide several digital files as the evaluators will look at one file only. The purpose of the single file is to provide a quick reference for key word searches and enable a single spreadsheet of all vendor solution metrics and prices to be easily created. The portions must be able to be cut and pasted electronically from your file into a single Excel spreadsheet consisting of all vendors' responses. You may protect intellectual property and signatures, but it must be searchable using key words.
- 1.2 Answer each question in its entirety by inserting your response into the text boxes in this document. Expand the text boxes as necessary. Please respond fully to each question completely before proceeding to the next question. Do not place additional information in an appendix or annexure; rather place any additional information immediately following the question before proceeding to the next question. Where separate documents are requested which cannot be inserted digitally into this document, please insert them into the hard copy of your response at the back of the paper document.
- 1.3 If you feel that a question overlaps another question, then repeat your answer as different people may evaluate and adjudicate different answers.
- 1.4 Responses to this tender will be assessed to the extent that they:
 - 1.4.1 Meets mandatory items; and
 - 1.4.2 Includes a pricing schedule.

2. Prime Contractor Responsibility

- 2.1 In the event of your final proposal being accepted, then all subcontractors will be subject to approval by the City of Cape Town ('the City'). Furnish the corporate or company name and the names of all subcontractors in the response section of this document. Notwithstanding any such approval by the City, the successful respondent shall itself be solely responsible for the performance of all work set forth in any contract resulting from this tender, and for compliance with the price and other terms provided in the contract. The successful respondent shall cause the appropriate provisions of its proposal and the contract to be inserted in all subcontracts.
- 2.2 The City's consent to or approval of any subcontract or subcontractor proposed by a respondent shall not create or purport to create any obligation of the City to any such subcontractor, or any form of contractual relationship between the City and the subcontractor. Any respondent who obtains such approval or consent of the City shall be required to insert a clause so providing in all subcontracts.

3. Responsibility for Response Costs

The respondent shall be solely and fully responsible for all costs associated with the development, preparation, transmittal, and submission of this TENDER and any subsequent proposal, including the selection process and associated negotiations. The City may, in its sole discretion, ask selected respondents to present their final proposal in person to the City's representatives at the City's offices, and the costs of such presentations, as well as the costs of any proof of concept implementation required by the City, shall be solely the responsibility of the respondent. The City assumes no contractual or other obligations as a result of the issuance of this TENDER, the preparation or submission of a later proposal by a respondent, the evaluation of proposals, the respondent's conduct of presentations or proof of concept implementations, or the selection of any respondent for further negotiations. There may be no claims whatsoever for reimbursement from the City or any of its consultants for any such costs.

4. Background

- 4.1 This tender invites submissions from certified resellers of Autodesk, or similar, and Adobe, or similar, software meeting the requirements below.
- 4.2 Instances of *de facto* usage of proprietary software mentioned here are steadily growing. In an effort to support and provide best license pricing, we are considering enterprise models.
- 4.3 Given its intrinsic nature as local authority, the City of Cape Town depends to a significant extent on Computer Aided Design (CAD) such as Autodesk and similar programs for general purpose CAD functionality. Such general purpose functionalities are required to draw, design, examine and exchange plans between stakeholders inside and outside the City. The .DWG standard is universally accepted as the interchange standard for CAD drawings and the City accordingly holds to this standard.
- 4.4 With its Adobe suite of products, the City creates, publishes and gains access to documents which meet the high quality of graphics and integrity required for documents associated with the creative disciplines and formal recordkeeping, in order to promote fluent public exchange and record management of such products. To this end, the City pursues the International Standards Organization's PDF/A-1a standard.
- 4.5 In both these instances, i.e. CAD and PDF, the City has purchased in excess of R200 000 of software over the past financial year. In accordance with the City's supply chain management policy, this means the City and its PFD as well as CAD users are obliged to issue a tender towards future purchases of Autodesk or similar and Adobe or similar software programs.

5. Scope

This tender includes only Autodesk or similar general purpose CAD software programs which have the .DWG drawing standard as key substance, and Adobe or similar programs which have the PDF/A-1a standard.

6. Out-of-Scope

This tender excludes all other kinds of CAD software programs apart from the .DWG standard mentioned above and excludes all other PDF software programs other than the PDF/A-1a standard mentioned above. In addition this tender also excludes all other types of software not mentioned above.

7. Credible Solution

The City has fixed both the .DWG standard and the PDF standard as part of its information systems and technology architecture. Submissions must provide certifications pertaining to these two standards.

8. Credible Solution Provider

- 8.1 The company must be a certified distributor / reseller and sustainable, on-going business concern.

Mandatory: attach a copy of your certification.

9. Service Level Agreement (SLA)

In both instances, the City seeks to conclude an enterprise or similar agreement which makes provision for after-sales support with standardised software asset management practices and associated problem escalation processes. This agreement must also provide for version upgrades of software to be bought and installed in terms of the agreement.

Mandatory: attach a copy of your SLA.

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8. INSTRUCTION TO TENDERERS

NOTE: IT IS VERY IMPORTANT THAT ALL TENDER CONDITIONS ARE STRICTLY ADHERED TO, AS FAILURE TO DO SO SHALL INVALIDATE THE TENDER

1. **No Tender will be considered unless submitted on Council's Official Tender Document.**
2. It should be noted that any portion of the Tender Document not completed should be regarded as not applicable.
3. A Tender submitted by:
 - 3.1 A registered **Company** may not be considered unless accompanied by a resolution of a Board of Directors of the Company authorising the Tender to be made and the signatory to sign the Tender on the Company's behalf.
 - 3.2 A registered **Close Corporation** may not be considered unless accompanied by written authority from all the members of the Close Corporation authorising the Tender to be made and the signatory to sign the Tender on the Close Corporation's behalf.
 - 3.3 A **Partnership** may not be considered unless duly signed by all partners or any one or more parties duly authorized thereto to Power of Attorney by the other parties, copy of which should accompany this Tender document.
 - 3.4 A **Trust** may not be considered unless duly signed by all trustees authorising the Tender to be made and the signatory to sign the Tender on the Trust's behalf.
 - 3.5 A Tender submitted for and on behalf of a **Company or Close Corporation** to be formed or in the course of formation shall not be considered unless accompanied by a written guarantee from the signatory, accepting in his personal capacity full responsibility for all performances due under these Conditions of Tender should the Company or Close Corporation not be registered and/or adopt this Contract. Should the Council accept such a Tender and such registration and adoption not take place within three months of the date of Council's acceptance, the aforesaid Company or Close Corporation to be formed or in the course of formation, shall deemed not to have registered nor the contract adopted then the signatory shall be regarded as the Tenderer/Contractor and shall be responsible for all due performances under this Tender, failing which the Council shall be entitled to enforce the aforesaid written guarantee against the signatory.
4. The **Joint Venture Agreement** must be submitted with the Tender document detailing the split of responsibilities in terms of the Tender specifications, ie: percentage of work to be performed by each partner. **All parties** to the Joint Venture Agreement **must be registered** and verified on the **Western Cape Supplier Database**. Only those that are registered and verified before the closing date of the Tender will qualify for preference points.
5. Tenders shall be submitted in a sealed envelope, clearly marked with the relevant Tender number and description, in the officially marked **tender box number 44** the **Tender Office, 5th Floor, Civic Centre, 12 Hertzog Boulevard, Cape Town** not later than **10:00** on 26 April 2010. If the tender offer is too large to fit it the allocated box, please enquire at the public counter opposite the tender boxes for assistance.

6. Any Tender submitted shall remain valid, irrevocable and open for written acceptance for a period of **hundred and twenty (120) days** from the closing date. The submission of a Tender shall be deemed to constitute a Contract between Council and the Tenderer whereby the latter agrees not to withdraw his Tender or to amend it or derogate from its effect during the aforesaid period of hundred and twenty (120) days.
7. The Council reserves the right to accept all, some, or none of the Tenders submitted either wholly or in part – and it is not obligated to accept the lowest tender.
8. Council shall not consider Tenders, which are received after the closing date and time.
9. The Council retains the right to call for any additional information it may deem necessary.
10. The Council will not be held responsible for any expenses incurred by the Tenderer in preparing and submitting Tenders.

11. **City of Cape Town Vendor Database / Western Cape Supplier Database**

Registration on the City of Cape Town's Vendor Database will be applicable to all tenders. No awards will be made to a company if they are not registered on the City of Cape Town's Vendor Database. Tenderers must be registered within 7 days of being requested to do so. Registration Forms may be collect from the 8th Floor, Supplier Management Office, Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel No. (021) 400-3618/4223/9245/3616/5563/4310/3216 or can be downloaded from the City Website <http://www.capetown.gov.za/en/SupplyChainManagement/Pages/SupplierRegistration.aSPX>

Notice is hereby given that it is each vendor's responsibility to keep all their information updated on the City of Cape Town's Vendor Database so that quality records are maintained to ensure compliance. If any critical information i.e., Tax clearance certificate, CIDB, IRP30 etc. is not valid then transactions with the vendor will be suspended until such time the correct verified information is received.

Please be aware that City of Cape Town utilizes Quadrem, administrator of the Western Cape Suppliers Database, to evaluate and issue the HDI Score of an organization. Although the Registration on the Western Cape Supplier Database (WCSD) is NOT a compulsory requirement by the City of Cape Town it will be beneficial for suppliers to register on this database as well in order to claim preference points (HDI status).

12. This Tender will be adjudicated in terms of the Supply Chain Management Policy.
13. If a Tenderer or Contractor, or any person employed by him is found to have either directly or indirectly, promised or given to any Councillor or person in the employ of the Council, any commission, gratuity, gift or other consideration, the Council shall have the right summarily and without recourse to law and without prejudice to any other legal remedy which it may have in regard to any loss and/or additional cost or expenses, to disqualify the Tender or cancel the Contract without paying any compensation to the aforesaid Tenderer or Contractor.
14. A Tenderer shall not in any way communicate with a member of the Council or with any officer of the Council on a question affecting any contract for the supply of goods or for any work undertaking or service which is the subject of a Tender during the period between the closing date or receipt of Tenders and the dispatch of the written notification of the Council's decision on the award of the contract, provided that a Tenderer shall not hereby be precluded:

- 14.1 At the request of the Head of a Council Department or his authorized representative from furnishing him with additional information, or with a sample or specimen for testing purposes or otherwise, or from giving a demonstration so as to enable the recommendation to the Council's responsible Committee on the award of the contract to be formulated;
- 14.2 From obtaining from the City Manager or his authorized representative information as to the date upon which the award of the contract is likely to be made or, after the decision upon the award has been made by the Council or any Committee to which the Council has delegated its powers, information as to the nature of the decision or such information as was publicly disclosed at the opening of Tenders or from submitting to the City Manager in writing any communication relating to his Tender or award of the contract or a request for leave to withdraw his Tender, and provided further that nothing contained herein shall be construed so as to prevent information being sought and obtained from a Councillor in regard to any decision taken at an open Council meeting.
15. The Tenderer shall complete and sign the **Tender Form**. Failure to complete the form shall invalidate the Contractor's offer.
16. The Council's Representative for the purpose of this Tender shall be:

Ferdie Lochner

E-mail: Ferdie.Lochner@capetown.gov.za

No phone messages in connection with this tender will be entertained. A list of frequently asked questions (FAQ) may be compiled and distributed to those making a formal e-mail request with the subject line: "Tender no. 438S/2009/10".

A Microsoft Word version of the Technical Specifications Section is available upon request. Send an e-mail to the above address using the subject line: "Tender no. 438S/2009/10". Note, the other (legalese) portions of the tender must also be submitted and they must remain as per the original Adobe (pdf) copy.

Other questions will be answered more expeditiously if the subject line contains the tender number, part section letter and summary, for example: "Tender no. 438S/2009/10- Question?"

Any queries about the progress of the tender will be met with a standard reply, "the tender adjudication is in progress" and no further information will be divulged. Upon receiving authority to make the award, successful and unsuccessful tenderers will, in broad acceptance terms of Electronic Communication and Transaction Act, be notified by e-mail.

17. PLEASE NOTE -- EXTRACTS FROM THE CITY'S SUPPLY CHAIN MANAGEMENT POLICY:

17.1 (44) *The City Manager shall be entitled to take all reasonable steps to prevent abuse of the supply chain management system and to investigate any allegations against an official, or other role player, of fraud, corruption, favouritism, unfair, irregular or unlawful practices or failure to comply with the supply chain management system and when justified in terms of administrative law:*

17.1.1 (44.1) *shall take appropriate steps against such official or other role player;*

Or

- 17.1.2 (44.2) *shall report any alleged criminal conduct to the South African Police Service;*
- 17.1.3 (44.3) *may reject a recommendation fro the award of a contract if the recommended bidder or person submitting a quote, or any of it's directors, has committed a corrupt or fraudulent act in competing for the particular contract'*
- 17.1.4 (44.4) *may invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations r decisions that were made, taken or in any way influenced by”:*
- 17.1.4.1(44.4.1) *councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors in schedule 1 of the Systems Act;*
- Or*
- 17.1.4.2 (44.4.2) *municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in schedule 2 of the Systems Act.*
- 17.1.5 (44.5) *may cancel a contract awarded to a person if:*
- 17.1.5.1 (44.5.1) *the person committed a corrupt or fraudulent act during the procurement process or the execution of the contract;*
- Or*
- 17.1.5.2 (44.5.2) *an official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.*
- 17.2 (45) *The City Manager may reject the Tender or quote of any person if that person or any of its directors has:*
- 17.2.1 (45.1) *failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months;*
- 17.2.2 (45.2) *failed, during the last five years, to perform satisfactorily on a previous contract with the City or any other organ of state after written notice was given to that Tenderer that performance was unsatisfactory;*
- 17.2.3 (45.3) *abused the supply chain management system of the City or have committed any improper conduct in relation to this system;*
- 17.2.4 (45.4) *been convicted of fraud or corruption during the past five years;*
- 17.2.5 (45.5) *wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or*
- 17.2.6 (45.6) *been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004) or has been listed on National Treasury's database as a person prohibited from doing business with the public sector.*

18. OBJECTIONS, COMPLAINTS, QUERIES AND DISPUTES

Periods mentioned in this section run concurrently (every period mentioned will run from the same date of notification).

18.1 Objections or Complaints

Persons aggrieved by decisions or actions taken in the implementation of the City's Supply Chain Management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

18.2 Requests for Reasons

Every Tenderer has a right to request reasons for the award decision in terms of the Promotion of Administrative Justice Act (Act 3 of 2000). Such request must be received within 14 days of the notification of the result.

18.3 Dispute Resolution

Disputes must be settled by means of mutual consultation, mediation (with or without legal representation) or, where unsuccessful, in a court of South African law. Where a disagreement or dispute between a City department and a Tenderer or Contractor cannot be resolved by mutual discussions, the City Manager shall appoint an independent and impartial person not directly involved in the supply chain to assist in the resolution of the dispute.

18.4 Right to Approach a Court

These foregoing provisions do not influence any affected person's rights to approach a Court at any time. The Contract shall in all respects be construed in accordance with the law of the Republic of South Africa, and any difference that may arise between the Council and the Contractor in regard to the Contract shall be settled in the Republic of South Africa.

Legal correspondence regarding this tender should be **addressed to the City Manager**. However, correspondence regarding **administrative matters**, complaints and queries may in the first instance be addressed to the **Director: Supply Chain Management** at PO Box 298, Cape Town 8000.

9. TAX CLEARANCE CERTIFICATE

Obtain a “Tax Clearance Certificate for Tenders” from your local SA Revenue Service office.

The following conditions will apply to this Tender:

1. It is an absolute requirement that the taxes of the Tenderer **MUST** be in order, or that a suitable arrangement has been made with the Receiver of Revenue to satisfy them. Proof of this arrangement should be submitted with the Tender.
2. Tenderers are therefore required to obtain a valid Tax Clearance Certificate from the local Receiver of Revenue where such Tenderer is registered for Income Tax purposes.
3. Each party to a **Joint Venture / Consortium / Partnership** must complete a separate declaration and obtain a valid Tax Clearance Certificate from the local Receiver of Revenue where such Tenderer is registered for Income Tax purposes.

10. RESPONSIVENESS AND EVALUATION CRITERIA

1 RESPONSIVENESS CRITERIA OF SUBMISSIONS

No Tender will be considered by the City Of Cape Town unless it meets the following responsiveness criteria:

- 1.1 The Tender must be properly received in a sealed envelope clearly indicating the **description** of the service and the Tender number for which the Tender is submitted.
- 1.2 The Tender must be **deposited in the relevant Tender box** as indicated on the notice of the Tender on or before the closing date and time of the Tender.
- 1.3 The official Tender document must be **fully completed** in indelible ink and must **not be dismembered**. Where information requested does **not** apply to the Tenderer and **the space is left blank**, it will be **deemed** to be **not applicable**.
- 1.4 All requested relevant and/or additional documentation **must** be submitted with the Tender on or before the closing date and time.
- 1.5 If the entity submitting a Tender is a **Joint Venture or a Consortium or Partnership**, each party to that formation **must** submit all the above information.
- 1.6 The Tenderer **must** be in **good standing** to do business with the public sector in terms of Regulation 38 of the Supply Chain Management Regulations (Government Gazette 27636 of 30 May 2005).
- 1.7 Registration with City of Cape Town's Vendor Database (refer to on **Instruction to Tenderers**).
- 1.8 Complies with the **requirements of the Specification**.
- 1.9 Adheres to **Pricing Instructions**.
- 1.10 Complies in full and observes the requirements of the **Notice to Tenderers (if applicable)**.
- 1.11 In addition to the terms and conditions stipulated in this document, for the Tender to be considered responsive, the Tenderer **must** submit the following Tender information:
 - 1.11.1 A fully completed and signed Tender Form;
 - 1.11.2 The Tenderer's Details;
 - 1.11.3 The necessary document authorising the Representative to sign and submit the Tender on the Tenderer's behalf;
 - 1.11.4 The duly completed and signed declaration by Tenderer;

2 EVALUATION OF TENDERS

- a) All Tenders received shall be evaluated in terms of the Supply Chain Management Regulations, City of Cape Town Supply Chain Management Policy and the Preferential Procurement Policy Framework Act.
- b) The Council reserves the right to accept all, some, or none of the tenders / Tenders submitted – either wholly or in part – and it is not obligated to accept the lowest Tender.

3 EVALUATION OF PREFERENCE POINTS

3.1 Classes of Contract

The following preference point system is applicable to the:

- 90/10 system for requirements with a Rand value > R2 000 000
- Points for Functionality + Points for Price = 90
- Historically Disadvantaged Individuals (HDI) = 10

3.2 The percentage score for functionality (Sf) and Price (Sp)

Price	–	60% of 90 points
Functionality	–	40% of 90 points
Total	–	<u>100%</u>

3.3 Weighting on Functionality:

Submissions will be evaluated on the following criteria

Evaluation Area	Evaluation Criteria	POINTS
Credible Solution		100
Total		100

Formula for Functionality: $\frac{\text{Total Individual weighting} \times 40\%}{100}$

The points obtained for Functionality must be at least 50 out of a maximum of 100. Prospective Applicants who obtain less than 50 points will not be considered by the Bid Evaluation Committee.

Note:

Please ensure that all relevant information has been submitted with your tender submission to ensure optimal scoring of Functionality points.

3.4 Points Awarded

3.4.1 The combined points for functionality and price shall be calculated as follows:

$$Wc = W_3 \times \left[1 + \frac{(S-Sm)}{Sm} \right]$$

Where WC = the total number of bid adjudication points awarded for functionality and price.

W₃ = the combined number of points available for functionality and price is **90**.

S = the sum of the percentage score for functionality and price of the bid under consideration (Sf + Sp).

Sm = the sum of the percentage score for functionality and price of the highest

11. SPECIAL CONDITIONS OF TENDER AND CONTRACT WHICH SHALL APPLY TO ANY CONTRACT THAT MAY ARISE FROM THIS TENDER

1 PAYMENTS

1.1 Standard Payment Terms

All invoices received for goods and services or engineering and construction works whereby the invoices are dated on or before the 20th of a particular month, will be paid between the 23rd and 26th of the ensuing month.

All invoices must be forwarded to the following address:
City of Cape Town, Private Bag X6, Bellville, 7530.

1.2 Payments to SMME / HDI Contractors

All invoices received by the City or its Agents whereby the invoices are dated between the 25th of the previous month and the 10th of the current month will be paid between the 23rd and the 26th of the current month.

All invoices received by the City or its Agents whereby the invoices are dated between the 10th and the 25th of a particular month, will be paid between the 10th and 13th of the ensuing month.

2 VALUE ADDED TAX

Where the value of an intended contract will exceed R1 000 000, 00 (R1 million) a tenderer must be registered with the SA Revenue Service for VAT purposes to be able to issue Tax Invoices.

It is a requirement of this contract that the amount of value-added tax (VAT) must be shown clearly on each invoice. The Tender price will read: **Total Value of Service excluding VAT.**

The amended Value-Added Tax Act requires that a Tax Invoice for supplies in excess of R3 000 should, in addition to the other required information, also disclose the VAT registration number of the recipient, with effect from 1 March 2005.

The VAT registration number of the City of Cape Town is 4500193497.

3 PRICE SCHEDULE

The Tenderer shall supply all the price information required in the price schedule, failure to do so shall invalidate the Tender.

4 PRICE ADJUSTMENT

4.1.1 **No** claim for price escalation adjustment will be considered other than the Rate of Exchange.

4.1.2 Exchange Rate on which tender is based: _____ 1 = S A Rand _____

Date of Quoted Rate: _____ Name of Bank: _____
(To be 14 days prior to the close of tender)

Cost to tenderer in foreign currency: F.O.B.: _____ C.I.F.: _____

Equivalent Cost in S A Rand: F.O.B.: _____ C.I.F.: _____

Marine Insurance Rate: _____

Marine War Risks Rate: _____

Ocean Freight Rate: _____

Wharfage, Dock Dues, Landing and Delivery Charges: _____

Customs Duty: _____ Tariff Ref: _____

Import Surcharge / Duty: _____

Railage Rate: _____

Any other Rates / Duties: _____

Tenderers must include a schedule of foreign currency content per item on a covering letter .

Tenderers are required to give a breakdown of each item's exchange rate variation in a covering letter.

The actual rates and the dates on which these items are based must be quoted. Merely to state "ruling rates" at a particular date is not acceptable. If more than one tendered item is affected, the relevant information may be stated in a covering letter.

Where prices are subject to a rate of exchange, Contractors must indicate on their invoices the rate of applicable, as well as the date and method of the foreign payment (for example, against L/C on date of shipment, or on receipt, etc.). The Council will require a Contractor to purchase Forward Cover for each individual order at the time of placing the order during the contract period, and to supply to the Council a copy of the foreign contract and such other documentation as the Council may deem necessary.

However, if Forward Cover has not been obtained yet, it is a condition of this contract that at the time when the final confirmation of the award is communicated to the contractor (successful tenderer), the contractor must immediately make appropriate arrangements to take out Forward Cover to avoid further fluctuations in the Rand value of the contract.

In such an instance the contractor must ensure that the City's Contracts Manager (Supply Chain Management) is furnished with a full set of supporting documents – Bill of Entry, Proof of Purchase of Foreign Exchange from Bank, and Foreign Invoice – before payment for the imported goods can be claimed.

This condition may be varied by a written instruction contained in the Memorandum of Agreement which will be signed on confirmation of the contract award.

- 4.2 Notwithstanding anything to the contrary contained in the Council's Conditions of Tender, Memorandum of Agreement or the Price Schedule, any claim for an increase in the Tender prices herein quoted shall be submitted in writing to the City Manager, City of Cape Town, P O Box 655, Cape Town, 8000, in the form of a written letter (not in form of an invoice or a general circular) **before** the said increase is to become effective. This is possible, as the original Tender itself may be based on three-month-old indices, and escalations may likewise be based on three-month-old revised indices. The Council reserves the right to withhold payment of any escalation while only provisional figures is available until the final (revised) figures are issued by the Government's Central Statistical Services. **When submitting any such claim, the Tenderer shall indicate the actual amount claimed for each item. A mere notification of a claim for an increase without stating the new price claimed for each item shall, for the purpose of this clause, not be regarded as a valid claim.**
- 4.3 Notwithstanding anything to the contrary contained in this contract, the Council reserves the right to request the Tenderer to submit auditor's certificates or such other documentary proof as it may require in order to verify a claim for price increases. Should the Tenderer fail to submit such auditor's certificates or other documentary proof to the City Manager within a period of thirty days from the date of the request therefore, it shall be conclusively presumed that the Tenderer has abandoned his claim.

5 INDEMNITY

- 5.1 The Contractor agrees that the occupational use of Council's premises and buildings shall be at his own risk, and that he acknowledges the risks and dangers inherent therein. The Contractor furthermore acknowledges that the Council and / or its employees shall not be liable or responsible for any loss, liability, damages, accident or injury, whether fatal or otherwise, of whatsoever nature and howsoever arising, whether directly from the permission granted by the Council to execute certain events or otherwise, including but not limited to, the use of the premises and / or buildings, and indemnifies the Council and/or its employees against all and any loss of / or damage to property, or injury or death, and any claim for such loss, damage, injury or death, from any cause whatsoever and howsoever arising, which may be suffered in this regard.
- 5.2 The Contractor and / or its officers, employees, agents, concessionaires, suppliers, contractors or customers shall not have any claim of any nature against the Council for any loss, damage, injury or death which any of them may directly or indirectly suffer (whether or not such loss, damage, injury or death is caused through negligence of the Council or its agents or employees) or for:
- 5.2.1 any latent or patent defect in the premises;
 - 5.2.2 a fire on the premises;
 - 5.2.3 a theft from the premises;
 - 5.2.4 the Premises or any part thereof being in a defective condition or state of disrepair;
 - 5.2.5 force majeure of causus fortuitus or any other cause either wholly or partly beyond the Council's control;
 - 5.2.6 the use of the services offered on the premises;
 - 5.2.7 consequential loss howsoever caused;

5.2.8 any loss or damage whether to persons or property caused by riots, civil commotion, insurrection or actions taken by the Contractor or the Council to mitigate the effect of / or prevent the aforesaid; and any other cause whatsoever.

5.3 Save for any willful acts or omission or gross negligence by the Council, its officers, employees, agents, concessionaires, suppliers and contractors, the Contractor indemnifies the Council and holds it harmless from and against all claims, actions, damages, liability and expense in connection with loss of life, personal injury and / or damage to property arising from or out of any occurrence in, upon or at the premises or the occupancy or use by the Contractor of the premises.

6 INSURANCE

Without limiting the obligations of the Contractor in terms of this Agreement, the Contractor shall effect and maintain the following insurances, covering:

- a) Public Liability for a minimum coverage of R5 million
- b) Contract Works for a minimum coverage of R5 million, which shall insure the Contractor against incidental damage to Principal surrounding property and assets while working on Council premises as well as Council assets damaged in the Contractors Workshop facilities or in transit between the Contractors facilities and the relevant Council premises.

6.1.2 The Lessee shall insure all its own possessions and equipment kept on the premises, in its own name.

6.2 In the case of an occurrence giving rise to claim (and in accordance with the directives of the insurer), the Contractor shall proceed in the following manner:

6.2.1 Over and above any statutory and / or other requirements contained in the conditions of this agreement, the Council must immediately be notified telephonically (and confirmed by means of a telefax) of the circumstances, nature and estimate of the loss or damage; and

6.2.2 any claim settlement shall be subject to the approval of both the Council and the Contractor.

6.2.3 The Council reserves the right to make enquiries regarding the cause and result of any such occurrence giving rise to a claim, and the Contractor shall assist the Council in this regard.

6.3 All insurance must remain in force for the duration of this agreement.

6.4 Should the Contractor fail to arrange insurance or to maintain it, the Council shall be entitled to arrange for such insurance and to maintain it, and pay the premiums, as may be necessary. Amounts for this purpose are paid by the Council as a debt from the Contractor.

6.5 The Contractor hereby guarantees that it shall make the necessary submissions of insurance to the satisfaction of the Council (copies of which policies shall be provided to the Council annually, within 7 (seven) days of awarding/acceptance of this contract, as proof that the required insurances exist and that it will comply with all terms, requirements and conditions in respect of insurance applicable to this agreement.

7. PENALTIES

7.1 Product must be delivered within 14 days from receiving the order.

7.2 3% per week penalty will be deducted from the order for late delivery.

8. CESSION AND ASSIGNMENT

The CONTRACTOR will not assign, transfer, charge or in any manner make over, or purport to assign, transfer, charge or make over, this contract or their rights there under or any part thereof, without obtaining the previous consent in writing of the COUNCIL.

9 OCCUPATIONAL HEALTH AND SAFETY ACT (85 OF 1993)

All successful Tenderers, Tendering on items where labour and/or equipment are included, shall enter into an agreement with the Council, indemnifying Council from the provisions of the said ACT.

10 COMPLIANCE WITH LEGISLATION

The Contractor is to ensure compliance with the provisions of the OHAS Act & all relevant regulations, by all employees of theirs & other contractors on the site. The Tenderer shall provide a suitable **health and safety plan** appropriate for the contract Tendered for.

The Contractor shall comply with all laws relating to wages and conditions generally governing the employment of labour in the Cape Town area.

11 WORKMEN'S COMPENSATION

The Tenderer shall, prior to commencement of any work on site in terms hereof, give written proof that he is registered as an employer in terms of Section 80 of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993 and the Tenderer shall remain registered as such for the duration of the contract awarded and shall pay all monies due to the Compensations Fund in terms of Section 15 of Act 130 of 1993. Failure to comply will result in the Tenderer being disqualified.

12. GENERAL CONDITIONS OF CONTRACT

(National Treasury)

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General Conditions of Contract (GCC)

1. Definitions

1. The following terms shall be interpreted as indicated:
- 1.1 “Closing time” means the date and hour specified in the Tendering documents for the receipt of Tenders.
- 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 “Day” means calendar day.
- 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
- 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
- 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.
- 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any Tenderer, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Tenderer of the benefits of free and open competition.
- 1.14 “GCC” means the General Conditions of Contract.
- 1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

- 1.16 “Imported content” means that portion of the Tendering price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the Tender will be manufactured.
- 1.17 “Local content” means that portion of the Tendering price, which is not included in the imported content provided that local manufacture does take place.
- 1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 “Project site,” where applicable, means the place indicated in Tendering documents.
- 1.21 “Purchaser” means the organization purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa.
- 1.23 “SCC” means the Special Conditions of Contract.
- 1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “Supplier” means the successful Tenderer who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 “Tort” means in breach of contract.
- 1.27 “Turnkey” means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 “Written” or “in writing” means hand-written in ink or any form of electronic or mechanical writing.

2. Application

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

3. General

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

3.2 Invitations to Tender are usually published in locally distributed news media and on the municipality/municipal entity website.

4. Standards

4.1 The goods supplied shall conform to the standards mentioned in the Tendering documents and specifications.

5. Use of contract documents and information inspection

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

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent Rights

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

7. Performance security

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful Tenderer shall furnish to the purchaser the performance security of the amount specified in Special Conditions of Contract (SCC).

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the Tendering documents or another form acceptable to the purchaser; or
- (b) a cashier's or certified cheque.

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

8. Inspections, tests and analyses

8.1 All pre-Tendering testing will be for the account of the Tenderer.

8.2 If it is a Tender condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the Tenderer or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.

8.3 If there are no inspection requirements indicated in the Tendering documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

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

9. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental Services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

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

15. Warranty

- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

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

17. Prices

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

18. Variation orders

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.
- 21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

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

23. Termination for default

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

24. Antidumping and countervailing duties and rights

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

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

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

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

28. Limitation of Liability

- 28.1 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 28.2 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.
- 28.3 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
 - (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

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

30. Applicable law

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

31. Notices

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

32. Taxes and duties

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

33. Transfer of contracts

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

34. Amendment of contracts

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

13. CONDITIONS PERTAINING TO TARGETED PROCUREMENT FUNCTIONALITY

Major (Over R2 000 000)

Failure by the Contractor to honour undertakings given or stated by him in his tender pertaining to Targeted Procurement shall be a reason for termination of this contract by the Employer.

1 Definitions and Interpretations

The following words and expressions having capital initial letters shall have the meanings indicated.

1.1 Affiliated Entity

A business entity which has control of or the power to control another business entity, albeit indirectly, e.g. where a third person has control of or has the power to control both entities. Indicators of control shall, without limitation, include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, or common use of employees.

1.2 Historically Disadvantage Individual (HDI)

South African citizen:

a) who, due to apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) ("the Interim Constitution"); and/or

b) who is a female; and/or

c) who has a disability

provided that a person who obtain South African Citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.

1.4 Control

The possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.

1.5 Commercially Useful Function

The performance of real and actual work, or the provision of services, in the discharge of any contractual obligation, which shall include but not be limited to the performance of a distinct element of work which the business has the skill and expertise to undertake, and the responsibility for management and supervision.

1.6 Executive Director

A sole proprietor, a partner in a partnership, a director of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) or a member of a close corporation registered in terms of the Close Corporation Act, who, jointly and severally with her other partners, co-directors or co-members, as the case may be, bears the risk of business and takes responsibility for the management and liabilities of the partnership, company or close corporation.

1.7 Independent Enterprise

An enterprise which is free of any degree of direct or indirect Ownership, or Control, by any firm which engages in activities similar to those principal business activities which the enterprise performs, or by any Executive Director of such a firm who is not a Historically Disadvantage Individual.

NOTE:

Any enterprise whose owners include firms which engage in the majority of activities that would be required of a Prime Contractor in the execution of the Contract cannot claim Historically Disadvantage Individual status. Likewise any enterprise which has any non-HDI Executive Directors who have interests in such firms cannot claim such status.

1.8 Manufacturer

A firm that operates or maintains a factory or establishment that produces on its premises materials or supplies required by the Prime Contractor for the performance of the Contract.

1.9 Owned

Having all the customary incidents of ownership, including the right of disposition, and sharing in all the risks and profits commensurate with the degree of ownership interest as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

1.10 Prime Contractor

A contractor who contracts with an employer as the principal or main contractor or as a joint venture partner to such contractors, to provide goods services or works.

1.11 Supplier

A firm that:

- (a) owns, operates or maintains a store, warehouse or other establishment in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business; and
- (b) engages as its principal business, and in its own name, in the purchase and sale of the goods.

1.12 Woman

A female person who is a South African citizen and a female at birth.

1.13 Disability

In respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which result in restricted, or lack of, ability to perform an activity in the manner, or in the range, considered normal for a human being.

2. Adjudication of Tenders on a points system

2.1 Examination of Tenders and Determination of Responsiveness

Prior to the detailed evaluation of Tenders, the Employer shall determine whether each Tender:

- meets the requirements of these Conditions of Tender;
- has been properly signed;
- is responsive to the requirements of the procurement documents;
- provides any clarification and/or substantiation that the Employer may require;
- complies with the Tender submission requirements in all other respects.

A responsive Tender is one that conforms to all the terms, conditions and Specifications of the Contract without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion:

- could detrimentally affect the scope, quality, or performance of the Works;
- changes the Employer's or the Contractor's risks and responsibilities under the Contract; or
- would affect the competitive position of other Tenderers presenting responsive Tenders, if it were to be rectified.

If the Tender does not meet the requirements or is not responsive, it will be rejected by the Employer, and may not subsequently be made acceptable to the Employer by correction or withdrawal of the non-conforming deviation or reservation.

2.2 Adjudication using a Points System

The Employer using a system that awards points on the basis of will adjudicate responsive Tenders:

- the tendered price (Np)
- the status of the enterprise in terms of ownership (Ng).

The Employer will normally award the Contract to the Tenderer obtaining the highest number of points, but will not bind itself to do so.

2.3 Points Awarded (Wc)

2.3.1 The combined points for functionality and price shall be calculated as follows:

$$Wc = W3 \times \left[1 + \frac{(S - S_m)}{S_m} \right]$$

Where Wc = the total number of bid adjudication points awarded for functionality and price.

W3 = the combined number of points available for functionality and price, which is: 90 Points

S = the sum of the percentage score for functionality and price of the bid under consideration (Sf + Sp)

S_m = the sum of the percentage score for functionality and price of the highest scoring bid.

2.3.2 The percentage score for functionality (Sf) shall be calculated as follows:

$$Sf = W2 \times \frac{N_s}{N_q}$$

Where W2 = the percentage of combined points available for functionality, which is: 40% of 90 Points

N_s = the score for functionality awarded to the bid under consideration.

N_q = the maximum possible score for functionality in respect of each bid.

2.3.3 The percentage score for price (Sp) shall be calculated as follows:

$$Sp = W1 \times \frac{Pm}{P}$$

Where W1 = the percentage of combined points available for price, which is:
100 – W2.

P = the bid sum (corrected if applicable) of the bid under consideration.

Pm = the bid sum (corrected if applicable) of the lowest valid bid.

2.4 Points for Preference

A maximum of 10 points is allocated to preference on the following basis:

$$Ng = \frac{10(\%HDI)}{100}$$

Where Ng = The number of Tender adjudication points awarded for preference

% HDI = The percentage of HDI equity ownership of the Tenderer under consideration (see Note 1 & 2 below)

- NOTE
- 1 It is only the equity ownership of the Tenderer in the capacity of prime contractor that is considered in this formula.
 - 2 Where a joint venture partnership Tenders as a prime contractor, the joint venture agreement must state the percentage of the contract value that will be managed or executed by the parties thereto. In this regard the adjudication points for HDI equity ownership shall be calculated on the pro rata contribution of each of the parties to the joint venture partnership.

APPLICATION FORM FOR THE AWARD OF POINTS IN RESPECT OF THE STATUS OF AN ENTERPRISE

Name of firm:

We apply on behalf of our firm for Tender adjudication points in respect of:

- Historically Disadvantaged Individual (HDI) Status, the relevant percentage being% (As per the City of Cape Town's database)

NOTE: Where the Tenderer is a Joint Venture Partnership the % contribution of each partner shall be stated below.

Partner	% Contribution	Partner	% Contribution
_____	<input type="text"/>	_____	<input type="text"/>

NB If you have not previously registered, documents may be obtained from the Tradeworld Office – Telephone No. (021) 680 4666. Tenders/Contracts (including suppliers and services) who are not registered and verified on the Western Cape Suppliers Database are not precluded from submitting Tenders, but must be registered and verified before closing date in order to qualify for preference points. All parties to the Joint Venture Agreement must be registered and verified on the Western Cape Supplier Database.

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the firm confirms that he/she understands the conditions under which such points are awarded and confirms that:

- (a) the firm satisfied the conditions pertaining to the granting of Tender adjudication points.
- (b) the firm undertakes to execute a substantial portion of the contract with its own resources.
- (c) The firm will not subcontract any portion of the Contract where it has the in-house competence and expertise to perform the work.

Signature:

Date:

14. DECLARATION OF INTERESTS

1. No Tender 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 Tender. In view of possible allegations of favouritism, should the resulting Tender, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the Tenderer or their authorised representative declare their position in relation to the evaluating/adjudicating 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 Tender.

3.1 Full Name:

3.2 Identity Number:

3.3 Are you at present in the service of the state? * **YES / NO**

3.3.1 If so, furnish particulars.

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

3.4.1 If so, furnish particulars.

3.5 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 Tender? * **YES / NO**

3.5.1 If so, furnish particulars.

* Municipal Supply Chain Management 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.

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

3.6.1 If so, furnish particulars.

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

3.7.1 If so, furnish particulars.

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

3.8.1 If so, furnish particulars.

CERTIFICATION

I, **THE** **UNDERSIGNED,**

(FULL NAME IN BLOCK LETTERS)

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 Tenderer

* See footnote on previous page

15. TRANSPARENCY AND DISCLOSURE OF POTENTIAL CONFLICTS OF INTERESTS

If there is any known potential conflict of interests or if any owner, partner or member of the Tenderer is an official, an employee or a councillor of the City of Cape Town, or is related to an official, an employee or a councillor of the City of Cape Town, that relationship must be placed on record here:

This is intended to guide the adjudication process with reference to the relevant sections of the Municipal Systems Act and the Municipal Finance Management Act. It should be noted that failure to provide complete information may render any contract awarded on the basis of this Tender subject to invalidation.

Should you be aware of any corrupt or fraudulent transactions relating to the Tendering process of the City of Cape Town, please contact the following:

Fraud.hotline@capetown.gov.za

or

the City's anti-corruption hotline at **0800 32 31 30** (toll free)

Information submitted will need to be substantiated, but sources will be regarded as confidential.

16. AUTHORISATION FOR THE DEDUCTION OF OUTSTANDING AMOUNTS OWED TO COUNCIL

CCTPF 005: Authorisation to deduct outstanding amounts



To: THE CITY MANAGER, CITY OF CAPE TOWN

From: _____
(Name of Tenderer or consortium)

AUTHORISATION FOR THE DEDUCTION OF OUTSTANDING AMOUNTS OWED TO COUNCIL

Extract from Supply Chain Management Policy, Clause 45.1:

“The City Manager may reject the Tender or quote of any person if that person or any of its directors has: 45.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months; ...”

I, THE UNDERSIGNED,

_____,
(FULL NAME IN BLOCK LETTERS)

hereby authorise the City of Cape Town to deduct the full amount outstanding by the business organisation / Director / Partner, etc from any payment due to us / me.

.....
Signature
THUS DONE AND SIGNED for and on behalf on the Tenderer / Contractor

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)

17. CERTIFICATE FOR MUNICIPAL SERVICES AND PAYMENTS TO SERVICE PROVIDER

CCTPF 004: Cert Municipal Services



To: THE CITY MANAGER, CITY OF CAPE TOWN

CERTIFICATE FOR MUNICIPAL SERVICES AND PAYMENTS TO SERVICE PROVIDER

Information required in terms of the City's Supply Chain Management Policy, Clauses 45.1 and 112.2

NAME OF THE TENDERER:

FURTHER DETAILS OF THE TENDERER/S; Proprietor / Director/s / Partners, etc:

Physical Business address of the Tenderer	Municipal Account number(s)

If there is not enough space for all the names, please attach the additional details to the Tender Document

Name of Director / Member / Partner	Identity Number	Physical residential address of Director / Member / Partner	Municipal Account number(s)

I, _____, the undersigned,

(full name in block letters)

certify that the information furnished on this declaration form is correct and that I/we have no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.

 Signature
THUS DONE AND SIGNED for and on behalf on the Tenderer / Contractor

at on the day of 20.....
(PLACE) (DATE) (MONTH) (YEAR)

Please Note:

Even if the requested information is not applicable to the Tenderer, the table above should be endorsed Not Applicable and THIS DECLARATION MUST STILL BE SIGNED

PREVIOUS EXPERIENCE**Annexure A****PLEASE INDICATE ALL RELEVANT PAST/CURRENT EXPERIENCE**

Applicable to this tender

No	Details	
1	Brief Description of Contract: _____ _____ Starting Date: _____ End Date: _____ Total Value of Contract awarded to you: R _____	Principal (Employer / Awarder of Contract): _____ (Company / Institution) Contact Person at Principal: _____ (First name or Initials, plus Surname) Telephone Number: _____
2	Brief Description of Contract: _____ _____ Starting Date: _____ End Date: _____ Total Value of Contract awarded to you: R _____	Principal (Employer / Awarder of Contract): _____ (Company / Institution) Contact Person at Principal: _____ (First name or Initials, plus Surname) Telephone Number: _____
3	Brief Description of Contract: _____ _____ Starting Date: _____ End Date: _____ Total Value of Contract awarded to you: R _____	Principal (Employer / Awarder of Contract): _____ (Company / Institution) Contact Person at Principal: _____ (First name or Initials, plus Surname) Telephone Number: _____
4	Brief Description of Contract: _____ _____ Starting Date: _____ End Date: _____ Total Value of Contract awarded to you: R _____	Principal (Employer / Awarder of Contract): _____ (Company / Institution) Contact Person at Principal: _____ (First name or Initials, plus Surname) Telephone Number: _____

FORM OF INDEMNITY

THE CITY MANAGER
City of Cape Town

INDEMNITY

Given by(Name of Company)

of

.....

(registered address of Company) a company incorporated with limited liability according to the Company Laws of the Republic of South Africa (hereinafter called the Contractor),

represented herein by

.....(Name of Representative) in his capacity as

.....(Designation) of the Contractor is

duly authorised hereto by a resolution dated

To sign on behalf of the Contractor.

WHEREAS the Contractor has entered into a Contract dated with the Municipality of the City of Cape Town (hereinafter called the Municipality) who require this indemnity from

the Contractor for

NOW THEREFORE THIS DEED WITNESSES that the Contractor does hereby indemnify and hold harmless the Municipality in respect of all loss or damage that may be incurred or sustained by the Municipality by reason of or in any way arising out of or caused by operations that may be carried out by the Contractor in connection with the aforementioned contract; and also in respect of all claims that may be made against the Municipality in consequence of such operations, by reason of or in any way arising out of any accidents or damage to life or property or any other cause whatsoever; and also in respect of all legal or other expenses that may be incurred by the Municipality in examining, resisting or settling any such claims; for the due performance of which the Contractor binds itself according to law.

SIGNATURE :

THUS DONE AND SIGNED for and on behalf on the Contractor.

At on the day of In the

presence of the subscribing witnesses.

AS WITNESSES

1.(Designation)

2.(Designation)

**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

OCCUPATIONAL HEALTH AND SAFETY ACT 1994 (Act No 85 of 1993)

TO BE COMPLETED AND SIGNED BY ALL MANDATARIES

NOTE : Section 1 (1)(XXVIII) of the Act defines a “mandatary” as including an Agent, a Contractor or a Sub-contractor.

AGREEMENT MADE AND ENTERED INTO BETWEEN
CITY OF CAPE TOWN

(Hereinafter referred to as the “PRINCIPAL”)

and

.....
Herein represented and duly authorised by its director/official
(hereinafter referred to as the “MANDATARY”)

WHEREAS the Occupational Health and Safety Act No 85 of 1993, as amended, (hereinafter called the “ACT”) provides that the principal shall be accountable for the compliance and application of the provisions of the ACT and more specifically Section 37(2) of the Act, with regard to the execution of work of whatever nature by private independent contractor specifically engaged by the PRINCIPAL for the purpose;

AND WHEREAS the contractor, so engaged. (Hereinafter called the “MANDATARY”) is statutory compelled in its/his own right as employer, to comply with the obligations prescribed by section 37(2) and other provisions of the ACT applicable to his employees;

AND WHEREAS the PRINCIPAL, has in fact engaged the services of the MANDATARY on account of the fact that the PRINCIPAL is not in the position to execute the work departmentally resulting in the MANDATARY’s presence on site for the specific purpose of executing the work by means of his own employees and is bound therefore, to adhere to the obligations and provisions of Section 37(2) of the ACT;

AND NOW THEREFORE, the PRINCIPAL and the MANDATARY, hereby agree as follows:

1. The MANDATARY hereby unconditionally accepts the responsibility and accountability for the relevant work or contract in accordance with the provisions of Section 37(2) of the ACT.
2. The MANDATARY undertakes to take due care that all machines, equipment and implements are in approved good order and state of repair and shall be utilised by any employee in its/his employ in a manner which fully complies with any and all relevant provisions of the ACT.
3. The MANDATARY hereby unconditionally grants the PRINCIPAL indemnity against any and all claims and steps that may be instituted against the PRINCIPAL on account of non compliance with the provisions of Section 37(2) of the ACT and any other relevant provision thereof.
4. The MANDATARY, without encroaching upon the indemnity granted to the PRINCIPAL as per paragraph 3 hereof undertakes to inform the PRINCIPAL summarily should the MANDATARY at any time during the execution of the specific contract, for whatever reason find that he cannot comply with the provision of the ACT and afore-mentioned indemnity

given to the PRINCIPAL or its/his inability to perform as per the Agreement or that compliance be detrimentally affected for whatever reason. In such an event the MANDATARY shall liaise with the PRINCIPAL , who however, reserves the right not to release the MANDATARY from the provisions of the Agreement between parties and the indemnity herein referred to unless otherwise agreed upon.

- 5. The MANDATARY hereby certifies that it/he has taken note of the addendums to this Agreement and unconditionally undertakes to comply with the provisions thereof, failing which it/he shall be fully liable for all consequential legal proceedings that may be instituted and indemnifies the PRINCIPAL against any action arising out of non compliance with Section 37(2) of the ACT.
- 6. The MANDATARY's sole responsibility in terms of this agreement terminates when the PRINCIPAL releases the MANDATARY from his obligations under the contract.
- 7. The MANDATARY undertakes to indemnify the PRINCIPAL in the same manner herein provided for, against any claims instituted on account of non compliance in terms of the ACT against subcontractors employed by the MANDATARY.
- 8. Appoint Mr/Mrs as our representative and the responsible person on site for the duration of my/our work on the premises of City of Cape Town in terms of Section 8(2)(i), GAR1, GSR 11, GMR 2 and EIR 4 & 5 of the Occupational Health and Safety Act.
- 9. Registration number with Compensation Commissioner:

THUS DONE AND SIGNED at.....on this.....day of 20....

AS WITNESSES:

1

PRINCIPAL
 (For and on behalf of City of Cape Town)

2

THUS DONE AND SIGNED at.....on this.....day of20....

AS WITNESSES:

1

MANDATARY
 (Contractor)

2