



MTUBATUBA MUNICIPALITY

TENDER NO. : **MTU26/2017/2018**

REQUEST FOR PROPOSALS (R.F.P)

REQUEST FOR PROPOSAL: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY

CLOSING DATE: 04 MAY 2018 AT 12H00

NAME OF SERVICE PROVIDER	
CONTACT PERSON	
E-MAIL ADDRESS	
TELEPHONE NUMBER	
FAX NUMBER	
PHYSICAL ADDRESS	
POSTAL ADDRESS	

Issued By:
MTUBATUBA MUNICIPALITY
P O Box 52
MTUBATUBA
3935
Tel: (035) 550 0069
Fax: (035) 555 0060

Enquiries
SCM Enquiries: Mr TS Cele
Technical Enquiries: Mr N Sawyerr

FOREWORD

This document consists of two distinct clusters, namely the TENDER and the CONTRACT.

The TENDER consists of two (2) parts, namely:

- **T1: Tendering Procedures** to be complied with by every tenderer submitting a tender offer; and
- **T2: Documents to be returned by the Tenderer**, including the returnable schedules and forms to be completed by each tenderer, some of which will eventually be incorporated into the contract between the successful tenderer and the Employer.

The CONTRACT consists of three (3) parts, namely:

- **C1: Agreements and Contract Data;**
- **C2: Pricing Data;**
- **C3: Scope of Work**

Note: Each Tenderer must complete the summary of tender for tender opening purposes included hereafter.

INDEX PAGE

<u>ITEM</u>	<u>Page</u>
TENDER ADVERT	2
TENDER	6
T1: TENDERING PROCEDURES	6
T1.1: TENDER NOTICE AND INVITATION TO TENDER	7
T1.2: TENDER DATA	8
T1.3: STANDARD CONDITIONS OF TENDER	21
T2: RETURNABLE DOCUMENTS	31
T2.1: LIST OF RETURNABLE DOCUMENTS	31
CONTRACT	73
C1: AGREEMENTS AND CONTRACT DATA	
C1.1: FORM OF OFFER AND ACCEPTANCE	73
C1.2: CONTRACT DATA	
C1.2.1: CONDITIONS OF CONTRACT	78
C1.2.3: AGREEMENT WITH ADJUDICATOR	81
C2: PRICING DATA	
C2.1: PRICING INSTRUCTIONS	83
C3: SCOPE OF WORK	
C3.1 INTRODUCTION AND BACKGROUND	87
C3.2 SCOPE OF SERVICES	87
C3.3 APPOINTMENT AND REMUNERATION	92
C3.4 SCOPE OF SERVICES REQUIRED	92
C3.5 GENERAL SPECIFICATION	93
STANDARD PROFESSIONAL SERVICES CONTRACT	67

MTUBATUBA



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TENDER NOTICE

1. BID INVITATION

Tenders are hereby invited from consulting engineers to be appointed on a panel of engineers to provide Electrical, Mechanical, Structural & Civil Engineering, Environmental, Project Management, Geotechnical, Transportation Engineering and Turnkey/Design and Construct for various projects at Mtubatuba Local Municipality for a period of three (3) year cycle **as and when required**.

Proposals are hereby invited in terms of Section 110 of the Local Government: Municipal Finance Management Act 56 of 2003 read with the Mtubatuba Municipal Supply Chain Management Policy for the.

Contract Name	Contract No.	Closing Date
APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY	MTU26/2017/2018	12h00 (midday) on 04 May 2018

The main activities in respect of the above request for proposals are as follows:

- Project feasibility study where necessary,
- Business Plan and writing of Funding applications,
- Project Design, and
- Project Management and Work Supervision
- Implementation (Turnkey) where necessary.

NOTE: 1) The service providers will have to conduct feasibility studies, formulate project Business Plans and Funding Applications and project design at their own cost for projects other than Municipal Infrastructure Grant (MIG). These services will be reimbursed from the project budget should funds be obtained for the intended project.

2) Fess for the consulting activities will be as per the Tariff of Fees for Persons Registered in Terms of the Engineering Profession Act, 2000, (Act No.46 of 2000) Gazette ECSA rates.

Invalid or non-submission of the following documents will lead to immediate disqualification of the tender:

- Certificate of authority for signature
- Company registration certificate and profile
- Certified copies of company registration documents together with certified copies of company shareholders' IDs
- Original valid tax clearance certificate or status pin

- MBD 4 declaration of interest

The following conditions will apply:

- It is compulsory to submit a copy of the CK1/CK2 document,
- A valid B-BBEE status level verification certificate must be submitted. Failure to do so may result in scoring zero preference point and prospective Tenderers are requested to take note that the directives applicable in respect of the B-BBEE as prescribed in the Preferential Procurement Regulations, 2011. **80/20** principle will apply in the adjudication of this bid.
- Proof of Registration on Central Supplier Database (CSD)
- All bids submitted shall be valid for 90 days after the bid closing date
- Bidders will be required to show compliance with the Preferential Procurement Policy and empowerment Act. Joint ventures and sub-contractors with HDI, especially Local Content, Female and Youth will serve as an added advantage. In case of a Joint Venture a valid Joint Venture agreement should be provided to Mtubatuba Local Municipality.
- Mtubatuba Local Municipality is not obliged to award this tender to a bidder scoring the highest points or the lowest price, in this regards, preference will be given to the Mtubatuba Local Based companies or companies that form JV's or subcontract at least 30% of their work to Mtubatuba Local Municipality based companies, as an objective criteria contemplated in section 2 (1) (f) of the PPPFA. The council reserves the right to increase or decrease quantities as indicated in the technical specification.

2. DOCUMENTS

Tender documents will be available on the municipal website (www.mtubtuba.gov.za) from **09 April 2018, 08H00 to the 13 April 2018, 16H00.**

3. BID ENQUIRIES

Bid enquiries and technical matters shall be directed in writing to the relevant representative as detailed below:

Enquiries	CONTACT PERSON	TELEPHONE	FAX
Technical related	Mr. N Sawyer	035 550 6402	035 550 0060
	Mr. T Mkhumbuzi	035 550 6402	
SCM Related	Mr T.S Cele	035 550 6422	035 550 0060

4. CLOSING DATE

Sealed documents, marked ***“MTU26/2017/2018: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY”*** must be placed in the tender box Box at the Reception at the Mtubatuba Municipal Offices at Lot 105 Inkosi Mtubatuba Road, Mtubatuba, 3935 no later than **04 May 2018** at 12H00 where the tenders will be opened in public and recorded at the municipality. **Late Bids will NOT be considered.**

No facsimiled or telegraphic tenders will be accepted. Tenders will be considered in terms of Supply Chain Management Policy. The Bid Adjudication Committee reserves the right not to accept the lowest or any tender. Canvassing in the gift of Council is strictly prohibited and will lead to disqualification of the Tender.

Mtubatuba Municipality subscribes to the preferential Procurement Framework Act, Act 5 of 2000. 80/10 principle will apply to this bid. Mtubatuba Local Municipality does not bind itself to accept the lowest or any bid and reserves the right to accept the whole or any part of the bid.

**MR. J.A MNGOMEZULU
MUNICIPAL MANAGER**

PLEASE TAKE NOTE OF THE FOLLOWING

Completion of tender document

- ✓ **The tender documents should be completed in full i.e. MBD 4, MBD 5, MBD 6.1, MBD 8, MBD 9, SECTION 38 and the Form of Offer, including signatures of witnesses on all above stated forms.**

PLEASE READ AND FOLLOW INSTRUCTIONS ON EACH PAGE OF THE FOLLOWING FORMS AND FILL THEM AS INSTRUCTED

NB!! FAILURE TO ADHERE TO THE BELOW MENTIONED POINTS WILL INVALIDATE THE TENDER AND RESULT IN DISQUALIFICATION

- Compulsory Enterprise Questionnaire must be fully completed and signed. In case of a Joint Venture, spate questionnaires in respect of each partner must be completed and submitted (If Applicable)
- Authority of Signatory: Complete and sign the form (Please attach a copy of Signatory Resolution where Instructed)
- MBD 4: only tick the appropriate answer. Please informed that whether you scratch out, tick or circle your answer will be where the pen ink is reflecting.
- In case of Joint Venture or multi-directors, separate MBD 4 forms in respect of each director must be completed and submitted.
- MBD 5: (FOR ALL PROCUREMENT EXPECTED TO EXCEED 10 MILLION) only tick the appropriate answer, whether you scratch out, tick or circle your answer will be where the pen ink is reflecting.
- In case of Joint Venture, separate MBD 5 forms in respect of each company must be completed and submitted together with Audited Annual Financial Statements for three (3) consecutive Financial Years.
- MBD 6.1: as per instruction on the document.
- MBD 8: only tick the appropriate answer box, whether you scratch out, tick or circle your answer will be where the pen ink is reflecting.
- MBD 9: must be fully completed and signed
- SECTION 38: only tick the appropriate answer box, whether you scratch out, tick or circle your answer will be where the pen ink is reflecting. Must be fully completed and signed, including signatures of witnesses.

- Note that should you answer “NO” to any of the declaration questions on Section 38 Form, then supporting documents MUST be attached.
- Form of Offer: The Amount on the form of Offer and Acceptance must be written properly in words as it is pronounced verbally. Must be fully completed and signed, including signatures of witnesses.

It is compulsory for tenderers to initial each and every page of the tender document.

THE FOLLOWING MANDATORY DOCUMENTS MUST BE SUBMITTED TOGETHER WITH THE BID DOCUMENTS

- ✓ Certified copy of CK document (Proof that the company is registered with CIPRO/CIPC)
- ✓ Valid Tax Clearance Certificate or a letter with SARS Letterhead indicating the Pin issued for verification
- ✓ Visible, valid and recently certified (not older than (3) three months on the date of tender closure) ID Copies of each director. Bidders are requested not to submit copies of certified copies.
- ✓ Current statement for water and electricity for each directors address as they appear on the CK document must be attached; or
 - Valid lease agreement of the director/s leasing premises
 - Original letter from tribal authority not older than three (3) months if the company operates from a tribal land;
 - If the rates and taxes account are not in the name of the company the attached statement must be accompanied by either of the following:
 - The original affidavit from the property owner whose names are reflecting on the Municipal rates and taxes account, to confirm that the director resides in their property
 - The original affidavit from the director/s confirming that the reside in a property that is not in their names.
 - An original affidavit if the address of the director/s on the CK is different from the address on the rates and taxes submitted clarifying the difference in the addresses.
- ✓ Current statement for water and electricity for the company’s address appearing on the CK document must be attached; or
 - Valid lease agreement of the director/s leasing premises
 - Original letter from tribal authority not older than three (3) months if the company operates from a tribal land;
 - If the rates and taxes account are not in the name of the company the attached statement must be accompanied by either of the following:
 - The original affidavit from the property owner whose names are reflecting on the Municipal rates and taxes account, to confirm that the company operates from their property
 - The original affidavit from the director/s confirming that the company operates from a property that is not in their names.
 - An original affidavit if the address of the company on the CK is different from the address on the rates and taxes submitted clarifying the difference in the addresses.
- ✓ BIDS WILL NOT BE AWARDED TO BIDDERS OWING RATES AND TAXES FOR OVER 90 DAYS AT THE TIME OF CLOSURE
- ✓ Required CIDB Grading Certificate where applicable
- ✓ Tax Clearance, BBBEE and the CIDB Grading certificate (applicable to construction projects) will be verified with the relevant institutions

- ✓ A valid and certified (not older than (3) three months on the date of tender closure) BBBEE Certificate for the company. In case a joint venture a consolidated BBBEE certificated is required, and not two (2) separate certificates (Failure to do so will result in no points scored for BBBEE)
- ✓ Signatory resolution: Please attached a copy of signatory resolution where instructed
- ✓ If the submission is from a Joint Venture, then a JV agreement must be attached

NB!! FAILURE TO ATTACHED ANY OF MENTIONED RETURNABLE DOCUMENTS WILL INVALIDATE THE TENDER AND RESULT IN DISQUALIFICATION

TENDER

T1: TENDERING PROCEDURES

T1 TENDERING PROCEDURES

T1.1: TENDER NOTICE AND INVITATION TO TENDER

The Mtubatuba Municipality is responsible for the provision of infrastructure to the communities falling under its entire area of jurisdiction. The Mtubatuba Municipality, in its capacity as a Local Municipality receives funding i.e. Municipal Infrastructure Grant, Equitable Share, Small Town Rehabilitation etc. from National and Provincial Government for Infrastructure Development.

Competent and experienced Engineering Consultants are hereby invited to tender for:-

TENDER NO. : MTU26/2017/2018: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY

Tender documents:

The Tender document will be available as follow:

Wbsite : www.mtubatuba.gov.za

Date and Time: 9 April 2018, 08H00 to 13 April 2018, 16H00

Tendering and Technical enquiries should be addressed to:

Contact Person : Mr Nathaniel Sawyerr
Telephone No. : (035) 550 0069
E-mail address : sawyerrn@mtubatuba.gov.za

Or

Contact Person : Mr Thokozani Mkhumbuzi
Telephone No. : (035) 550 0069
E-mail address : mkhumbuzi.technical@mtubatuba.gov.za

Closing date and time for the submission of tenders:

Date : Wednesday, 26 February 2014

Time : 12:00

Venue : Mtubatuba Municipality, Lot 52 Nkosi Mtubatuba Rd. Mtubatuba 3935

Telephonic, telegraphic, telex, facsimile, electronic or e-mail, and late tenders will not be accepted. Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data. Only tenders that have been placed in the tender box by 12h00 on 04 May 2018 will be considered.

Mtubatuba Municipality reserves the right not to award this tender to any Tenderer(s).

T1.2: TENDER DATA

F.1 GENERAL

The Conditions of Tender applicable to this contract are the Standard Conditions of Tender as contained in Annexure F of the CIDB Standard for Uniformity in Construction Procurement, Board Notice 136 Government Gazette No 38960 of 10 July 2015 (which can be obtained from www.cidb.org.za).

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

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

F.1.1 The Employer for this Contract is: Mtubatuba Municipality, Lot 105 Nkosi Mtubatuba Rd. Mtubatuba 3935

F.1.2 Tender Documents

(a) The Tender Document

TENDER

T1: Tendering Procedures

- T1.1: Tender Notice and Invitation to Tender
- T1.2: Tender Data
- T1.3: Standard Conditions of Tender
- T1.4: Evaluation Criteria

T2: Returnable Documents

- T2.1: List of Returnable Documents
- T2.2: Returnable Schedules

CONTRACT

C1 Agreements and Contract Data

- C1.1: Proposal
- C1.2: Contract Data

C2 Pricing Data

- C2.1: Pricing Instructions

C3 Scope of Work

- C3.1: Description of the Works

C4 Evaluation Criteria

- (b) **“General Conditions of Contract, as per Standard Professional Services Contract (September 2015) 2nd Edition of CIDB Document 1015 as issued by the Construction Industry Development Board)** appended to this document
- (c) **The Occupational Health and Safety Act No 85 and Amendment Act No 181 of 1993, and the Construction Regulations 2003 (Government Gazette No 25207 of 18 July 2003, Notice No R1010).** This document is obtainable separately, and Tenderers shall obtain their own copies.
- (d) In addition Tenderers are advised, in their own interest, to obtain their own copies of the following acts, regulations and standards referred to in this document as they are essential for the Tenderer to get acquainted with the basics of construction management, the implementation of preferential construction procurement policies and participation of targeted enterprise and labour.
 - (i) The Construction Industry Development Board Act No 38 of 2000 and the Regulations in terms of the CIDB Act 38/2000, Government Notice No 692 of 9 June 2004,
 - (ii) SANS 1921:2004 Construction and Management, all Parts

The Tender Document shall be obtained from the Employer or his/her authorized representative at the physical address stated in the Tender Notice, upon payment of the deposit stated in the Tender Notice.

F.1.4 The Employer’s Agent is:

Contact Person:	Mr. Nathaniel Sawyerr
Telephone No.:	(035) 550 0069
E-mail address:	sawyern@mtubatuba.gov.za

F.2.1 Eligibility

A Tenderer will not be eligible to submit a tender if:

- (a) the Tenderer submitting the tender is under restrictions or has principals who are under restriction to participate in the Employer’s procurement due to corrupt or fraudulent practices;
- (b) the Tenderer does not have the legal capacity to enter into the contract;
- (c) the Tenderer submitting the tender is insolvent, in receivership, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her business activities, or is subject to legal proceedings in respect of the foregoing;
- (d) the Tenderer does not comply with the legal requirements stated in the Employer’s procurement policy;
- (e) the Tenderer cannot provide proof that he is in good standing with respect to duties, taxes, levies and contributions required in terms of legislation applicable to the work in the contract.

F.2.10.3 Rates and Prices

Rates will be as stipulated by the Engineering Council of South Africa read with MIG policy guidelines

F.2.13 Submitting a Tender Offer

F.2.13.3 Tender proposals shall be submitted as an original only.

F.2.13.5 Delivery of Tender

The Employer's address for delivery of tender offers and identification details to be shown on each tender offer package are :

Location of Tender Box:

Municipal Offices, Mtubatuba Municipality, Lot 105 Nkosi Mtubatuba Rd. Mtubatuba 3935

Identification details: TENDER NO. :

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F.2.13.6 A two-envelope procedure will not be followed.

F.2.15 Closing Time

The closing time for submission of Tender Offers is: **12h00 (Midday), 04 May 2018**

Telephonic, telegraphic, telex, electronic or e-mail tenders will not be accepted.

F.2.16 Tender validity

The Tender Offer validity period is three years.

F.2.17 Clarification of Tender Offer after submission

Construction Industry Development Board Notice 92 of 2006 Item 3.3: Amendments to Clause F.2.17 of the Standard Conditions of Tender will apply.

F.2.18 The bidder is required to submit with his tender a Certificate of contractor Registration issued by the Construction Industry Development Board and a copy of an original valid Tax Clearance Certificate issued by the South African Revenue Services.

Where a bidder satisfies CIDB contractors grading designation requirement through joint venture formation, such bidder must submit the Certificates of Contractor Registration in respect of each partner.

F.2.19 Access

No access is presumed required in this tender

F.2.23 The Tenderer is required to submit with his tender all documentation as stated in

the Part T2: Returnable Documents

The following documents **must** be provided with the tender:

- 1 Proof of registration on Central Supply Database (CSD)
- 2 SARS Tax Compliance status Pin
- 3 Certified ID copies of members, directors, trustees etc
- 4 Company/CC/Trust/Partnership Registration Certificate
- 5 ECSA Professional (Pr) Status Registration Certificate (Company Directors/ Members)
- 6 Municipal Rates and Services Certificate or Lease Agreement
- 7 BBB EE Certificate
- 8 Confirmation of SETA NQF 5 & 7 for LIC
- 9 Professional Indemnity Insurance
- 10 Registration Certificates with Relevant Professional Institutions

(Provision is made in Section T2.1 for the inclusion of some of the forms listed above.)

F.3.4 Opening of Tender Submissions

The time and location for opening of the tender offers are:

Time: 12H00

Date: 04 May 2018

Location / Venue: Municipal Council Chambers, Lot 105 Nkosi Mtubatuba Rd. Mtubatuba 3935

The procedure for the evaluation of responsive tenders is Method 2

The financial offer will be scored using Formula 2 (option 1) where the value for W1 is

- 1) 90 where the financial value inclusive of VAT of all responsive tenders received have a value in excess of R 500 000; or**
- 2) 80 where the financial value inclusive of VAT of one or more responsive tenders offers equals or is less than R 500 000.**

F.3.7 Grounds for rejection and disqualification

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

F.3.8 Test for Responsiveness

The Employer will determine, on opening and before detailed evaluation, whether each tender offer properly received:

- (a) meets the requirements of these Conditions of Tender,
- (b) has been properly and fully completed and signed, and

(c) is responsive to the other requirements of the tender documents.

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

- Detrimentially affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- change the Employer's or the Tenderer's risks and responsibilities under the contract, or
- affect the competitive position of other Tenderers presenting responsive tenders, if it were to be rectified.

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

F.3.11 Evaluation of Tender Offers

F.3.11.1 Method 4: Quality, Financial Offer and Preferences

Evaluation will be done using a two stage process in terms of National Treasury Circular No. 53. The procedure to be used for the allocation of points of responsive bids will be Method 4 with the 90/10 Preference Point System. Bids shall be scored for quality on stage one only to pre-qualify bids and only those bids that meet the specified minimum 70% total score for quality shall be considered further on stage two where they will then be evaluated on the basis of the 90/10 Preference Points System.

F.3.11.3 Stage 1: Scoring quality (functionality)

Only service providers who will achieve a minimum score of 75 % of the total available points will qualify for stage two of the evaluation.

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
1) Company Experience	Company Experience – Previous Similar Projects (i.e. Roads, Building,	Max 15
	I) 0 – 5 Previous Similar Projects	5
	II) 6 – 10 Previous Similar Projects	10
	III) 10 and more Previous Similar Projects	15
	Company Experience – Projects Value	Max 25

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
	I) R0 – R1 000 000.00 II) R1 000 000.00 – R5 000 000.00 III) R5 000 000.00 and above	15 20 25
2) Proposed Team Structure, Qualifications And Experience Of Key Personnel	Based on Qualifications Curriculum Vitae submitted with database form in the returnable schedules: a) Profession Engineer or Technologist. Technical Skills relevant experience with: I) Pr Eng. / Pr Tech Eng. with 5 - 9 years relevant experience II) Pr Eng. / Pr Tech Eng. with 1 - 4 years relevant experience III) Pr Eng. / Pr Tech Eng. no relevant experience IV) No Profession registration with relevant body	Max 10 10 5 1 0
	Resident Engineer I) 0 – 5 years II) 6 – 10 years III) 11 and above	Max 10 1 5 10
3) Submission/Format of Company Profile	Composition of Team e.g. professional team, proof of Professional membership where applicable. Submission of company profiles with relevant skills and Experience: I) Poor - No Company Profiles submitted	Max 5 0

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
	II) Fair - Submission of Incomplete Company Profiles No proof of professional membership, Personnel certifications / Qualifications III) Excellent - Submission of all company profiles and proof of professional membership, personnel Certifications / Qualifications	2 5
4) Quality Assurance and Quality Control Plan	I) Adequate Quality Control Plan Submitted II) Comprehensive Quality Management Plan III) High level Quality Management Plan IV) No Quality Management Plan, adequacy and completeness of tenderer's own quality assurance policy and control procedures is poor.	Max 5 5 3 1 0
5) Client Reference Letters of Completed Projects in relevant Discipline	Reference's assertion of performance on previous relevant to field of expertise: projects completed: I) 3 positive references letters II) 2 positive references letter III) 1 positive reference letters IV) No positive reference letters	Max 5 5 3 1 0
6) Women and Youth	Bidders to demonstrate female and youth ownership by providing certified shareholder certificate and registered as professionals with	Max 10

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
	ECSA. I) Female and youth (owned/directors) and Registered > 50 – 100% II) Female and youth (owned/directors) not Registered < 50% III) Non-Submission of female and youth ownership	10 5 0
7) LIC and SMME Development	Bidders to demonstrate Labour Intensive and Construction Methods and SMME Development through providing proof of LIC certificate accreditation: I) Proof of NQF Level 7 accreditation: Develop and promote Labour based Construction Strategies II) No Submission, Irrelevant Evidence.	Max 5 5 0
8) Locality	Bidders to demonstrate locality by providing the recent municipal water or electricity or rates account or lease agreement in the name of the bidding entity: I) Company Head/Branch Office based in Mtubatuba II) Company Head/Branch Office based in KwaZulu-Natal III) Non-Submission, Irrelevant Evidence, Incomplete Evidence	Max 10 10 2 0
Total		100
Minimum points to be scored for Functionality is 75 of the total Points		

Only Service Providers' who score a minimum score of **75 points** shall be considered for

further evaluation. Service Providers' who fail to score a minimum score of 75 points shall be disqualified and will not be considered for further evaluation

Total points = 100 Points

Threshold = 75 points

It is Service Providers' responsibility to ensure they provide all returnable documents to avoid losing points.

Stage 2: Scoring Financial Offer: 80/20 preference points system will be used for evaluation.

(a) Financial Offer

The financial offer will be scored using the following formula
80/20

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

Where:

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

The Other 20 points of the Scoring System

A maximum of 20 points may be awarded to a bidder for preference points based on the preference points claim form in terms of the preferential procurement regulations

F.3.11.4 PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:
 - the 80/20 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 The value of this bid is estimated not to exceed R50 000 000 per year (all applicable taxes included) and therefore the 80/20 System shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
 - (a) Price; and
 - (b) B-BBEE Status Level of Contribution.
- 1.3.1 The maximum points for this bid are allocated as follows:

POINTS

1.3.1.1	PRICE	80
1.3.1.2	B-BBEE STATUS LEVEL OF CONTRIBUTION	20
	Total points for Price and B-BBEE must not exceed	100

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

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

2. DEFINITIONS

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

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

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

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

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

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

2.7 “**consortium or joint venture**” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

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

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

2.10 “**Firm price**” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or

regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;

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

3. ADJUDICATION USING A POINT SYSTEM

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

drawing of lots.

4. POINTS AWARDED FOR PRICE

Price shall constitute 90 points and shall be calculated as per Clause F.3.11.1

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

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

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

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every

separate bid.

- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

F.3.13 Acceptance of Tender Offer

F.3.13.1 Tender Offers will only be accepted on condition that:

- (a) The tender offer is signed by **a person authorized to** sign on behalf of the Tenderer;
- (b) A valid original **Tax Clearance Certificate** is received **prior to the evaluation of tenders** which has sufficient validity to ensure the process is adequately covered.
- (c) Tenderer who submitted a tender is not a Joint Venture.
- (d) The Tenderer or a competent authorized representative of the tenderer who submitted the tender has attended the compulsory briefing meeting.

F.3.18 Copies of contract

The number of paper copies of the signed contract to be provided by the Employer is one.

F.3.19 Non Refundable Tender Charge

The non refundable tender fee paid for this document is relevant only for this tender. The Tenderer who purchases this document is the only Tenderer who will be allowed to submit a tender for this contract i.e. No other Tenderer will be allowed to use this document to submit a tender, be it the original or a photocopied specimen. Should this occur, all who are party to this will not be considered in the adjudication process.

F.3.20 Appeal Process

In terms of Regulation 49 of the Public Supply Chain Management Regulations persons aggrieved by decisions or actions taken by Impendle Municipality, may lodge an appeal within 14 days of the decision or action, in writing to Mtubatuba Municipality.

Tenderers are advised that the following is the appeal process and in dealing with these appeals the Municipal Manager shall follow the following procedure:

1. The appeal (clearly setting out the reasons for the appeal) and queries with regard to decision of award are to be directed to the office of the Municipal Manager, Attention: Manager: Supply Chain Management, Mtubatuba Municipality, P O Box 52, Mtubatuba, 3935
2. A copy of the appeal will be forwarded to the Chairperson of the Bid Adjudication Committee, who must provide a response in writing within seven days.
3. In the event that there are allegations made against third parties, they will also be given an opportunity to respond to the allegations within seven days.
4. These responses will then be sent to the Appellant for a reply within five days.
5. The appeal will be considered on these written submissions, unless the appeal authority is of the view that there is a need for oral submissions, in which case, the Appellant will be notified of the date, place and time of such hearing.
6. The Appeal Authority will consider the appeal and may confirm, vary or revoke the decision of the Committee, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
7. The Appeal Authority must commence with the appeal within six weeks and decide the appeal within a reasonable period.

F.3.21 Prohibition on Awards to Persons in the Service of the State

Regulation 44 of the Supply Chain Management Regulations states that the Public Entity may not make any award to a person:-

- (a) who is in the service of the State;
- (b) if that person is not a natural person, of which any Director, Manager, Principal, Shareholder or Stakeholder is a person in the service of the State; or who is an Advisor or Consultant contracted with the public entity.

T1.3: STANDARD CONDITIONS OF TENDER

(These Standard Conditions of Tender have been reproduced, without any changes, from Appendix A of the CIDB Standardized Construction Procurement Documentation for Engineering Construction Works, 5 August 2005)

F.1 General

F.1.1 Actions

The Employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently.

F.1.2 Tender Documents

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

F.1.3 Interpretation

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

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

F.1.3.3 For the purposes of these conditions for the calling for expressions of interest, the following definitions apply:

- (a) **comparative offer/ Rates** means the Tenderer's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration;
- (b) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the Employer or its staff or agents in the tender process; and
- (c) **fraudulent practice** means the mis-representation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the Employer, including collusive practices intended to establish prices at artificial levels.

F.1.4 Communication and Employer's Agent

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

F.1.5 The Employer's Right to Accept or Reject any Tender Offer

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

F.1.5.2 The Employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the Tenderer.

F.2 TENDERER'S OBLIGATIONS

F.2.1 Eligibility

Submit a tender offer only if the Tenderer complies with the criteria stated in the tender data and the Tenderer, or any of his/her principals, is not under any restriction to do business with Employer.

F.2.2 Cost of Tendering

Accept that the Employer will not compensate the Tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer satisfy requirements.

F.2.3 Check Documents

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

F.2.4 Confidentiality and Copyright of Documents

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

F.2.5 Reference Documents

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

F.2.6 Acknowledge Addenda

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

F.2.7 Site Visit and Clarification Meeting

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

F.2.8 Seek Clarification

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

F.2.9 Insurance

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

F.2.10 Pricing the Tender Offer

F.2.10.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful Tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

F.2.10.2 Show VAT payable by the Employer separately as an addition to the tendered total of the prices.

F.2.10.3 Provide rates and prices that are fixed not exceeding 14% of the construction value.

F.2.10.4 State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

F.2.11 Alterations to Documents

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

F.2.12 Alternative Tender Offers

F.2.12.1 Submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted. The alternative tender offer is to be submitted with the main tender offer together with a schedule that compares the requirements of the tender documents with the alternative requirements the Tenderer proposes.

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

F.2.13 Submitting a Tender Offer

F.2.13.1 Submit a tender offer to provide the whole of the works, services or supply identified in the contract data, unless stated otherwise in the tender data.

F.2.13.2 Return all returnable documents to the Employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing in black ink.

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

F.2.13.4 Sign the original and all copies of the tender offer where required in tender. Signatories for Tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the Employer shall hold liable for the purpose of the tender offer.

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

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

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

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

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

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

F.2.15 Closing Time

F.2.15.1 Ensure that the Employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Proof of posting shall not be accepted as proof of delivery. The Employer shall not accept tender offers submitted by telegraph, telex, facsimile or e-mail, unless stated otherwise in the tender data.

F.2.15.2 Accept that, if the Employer extends the closing time stated in the tender data for

any reason, the requirements of these conditions of tender apply equally to the extended deadline.

F.2.16 Tender Offer Validity

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

F.2.16.2 If requested by the Employer, consider extending the validity period stated in the tender data for an agreed additional period.

F.2.17 Clarification of Tender Offer after Submission

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

F.2.18 Provide Other Material

F.2.18.1 Provide, on request by the Employer, any other material that has a bearing on the tender offer, the Tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the Employer for the purpose of a full and fair risk assessment. Should the Tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the Employer's request, the Employer may regard the tender offer as non-responsive.

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

F.2.19 Inspections, Tests and Analysis

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

F.2.20 Submit Securities, Bonds, Policies, etc.

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

F.2.21 Check Final Draft

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

F.2.22 Return of Other Tender Documents

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

F.2.23 Certificates

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

F.3 THE EMPLOYER'S UNDERTAKINGS

F.3.1 Respond to Clarification

Respond to a request for clarification received up to five working days prior to the tender closing time stated in the Tender Data and notify all Tenderers who drew procurement documents.

F.3.2 Issue Addenda

If necessary, issue addenda that may amend or amplify the tender documents to each Tenderer during the period from the date of the Tender Notice until seven days before the tender closing time stated in the Tender Data. If, as a result a Tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, will then notify it to all Tenderers who drew documents.

F.3.3 Return Late Tender Offers

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

F.3.4 Opening of Tender Submissions

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

F.3.4.2 Announce at the opening held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each Tenderer whose tender offer is opened, the total of his/her prices, preferences claimed and time for completion, if any, for the main tender offer only.

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

F.3.5 Two-Envelope System

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

F.3.5.2 Evaluate the quality of the technical proposals offered by Tenderers, then advise Tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of Tenderers, who score in the quality evaluation above the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical

proposals and the total price and any preferences claimed. Return unopened financial proposals to Tenderers whose technical proposals failed to achieve the minimum number of points for quality.

F.3.6 Non-Disclosure

Not disclose to Tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful Tenderer.

F.3.7 Grounds for Rejection and Disqualification

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

F.3.8 Test for Responsiveness

Determine, on opening and before detailed evaluation, whether each tender offer properly received:

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

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

- detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- change the Employer's or the Tenderer's risks and responsibilities under the contract, or
- affect the competitive position of other Tenderers presenting responsive tenders, if it were to be rectified.

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

F.3.9 Arithmetical Errors

Check responsive tender offers for arithmetical errors, correcting them in the following manner:

- Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.
- If a Bill of Quantities (or Schedule of Quantities or Schedule of Rates) applies and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there

is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate will be corrected.

- Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the Tenderer's addition of prices, the total of the prices shall govern and the Tenderer will be asked to revise selected item prices (and their rates if a Bill of Quantities applies) to achieve the tendered total of the prices.

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

F.3.10 Clarification of a Tender Offer

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

F.3.11 Evaluation of Tender Offers

F3.11.1 General

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate it using the tender evaluation method that is indicated in the Tender Data and described below:

Method 1: Financial offer	<ol style="list-style-type: none"> 1) Rank tender offers from the most favourable to the least favourable comparative offer. 2) Recommend highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 2: Financial offer and preferences	<ol style="list-style-type: none"> 1) Score tender evaluation points for financial offer. 2) Confirm that Tenderers are eligible for the preferences claimed and if so, score tender evaluation points for preferencing. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend Tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3: Financial offer and quality	<ol style="list-style-type: none"> 1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend Tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer and quality	<ol style="list-style-type: none"> 1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer.

preferences

- 3) Confirm that Tenderers are eligible for the preferences claimed, and if so, score tender evaluation points for preferencing.
- 4) Calculate total tender evaluation points.
- 5) Rank tender offers from the highest number of tender evaluation points to the lowest.
- 6) Recommend Tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

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

F.3.11.3 Scoring Quality (functionality)

Score quality in each of the categories stated in the Tender Data and calculate total score for quality.

F.3.12 Insurance Provided by the Employer

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

F.3.13 Acceptance of Tender Offer

F.3.13.1 Accept tender offer only if the Tenderer satisfies the legal requirements stated in the Tender Data.

F.3.13.2 Notify the successful Tenderer of the Employer's acceptance of its tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period. Providing the form of offer and acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the Employer and the successful Tenderer as described in the form of offer and acceptance.

F.3.14 Notice to Unsuccessful Tenderers

After the successful Tenderer has acknowledged the Employer's notice of acceptance, notify other Tenderers that their tender offers have not been accepted.

F.3.15. Prepare Contract Documents

If necessary, revise documents that shall form part of the contract and that were issued by the Employer as part of the tender documents to take account of:

- (a) addenda issued during the tender period,
- (b) inclusion of some of the returnable documents,
- (c) other revisions agreed between the Employer and the successful Tenderer, and
- (d) the schedule of deviations attached to the form of offer and acceptance, if any.

F.3.16 Issue Final Contract

Prepare and issue the final draft of contract documents to the successful Tenderer for acceptance as soon as possible after the date of the Employer's signing of the form of offer and acceptance (including the schedule of deviations, if any). Only those documents that the conditions of tender require the Tenderer to submit, after acceptance by the Employer, shall be included.

F.3.17 Complete Adjudicator's Contract

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected Adjudicator at the same time as the main contract is signed.

F.3.18 Provide Copies of the Contracts

Provide to the successful Tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

T2: RETURNABLE DOCUMENTS

T2.1 LIST OF RETURNABLE DOCUMENTS

The Tender Document must be submitted as a whole. All forms must be properly completed as required, and the document shall not be taken apart or altered in any way whatsoever. The list of returnable documents comprises the following:

1. RETURNABLE SCHEDULES REQUIRED FOR TENDER EVALUATION PURPOSES

- A CERTIFICATE OF AUTHORITY FOR SIGNATURE
- B RECORD OF ADDENDA TO TENDER DOCUMENTS
- C COMPULSORY ENTERPRISE QUESTIONNAIRE
- D CERTIFICATE OF AUTHORITY FOR JOINT VENTURE
- E SCHEDULE OF SUBCONTRACTORS
- G SCHEDULE OF THE BIDDER'S EXPERIENCE
- H PROFESSIONAL INDEMNITY (PI)
- I MBD 6.1: PREFERENCE POINTS CLAIM FORM IN TERMS OF PREFERENTIAL PROCUREMENT REGULATION
- J EVALUATION CRITERIA

- K MBD 4 DECLARATION OF INTEREST
- M SECTION 38: DECLARATION FORM
- N MBD 8: DECLARATION OF BIDDER PAST SUPPLY CHAIN MANAGEMENT PROCESSES
- O MBD 9: CERTIFICATE OF INDEPENDENT BID DETERMINATION
- P AUTHORITY OF SIGNATORY
- Q CONFIRMATION OF OUTSTANDING MUNICIPAL RATE AND TAXES FOR THE BUSINESS ENTITY AND DIRECTORS/ OWNERS/ MEMBERS/ PARTNERS

2. OTHER DOCUMENTS REQUIRED ONLY FOR TENDER EVALUATION PURPOSES

- A PROOF OF LOCALITY
- B A VALID TAX CLEARANCE CERTIFICATE ISSUED BY THE SOUTH AFRICAN REVENUE SERVICES
- C JOINT VENTURE AGREEMENT (IF BIDDER IS A JOINT VENTURE)
- D CURRICULUM VITAE OF ALL SUPERVISORY STAFF
- E BBBEE CERTIFICATES
- F PROOF OF REGISTRATION WITH THE PROFESSIONAL BODIES FOR ENGINEERING PART

NOTE: The Tenderer is required to complete each and every schedule and form listed above to the best of his/her ability as the evaluation of tenders and the eventual contract will be based on the information provided by the Tenderer. Failure of a Tenderer to complete the schedules and forms to the satisfaction of the Employer will inevitably prejudice the tender and may lead to rejection on the grounds that the tender is not responsive.

A. CERTIFICATE OF AUTHORITY

Indicate the status of the tenderer by ticking the appropriate box hereunder. The Tenderer must complete the certificate set out below for the relevant category.

(I) COMPANY	(II) CLOSE CORPORATION	(III) PARTNERSHIP	(IV) JOINT VENTURE	(V) SOLE PROPRIETOR

(I) CERTIFICATE FOR COMPANY

I,, chairperson of the Board of Directors of, hereby confirm that by resolution of the Board (copy attached) taken on 20....., Mr/Ms, acting in the capacity of, was authorised to sign all documents in connection with this tender and any contract resulting from it on behalf of the company.

Chairman:

As Witnesses: 1.....

2.....

Date:

(II) CERTIFICATE FOR CLOSE CORPORATION

We, the undersigned, being the key members in the business trading as hereby authorise Mr/Ms acting in the capacity of to sign all documents in connection with the tender for Contract No and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

Note : *This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.*

(III). CERTIFICATE FOR PARTNERSHIP

We, the undersigned, being the key partners in the business trading as, hereby authorise Mr/Ms acting in the capacity of , to sign all documents in connection with the tender for Contract No and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

Note : This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

(V) CERTIFICATE FOR SOLE PROPRIETOR

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

Signature of Sole owner:

As Witnesses:

1.....

2.

Date:

B. RECORD OF ADDENDA TO TENDER DOCUMENTS

We confirm that the following communications received from the Employer before the submission of this tender offer

	DATE	TITLE OR DETAILS
1		
2		
3		

4		
5		
6		
7		
8		

Attach additional pages if more space is required

Signed: _____
Date: _____

Name: _____
Position: _____

Bidder: _____

C. COMPULSORY ENTERPRISE QUESTIONNAIRE

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.		
Section 1: Name of enterprise:		
Section 2: VAT registration number, if any:		
Section 3: CIDB registration number, if any:		
Section 4: Particulars of sole proprietors and partners in partnerships		
Name*	Identity number*	Personal income tax number*

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

Section 5: Particulars of companies and close corporations

Company registration number

Close corporation number

Tax reference number

Section 6: Record of service of the state

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

- | | |
|--|---|
| 1. a member of any municipal council | 4. an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| 2. a member of any provincial legislature | 6. a member of an accounting authority of any national or provincial public entity |
| 3. a member of the National Assembly or the National Council of Province | 8. an employee of Parliament or a provincial legislature |
| 5. a member of the board of directors of any municipal entity | |
| 7. an official of any municipality or municipal entity | |

If any of the above boxes are marked, disclose the following: (insert separate page if necessary)

Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		current	Within

* Insert separate page if necessary

Section 7: Record of spouses, children and parents in the service of the state

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

- | | |
|---|--|
| 9. a member of any municipal council | 12. an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| 10. a member of any provincial legislature | |
| 11. a member of the National Assembly or the National Council of Province | |
| 13. a member of the board of directors of any municipal entity | 14. a member of an accounting authority of any national or provincial public entity |
| 15. an official of any municipality or municipal entity | 16. an employee of Parliament or a provincial legislature |

Name of spouse, child or parent	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		current	Within last 12 months

* Insert separate page if necessary

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

1. authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
2. confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
3. confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
4. confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
5. confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise, confirms that the contents of this schedule are within my personal knowledge and are to the best of my belief both true and correct.

Signed Date

Name Position

Tenderer

D. CERTIFICATE FOR JOINT VENTURE

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorize Mr/Ms.....authorized signatory of the company,.....acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract No..... and any contract resulting from it on our behalf.

This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the partners to the Joint Venture.

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME AND CAPACITY
Lead partner		

Note : This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

E SCHEDULE OF PROPOSED SUBCONTRACTORS

We notify you that it is our intention to employ the following Subcontractors for work in this contract.

If we are awarded a contract we agree that this notification does not change the requirement for us to submit the names of proposed subcontractors in accordance with requirements in the contract for such appointments. If there are no such requirements in the contract, then your written acceptance of this list shall be binding between us.

We confirm that all subcontractors who are contracted to construct a house are registered as home builders with the National Home Builders Registration Council

	Name and address of proposed Subcontractor	Nature and extent of work	Previous experience with Subcontractor
1			
2			
3			
4			

Signed: _____

Date: _____

Name: _____

Position: _____

Bidder: _____

F. SCHEDULE OF THE BIDDER'S EXPERIENCE

The following is a statement of work on Infrastructure Projects or work of similar nature recently successfully executed by myself / ourselves

Employer: Contact Person and Telephone Number	Project Name	Project Value (inclusive of VAT)	Completion Date & Indicate Whether Completed in time or late	Declare mediation, adjudication or arbitration

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

D. KEY PERSONNEL

The Bidder shall list below the key personnel (Including first nom
The Tenderer shall list below the personnel which he/she intends to utilize on the Works, including key personnel for Mtubatuba Local Municipality projects.

CATEGORY OF EMPLOYEE	NUMBER OF PERSONS			
	KEY PERSONNEL, PART OF THE CONTRACTOR'S ORGANISATION		KEY PERSONNEL TO BE IMPORTED IF NOT AVAILABLE LOCALLY	
	HDI	NON-HDI	HDI	NON-HDI
Project manager				
Engineer/Technologist				
Technician				
Resident Engineer				
Health and Safety Officer				
Environmental Officer				
Other staff				

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

CURRICULUM VITAE OF KEY PERSONNEL

Project Manager

Name	
Name of Employer	
Proposed Project Team Position	
Current Position	
Years with Employer	
Date of Birth	
Professional Institution & Registration Number if any	
Qualifications	
Qualification	
Year obtained	

1. Summary details of each proposed team member are to be entered into the table provided above.

2. A CV of each of the proposed team members of not more than 5 pages should be attached to this schedule after the summary details tables. Each CV should be structured under the following headings:

a) Personal particulars

- i) Name
- ii) date and place of birth
- iii) place (s) of tertiary education and dates associated therewith
- iv) professional awards

b) Qualifications (degrees, diplomas, grades of membership of professional societies and Professional registrations)

c) Skills

d) Name of current employer and position in enterprise

e) Overview of post graduate / diploma experience (year, organization and position)

f) Outline of recent assignments / experience that has a bearing on the scope of work

CURRICULUM VITAE OF KEY PERSONNEL

Engineer/Technologist

Name	
Name of Employer	
Proposed Project Team Position	
Current Position	
Years with Employer	
Date of Birth	
Professional Institution & Registration Number if any	
Qualifications	
Qualification	
Year obtained	
Name of institution	
Qualification	
Year obtained	

1. **Summary details of each proposed team member** are to be entered into the table provided above.
2. **A CV of each of the proposed team members of not more than 5 pages** should be attached to this schedule after the summary details tables. Each CV should be structured under the following headings:
 - a) Personal particulars
 - i) Name
 - ii) date and place of birth
 - iii) place (s) of tertiary education and dates associated therewith
 - iv) professional awards
 - b) Qualifications (degrees, diplomas, grades of membership of professional societies and Professional registrations)
 - c) Skills
 - d) Name of current employer and position in enterprise
 - e) Overview of post graduate / diploma experience (year, organization and position)
 - f) Outline of recent assignments / experience that has a bearing on the scope of work

CURRICULUM VITAE OF KEY PERSONNEL

Technician

Name	
Name of Employer	
Proposed Project Team Position	
Current Position	
Years with Employer	
Date of Birth	
Professional Institution & Registration Number if any	
Qualifications	
Qualification	
Year obtained	

1. **Summary details of each proposed team member** are to be entered into the table provided above.
2. **A CV of each of the proposed team members of not more than 5 pages** should be attached to this schedule after the summary details tables. Each CV should be structured under the following headings:
 - a) Personal particulars
 - i) Name
 - ii) date and place of birth
 - iii) place (s) of tertiary education and dates associated therewith
 - iv) professional awards
 - b) Qualifications (degrees, diplomas, grades of membership of professional societies and Professional registrations)
 - c) Skills
 - d) Name of current employer and position in enterprise
 - e) Overview of post graduate / diploma experience (year, organization and position)
 - f) Outline of recent assignments / experience that has a bearing on the scope of work

CURRICULUM VITAE OF KEY PERSONNEL

Support Staff

Name	
Name of Employer	
Proposed Project Team Position	
Current Position	
Years with Employer	
Date of Birth	
Professional Institution & Registration Number if any	
Qualifications	
Qualification	
Year obtained	

1. **Summary details of each proposed team member** are to be entered into the table provided above.

2. **A CV of each of the proposed team members of not more than 5 pages** should be attached to this schedule after the summary details tables. Each CV should be structured under the following headings:

a) Personal particulars

- i) Name
- ii) date and place of birth
- iii) place (s) of tertiary education and dates associated therewith
- iv) professional awards

b) Qualifications (degrees, diplomas, grades of membership of professional societies and Professional registrations)

c) Skills

d) Name of current employer and position in enterprise

e) Overview of post graduate / diploma experience (year, organization and position)

f) Outline of recent assignments / experience that has a bearing on the scope of work

G. PROFESSIONAL INDEMNITY INFORMATION

Details of Entity/Person responsible for Professional Indemnity:

Name of Responsible Professional Engineer/Technologist:

ECSA Registration No:_____

Professional Indemnity Amount:_____

Professional Indemnity Policy Number and Underwriter:

Address of office which will be responsible for the design:

Telephone no: _____

Fax no:_____

Email address: _____

Signed on behalf of bidder

Signed: _____

Date: _____

Name: _____

Position: _____

Bidder: _____

H. PROFESSIONAL INDEMNITY CERTIFICATE/PROOF

Proof of Professional Indemnity from the (Consultant) Professional Engineering Company is required for a sum of R5 million or more, the proof to be affixed here.

MBD 6.1

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

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

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

2. GENERAL CONDITIONS

2.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

2.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

2.3 Points for this bid shall be awarded for:

- (c) Price; and
- (d) B-BBEE Status Level of Contributor.

2.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

2.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

2.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to

preferences, in any manner required by the purchaser.

3. DEFINITIONS

- (a) “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) “**B-BBEE status level of contributor**” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) “**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) “**EME**” means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) “**functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) “**prices**” includes all applicable taxes less all unconditional discounts;
- (h) “**proof of B-BBEE status level of contributor**” means:
 - 1) B-BBEE
Status level certificate issued by an authorized body or person;
 - 2) A sworn
affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other
requirement prescribed in terms of the B-BBEE Act;
- (i) “**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

4. POINTS AWARDED FOR PRICE

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

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

80/20 **or** **90/10**

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- P_s = Points scored for price of bid under consideration
- P_t = Price of bid under consideration
- P_{min} = Price of lowest acceptable bid

5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

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

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

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

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

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

8.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....%

ii) The name of the sub-contractor.....

iii) The B-BBEE status level of the sub-contractor.....

iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

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

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

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

9. DECLARATION WITH REGARD TO COMPANY/FIRM

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

9.2 VAT _____ registration
number:.....

9.3 Company _____ registration
number:.....

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

Municipality where business is situated:
.....

Registered Account Number:

Stand Number:.....

9.8 Total number of years the company/firm has been in business:.....

9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES
1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)
DATE:
ADDRESS
.....
.....

B EVALUATION CRITERIA

The successful Professional Service Provider will maybe appointed for Design and Construct or Turn Key Specialist.

The Evaluation criteria will be done in three stages

First Stage: Completeness of the Tender documents and submission of returnable document. Bidder who fails to complete the document correctly and supply the required document will be disqualified and deemed unresponsive

Second Stage: Functionality (Capacity, Resources and Personnel). For a bidder to qualify to third stage it is a requirement that a Professional Service Provider score a minimum of 75% out of a maximum of 100 points for functionality.

Third Stage: Price and BBBEE. The 80/20 preference point system will be used award points for price and BBBEE.

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
9) Company Experience	Company Experience – Previous Similar Projects (i.e. Roads, Building,	Max 15
	IV) 0 – 5 Previous Similar Projects	5
	V) 6 – 10 Previous Similar Projects	10
	VI) 10 and more Previous Similar Projects	15
	Company Experience – Projects Value	Max 25
	IV) R0 – R1 000 000.00	15
V) R1 000 000.00 – R5 000 000.00	20	
VI) R5 000 000.00 and above	25	
10) Proposed Team Structure, Qualifications And Experience Of Key Personnel	Based on Qualifications Curriculum Vitae submitted with database form in the returnable schedules: b) Profession Engineer or Technologist. Technical Skills relevant experience with:	Max 10

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
	V) Pr Eng. / Pr Tech Eng. with 5 - 9 years relevant experience VI) Pr Eng. / Pr Tech Eng. with 2 - 4 years relevant experience VII) Pr Eng. / Pr Tech Eng. no relevant experience VIII) No Profession registration with relevant body	10 5 1 0
	Resident Engineer IV) 0 – 5 years V) 6 – 10 years VI) 11 and above	Max 10 1 5 10
11) Submission/Format of Company Profile	Composition of Team e.g. professional team, proof of Professional membership where applicable. Submission of company profiles with relevant skills and Experience: IV) Poor - No Company Profiles submitted V) Fair - Submission of Incomplete Company Profiles No proof of professional membership, Personnel certifications / Qualifications VI) Excellent - Submission of all company profiles and proof of professional membership, personnel Certifications / Qualifications	Max 5 0 2 5

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
12) Quality Assurance and Quality Control Plan	V) Adequate Quality Control Plan Submitted	Max 5 5
	VI) Comprehensive Quality Management Plan	3
	VII) High level Quality Management Plan	1
	VIII) No Quality Management Plan, adequacy and completeness of tenderer's own quality assurance policy and control procedures is poor.	0
13) Client Reference Letters of Completed Projects in relevant Discipline	Reference's assertion of performance on previous relevant to field of expertise: projects completed:	Max 5
	V) 3 positive references letters	5
	VI) 2 positive references letter	3
	VII) 1 positive reference letters	1
VIII) No positive reference letters	0	
14) Women and Youth	Bidders to demonstrate female and youth ownership by providing certified shareholder certificate and registered as professionals with ECSA.	Max 10
	IV) Female and youth (owned/directors) and Registered > 50 – 100%	10
	V) Female and youth (owned/directors) not Registered < 50%	5
VI) Non-Submission of female and youth ownership	0	
15) LIC and SMME	Bidders to demonstrate Labour	Max 5

FUNCTIONALITY CRITERIA	SUB-CRITERIA	MAX POINTS
Development	<p>Intensive and Construction Methods and SMME Development through providing proof of LIC certificate accreditation:</p> <p>III) Proof of NQF Level 7 accreditation: Develop and promote Labour based Construction Strategies</p> <p>IV) No Submission, Irrelevant Evidence.</p>	<p>5</p> <p>0</p>
16) Locality	<p>Bidders to demonstrate locality by providing the recent municipal water or electricity or rates account or lease agreement in the name of the bidding entity:</p> <p>IV) Company Head/Branch Office based in Mtubatuba</p> <p>V) Company Head/Branch Office based in KwaZulu-Natal</p> <p>VI) Non-Submission, Irrelevant Evidence, Incomplete Evidence</p>	<p>Max 10</p> <p>10</p> <p>2</p> <p>0</p>
Total		100
Minimum points to be scored for Functionality is 75 of the total Points		

F. DECLARATION OF INTEREST

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

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

3.1 Full Name:

3.2 Identity Number:

3.3 Company Registration Number:

3.4 Tax Reference Number:

3.5 VAT Registration Number:

3.6 Are you presently in the service of the state* **YES / NO**

3.6.1 If so, furnish particulars.

.....

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

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

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

3.7.1 If so, furnish particulars.

.....
.....

3.8 Do you, have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?

YES / NO

3.8.1 If so, furnish particulars.

.....
.....

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

3.9.1 If so, furnish particulars

.....
.....

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

3.10.1 If so, furnish particulars.

.....
.....

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

3.11.1 If so, furnish particulars.

.....

.....

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

Full Name	Identity Number	State Employee Number

.....

Signature

.....

Date

.....

Capacity

.....

Name of Bidder

CERTIFICATION

I, THE UNDERSIGNED (NAME)

**CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS
CORRECT.**

**I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION
PROVE TO BE**

FALSE.

Signature..... Date.....

PositionName of Bidder.....

F. DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	<p><i>Is the bidder or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector?</i> (Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p align="center">Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>(To access this Register enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		

4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

CERTIFICATION

I, **THE UNDERSIGNED** (FULL NAME) **CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT. I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods

and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION (MBD 9)

I, the undersigned, in submitting the accompanying bid:

_____ (Bid Number and Description)

in response to the invitation for the bid made by:

Mtubatuba Local Municipality

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

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

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

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

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No. 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 or any other applicable legislation.

.....
Signature	Date
.....
Full Names of Person Representing Company	Position in Company

C. TAX CLEARANCE CERTIFICATE

IMPORTANT NOTES:

1. The following is an abstract from the Preferential Procurement Regulations 2001 promulgated with the Preferential Policy Framework Act No 5 of 2000:

"Tax clearance certificate

16. No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service ("SARS") certifying the taxes of that person to be in order or that suitable arrangements have been made with SARS."

2. The ST 5.1 form, Application for Tax Clearance Certificate (in respect of tenders), must be **completed by the Tenderer in every detail and submitted to the Receiver of Revenue** where the Tenderer is registered for income tax purposes. The Receiver of Revenue will then furnish the Tenderer with a Tax Clearance Certificate that will be valid for 6 months from date of issue. **This Tax Clearance Certificate must be submitted in the original with the tender, that is before the closing time and date of the tender.**

Each party to a Consortium/Joint Venture/Sub-contractors must complete a separate Tax Clearance Certificate.

Failure to submit an original and valid Tax Clearance Certificate, or certified copy thereof, will invalidate the tender.

3. An **example** of the Application for Tax Clearance Certificate which Tenderers may use to apply for the Tax Clearance Certificate is included hereafter and is available at any Receiver's Office.

[Tax Clearance Certificate obtained from SARS to be inserted here]

G. RATES AND SERVICES CERTIFICATE

(Copy of Account statement should be attached here or Lease agreement)

H **PROOF OF REGISTRATION WITH ECSA FOR PROFESSIONAL (PR) STATUS OF SHAREHOLDERS**

I. **PROOF OF WOMEN AND YOUTH SHAREHOLDERS/DIRECTORS**

K. **BBB EE CERTIFICATE**

L. **CONFIRMATION OF SETA NQF 5 & 7 FOR LABOUR INTENSIVE CONSTRUCTION METHOD (EPWP)**

CONTRACT

CONTENT

C1: AGREEMENTS AND CONTRACT DATA

C1.1: FORM OF OFFER AND ACCEPTANCE73

C1.2: CONTRACT DATA.....78

C1.2.1: CONDITIONS OF CONTRACT.....78

C1.2.3: AGREEMENT WITH ADJUDICATOR.....81

C2: PRICING DATA

C2.1: PRICING INSTRUCTIONS.....83

C3: SCOPE OF WORK

C.3.1: INTRODUCTION AND BACKGROUND 87

C3.2: SCOPE OF SERVICES.....87

C3.2: APPOINTMENT AND REMUNERATION.....92

C3.2: SCOPE OF SERVICES REQUIRED.....92

C3.2: GENERAL SPECIFICATION.....93

STANDARD PROFESSIONAL SERVICES CONTRACT..... 67

C1: AGREEMENTS AND CONTRACT DATA

C1.1 FORM OF OFFER AND ACCEPTANCE

A. OFFER

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

TENDER NO. : MTU26/2017/2018: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY

The Tenderer, identified in the Offer signature block below, has examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender in compliance with ECSA guideline for professional services and MIG policy.

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

The offered Rates in percentages inclusive of Value Added Tax are:

.....
.....

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

Signature: *(of person authorized to sign the tender on behalf of the tenderer):*

.....

Name: *(of signatory in capitals):*

.....
.....

Capacity: *(of Signatory):*

.....
.....

Name of Tenderer: *(organization):*

.....
.....

Address:

.....
.....

Telephone number:

Fax number:

Witness:

Signature:

Name: (in capitals):...

.....

Date:

[Failure of a Tenderer to complete and sign this form will invalidate the tender]

B. ACCEPTANCE

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

The terms of the contract are contained in

- Part 1 Agreement, and Contract Data, (which include this Agreement)
- Part 2 Pricing Data, including the Bill of Quantities
- Part 3 Scope of Work

and the schedules, forms, drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 3 above.

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

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the Tenderer (now Service Provider) within five days of the date of such receipt notifies the Employer in writing of any reason why he/she cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract between the parties.

Signature:

Name: (*in capitals*)..... _

Capacity:

Name of Employer (*organization*) Mtubatuba Municipality

Address : P O Box 52, Mtubatuba, 3935

: Lot 105 Nkosi Mtubatuba Rd., Mtubatuba, 3935

Witness:

Signature: **Name:**

Date:

C. SCHEDULE OF DEVIATIONS

The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Tender Data and the Conditions of Tender.

A Tenderer's covering letter will not necessarily be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.

Any other matters arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.

Any change or addition to the tender documents arising from the above agreements and recorded here shall also be incorporated into the final draft of the Contract.

1. **Subject :**
Details:
.....
2. **Subject :**
Details:
.....
3. **Subject :**
Details:
.....
4. **Subject :**
Details:
.....
5. **Subject :**
Details:
.....
6. **Subject :**
Details:
.....

By the duly authorised representatives signing this Schedule of Deviations, the Employer and the Tenderer agree to and accept the foregoing Schedule of Deviations as the only deviations from and

amendments to the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, as well as any confirmation, clarification or change to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance.

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

FOR THE TENDERER:

Signature:

Name:

Capacity:

Tenderer: *(Name and address of organization)*

.....

Witness :

Signature:

Name:

Date:

FOR THE EMPLOYER

Signature:

Name:

Capacity:

Employer: *(organization)* Mtubatuba Municipality

Address : P O Box 52, Mtubatuba, 3935

: Lot 105 Nkosi Mtubatuba Rd., Mtubatuba, 3935

Witness :

Signature:

Name:

Date:

.....

C1.2 CONTRACT DATA

C1.2.1 CONDITIONS OF CONTRACT

PART 1: CONDITIONS OF CONTRACT

The Conditions of Contract are the Standard Professional Services Contract (September 2005) published by the Construction Industry Development Board.

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

PART 2: SPECIAL CONDITIONS OF CONTRACT

1. GENERAL

These Special Conditions of Contract (SCC) form an integral part of the Contract. The Special Conditions of Contract shall amplify, modify or supersede, as the case may be, the Standard Conditions of Contract stated above to the extent specified below, and shall take precedence and shall govern.

The clauses of the Special Conditions hereafter are numbered "SCC" followed in each case by the number of the applicable clause or subclause in the Standard Conditions of Contract, and the applicable heading, or (where a new special condition that has no relation to the existing clauses is introduced) by a number that follows after the last clause number in the Standard Conditions, and an appropriate heading.

2. AMENDMENTS TO THE STANDARD CONDITIONS OF CONTRACT

SCC 1 DEFINITIONS

Employer

To this definition add the following sentence: "Defined as the 'client' in the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000)".

Service Provider

To this definition add the following sentence: "Defined as the 'Consulting Engineer' in the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000)".

C1.2.2 CONTRACT DATA

Part 1: Data provided by the Employer

The Employer is **Mtubatuba Municipality**

3.4 and 4.3.2 The authorized and designated representative of the Employer is:

Name:	Mr. Nathaniel Sawyerr
Telephone:	035 550 0069
Faxsimile:	035 550 0060
E-mail:	sawyerr@mtubatuba.gov.za

Address: P.O. Box 52, Mtubatuba, 3935

The Project is :

TENDER No.: MTU26/2017/2018: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY

- 1 The Period of Performance is three years (3) plus such period necessary to complete works already started.
- 3.6 The Service Provider may not release public or media statements or publish material related to the Services or Project without the Employer's written permission.
- 3.14 The programme shall be submitted within 21 days of the award of the contract.
- 4.7 The basic fee includes all category factors as defined in C3.3.5.
- & 4.8 The final basic fee due to the Service Provider will be the Basic Fee by MIG's fee structure gazetted at the time, with the tendered discount applied. The time related rates paid will be as tendered. Service providers can only be paid funding is available and budgeted for the municipality.
- 5.4.1 8.1 The Service Provider is to commence the performance of the Services within 7 Days of date that the Contract becomes effective.
- 8.4.3 (c) The period of suspension under Clause 8.5 is not to exceed 12 months in respect of the Scope of Work - Part A and 4 months in respect of the Scope of Work – Part B1, B2, B3 ...etc.
- 9.1 Copyright of documents prepared for the Project shall be vested with the Employer
- 12.1 Interim settlement of disputes is to be by adjudication
- 12.2 & 12.3 Final settlement is by arbitration
- 12.3.3 In the event that the parties fail to agree on an Adjudicator, the Adjudicator will be nominated by the President of the South African Institution of Civil Engineering.
- 12.4.2 In the event that the parties fail to agree on an Arbitrator, the Arbitrator will be nominated by the President of the South African Institution of Civil Engineering
- 13.1.3 Tenders from joint ventures will not be accepted.
- 13.5 The provisions of 13.5 do not apply to the Contract.
- 13.6 The provisions of 13.6 do not apply to the Contract.
- 15 The interest rate will be prime interest rate of the Employer's bank at the time that the amount is due.

Part 2: Data provided by the Service Provider

The Service Provider is

Name:
.....

Address:
.....

Telephone.....
.....

Facsimile:
.....

The authorized and designated representative of the Service Provider is:

Name:

The address for receipt of communications is:

Telephone:
.....

Facsimile:
.....

Address:
.....
.....
.....
.....

C1.2.3: AGREEMENT WITH ADJUDICATOR

This agreement is made on the.....day of 20..... between the Employer

(name of company / organization).

of (address).

and the Service Provider(name of company / organization).....

of (address).....

..... (hereinafter called **the Parties**)

and

(name).....

.....

of (address).....

.....

..... (hereinafter called **the Adjudicator**)

Disputes or differences may arise between the Parties under Contract for :

TENDER NO. : MTU26/2017/2018: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY

and these disputes or differences shall be referred to adjudication in accordance with the CIDB Adjudication Procedure, (hereinafter called "the Procedure") and the Adjudicator may be or has been requested to act.

IT IS NOW AGREED as follows:

1. The rights and obligations of the Adjudicator and the Parties shall be as set out in the Procedure.

- 2. The Adjudicator hereby accepts the appointment and agrees to conduct the adjudication in accordance with the Procedure.
- 3. The Parties bind themselves jointly and severally to pay the Adjudicator's fees and expenses in accordance with the Procedure as set out in the Contract Data.
- 4. The Parties and the Adjudicator shall at all times maintain the confidentiality of the adjudication and shall endeavour to ensure that anyone acting on their behalf or through them will do likewise, save with the consent of the other Parties which consent shall not be unreasonably refused.
- 5. The Adjudicator shall inform the Parties if he intends to destroy the documents which have been sent to him in relation to the adjudication and he shall retain documents for a further period at the request of either Party.

SIGNED by:

(Signature): (Signature):
 (Signature):

Name: **Name:**
 **Name:**

who warrants that he/ she is who warrants that he/ she is the **Adjudicator** in the
 duly authorized to sign for and duly authorized to sign for presence of
 on behalf of the **First Party** in and on behalf of the **Second**
 the presence of **Party** in the presence of

Witness: **Witness:** **Witness:**
 (Signature) (Signature) (Signature)

Name: **Name:** **Name:**

Address: Address: Address:

.....

Date: Date: Date:

C2: PRICING DATA
C2.1 PRICING INSTRUCTIONS

1. GENERAL

Pricing Instructions

The offered Tender amounts shall be based on the estimate values given in the project table, keeping in mind that these values are given for comparative calculation only. That the budget amounts for the construction projects in the Pricing Schedules must be taken as the Cost of Works value, excluding of VAT for the purposes of determining the fee.

Direct costs (claimed as Recoverable Expenses) offered by the Bidders are to be calculated based on the given information and should exclude any costs towards the appointment of specific expertise such as geotechnical, environmental or safety consultants or surveyors. This is for the recoverable expenses such as disbursements that includes for expenses such as travel (also for site supervision), accommodation, typing, copying, printing, additional testing etc., that will be required during the project, not covered elsewhere.

The previous (2011) Guideline Scope Services and Tariff of Fees used for Persons in Terms of the Engineering Profession Act, 2000, Clause 3.2, as published in Government Gazette shall be used as a basis for the fee calculations. Future year projects shall use the year that project starts to determine applicable date of fees published.

As stated in the Tender part of this document, a maximum of 0% (nil %) discount to the standard "basic fees, category factors as well as other allowable additional fees combined may be offered by the Bidder. For ease of comparison of Tenders, the base value for calculation of the fees offered for any construction project will be taken as 100% of the budget values given.

Specific ECSA rates towards site supervision will be taken at the time of construction. Any "category factors" foreseen and allowed, such as provision for additional fees for Reinforced concrete and structural steel work will be as specified by ECSA.

The amounts and rates to be inserted in the Schedule of Activities shall be the full inclusive amounts to the Employer for the work described under the various payment item. Such amounts shall cover all the costs and expenses that may be required for the professional services described, and shall cover the costs of all general risks, profits, taxes (but excluding value-added tax), liabilities, insurance and obligations set forth or implied in the Tender documents.

The Bidder shall take into consideration when providing rates that he shall act as the Employer's Agent in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993) and the Construction Regulations, 2003. Costs towards an individual safety consultant may be provided from the construction Tenders, not to be financed by the Bidder.

The Employer reserves the right to reduce or increase the scope of works according to the budget, or to terminate this contract, without payment of any penalty in this regard. The

Bidder shall however be entitled to pro-rata payment for all services carried out in terms of any adjustment to the Scope of Work or in the case of termination, remuneration and/or reimbursement as described in Clause 8.4.3 of the Standard Professional Services contract.

Bidders should note that those recoverable expenses listed in the Activity Schedule may be reimbursed to the Bidder. No reimbursements of costs for subsistence, typing, printing/copying (other than reports and/or Tender documents) communications or computer hardware and/or software will be made and these costs will be deemed to be included in rates, sums, percentage fees and prices for normal and additional services rendered. The reproduction of Tender documents may be done by the municipality, should arrangements be made in advanced.

2. QUANTITIES REFLECTED IN THE SCHEDULE

The quantities given in the Schedule of Quantities are estimates only, and subject to re-measuring during the execution of the work.

The validity of the Contract will in no way be affected by differences between the quantities in the Bill of Quantities and the quantities finally certified for payment.

3. PROVISIONAL SUMS (PS)

Provisional sums are provided for some items in the Schedule of Quantities. Work done under these items will be at the written direction of the Employer. The Employer reserves the right, during the execution of the works, to adjust the stated amounts upwards or downwards according to the work actually done under the item, or the item may be omitted altogether, without affecting the validity of the Contract.

The Tenderer shall not under any circumstances whatsoever delete or amend any of the sums inserted in the "Amount" column of the Bill of Quantities and in the Summary of the Bill of Quantities unless ordered or authorized in writing by the Employer before closure of tenders. Any unauthorized changes made by the Tenderer to provisional items in the schedule, or to the provisional percentages and sums in the Summary of the Bill of Quantities, will be treated as arithmetical errors.

4. PRICING OF THE BILL OF QUANTITIES

4.1 Part 1 : Basic Fee

The Basic Fee can be calculated from MIG fee Structure or the latest gazetted (as at the date of this tenders advertisement) Engineering Council of South Africa (ECSA) fees applied to the construction estimate or based on a detailed breakdown to be provided by the tenderer.

4.2 Part 2 : Disbursements

Provisional sums should be allowed for disbursement items

The Tenderer is to tender a per kilometre rate for the use of private motor vehicles in executing this project. No other travel or subsistence costs will be reimbursed by the Employer. All travel kilometres will be measured from the Mtubatuba city centre. In the case of the Tenderer not having an office in Mtubatuba area then the travel kilometres will be measured from the Mtubatuba Municipality Offices.

4.3 Part 3 : Additional Duties

The Tenderer is to tender hourly rates for the nominated persons and extend these through to the Amounts column. The tendered rate is to cover all expenses, overhead and mark-ups applicable for the personnel specified.

4.5 Minimum Qualifications of Personnel Allocated to this Project

All personnel of the Service Provider allocated to work on this project shall at least have the qualification and experience utilised for the evaluation of the tender in section. Tendered rates shall be for personnel with suitable experience and qualifications.

The Employer reserves the right, during the execution of the works, to instruct the Service Provider to replace any of its personnel allocated to this project with suitably qualified and experienced personnel.

4.7 Part Time

The Environmental and OHS Officer do not need to be employed full time on the project. The Service Provider must, however, allow sufficient time on site for these officers to fulfil the requirements of the job.

5. **CORRECTIONS OF ENTRIES**

Incorrect entries shall not be erased or obliterated with correction fluid but must be crossed out neatly. The correct figures must be entered above or adjacent to the deleted entry, and the alteration must be initialled by the Tenderer.

6. **ARITHMETICAL ERRORS**

Arithmetical errors found in the Schedule of Quantities as a result of faulty multiplication or addition will be corrected by the Employer at the tender evaluation stage, as set out in the Tender Data.

7. **MONTHLY PAYMENTS**

Monthly progress payments will be made within 30 days from receipt of a Tax Invoice by the Employer.

2.2.2 Offered Fees for Various Projects

a) Construction Project Budget of R10 000 000.00 (assumed)

a) Construction Project (Roads, building, etc.) budget of R10 000 000.00	
1. ECSA Fees Offered (0% Discount allowed)	
2. Recoverable Expenses (Disbursements): Must also include all supervision travel/month on a 6 Month Contract.	

Total Offer (VAT exclusive) = 1+2

TENDER NO. : MTU26/2017/2018: APPOINTMENT OF PANEL OF CONSULTING ENGINEERING (ELECTRICAL, MECHANICAL, STRUCTURAL/CIVIL AND ARCHITECTURE) FOR VARIOUS MUNICIPAL INFRASTRUCTURE AND BUILDING PROJECTS FOR A PERIOD OF THREE (3) YEARS ACROSS MTUBATUBA LOCAL MUNICIPALITY

PROFESSIONAL SERVICES AND FEES AS PERCENTAGE:

.....

NOTE: Fess for the consulting activities will be as per the Tariff of Fees for Persons Registered in Terms of the Engineering Profession Act, 2000, (Act No.46 of 2000) Gazette ECSA rates.

C3: SCOPE OF WORK

C3.1 INTRODUCTION AND BACKGROUND

Mtubatuba Municipality consists of Twenty (20) Wards. The municipality is receiving funding from the National and Provincial Government for provision of community infrastructure development and facilities in its various Wards.

Implementation of these MIG and any other infrastructure development projects require the technical skills and expertise of Engineering Consultants to provide support to the Technical department and facilitate implementation of capital programmes as prioritised in the Integrated Development Plan. This Bid is therefore necessary to procure an experienced Engineering Consultants to plan, design, construction supervision for the Municipal Capital Projects/Programmes.

Mtubatuba Municipality has previously appointed panel of Consultants expiring 2017/2018 however there are funds already allocated to the Municipality in the MTERF for project implementation with an objective of delivering the projects timeously, at appropriate price levels and to appropriate levels of quality.

C3.2 SCOPE OF SERVICES

The extent of scope of services will vary from one project to another based on the nature and complexity of a specific project but generally the scope of services will be but not limited to the following generally acceptable stages:

Stage 1: Preliminary design

Stage 2: Detailed design

Stage 3: Working drawings, contract administration and tender document

Stage 4: Construction monitoring

Stage 5: Close out

In other cases, the Project Service provider will be required to compile business plans to acquire funding before those stages.

STAGE 1: PRELIMINARY DESIGN (including EIA)

The required scope of STAGE 1 services for the project includes the following:

Environmental Impact Assessment (if applicable)

An initial environmental scan of the area and the environmental impact assessment of different alternatives as required by the Environmental Impact Assessment Regulations, 2006 (National Environmental Management Act, 1998).

The Environmental Assessment Practitioner must, at the start of each subproject, undertake an Environmental Scan and prepare a map of the area indicating all environmental issues. This map must be used by other consultants for the development of alternatives. The practitioner must also facilitate continuous interaction between all team members and other stakeholders to ensure that all issues are addressed and feasible alternatives are identified as required by the Regulations and included in the Environmental Impact Assessment.

The Environmental Impact Assessment of the proposed alternatives must be undertaken in terms of the National Environmental Management Act (1998) and the Environmental Impact

Assessment (2006). The assessment must be undertaken and managed by an Environmental Assessment Practitioner in terms of Regulation 17 and which meets the requirements as set out in Regulations (including the independence requirements).

The scope of the Environmental Impact Assessment including the preparation and submission of an application for authorisation of the project to the Department of Agriculture, Conservation and Environment (DACERD), including a Scoping Report as required in Regulation 29 and an Environmental Impact Assessment (EIA) Report as required in Regulation 32 of the Regulations. The assessments must comply fully with all requirements of the Act and Regulations, including the content requirements of Regulations 29 and 32. Any specialist reports and reports on specialised processes that may be required must conform to the requirements as specified in Regulation 33. A draft Environmental Management Plan (EMP) as specified in Regulation 34 must also be submitted together with the EIA Report, to DACERD for consideration.

The scope of the project includes ALL services and work that may be required in terms of the Regulations. The assessments must, in accordance with and in addition to the

(a) Discussions. Undertake discussions with all stakeholders as required in the Regulations, including:

- ❖ Directorate: Technical Services & Management
- ❖ Directorate: Public Safety
- ❖ Environmental Management Unit the Municipality.
- ❖ Department of Agriculture, Conservation and Environment.
- ❖ The Department of Water Affairs and Forestry.

(b) Public Participation. Officials, interested and affected parties as well as other stakeholders must be provided with adequate opportunity to participate in the various phases of the project as required in Regulation 56. Comments and inputs from I&APs and stakeholders must conform to Regulations 57, 58 and 59 of the Environmental Impact Assessment Regulations.

(c) Specialist and other studies. All specialist and other studies, investigations and reports that may be required for the application in terms of the Regulations. These will be directly appointed by the Municipality.

These studies may include, but are not limited to, the following:

- I. Assessment of the impact of proposals on the Flora in the area.
- II. Assessment of the impact of proposals on the Fauna in the area.
- III. Assessment of the impact of proposals on DECERD Red Data Flora species in the area.
- IV. Assessment of the impact of proposals on DECERD Red Data Fauna species in the area.
- V. Storm water Impact Assessment of the impact of storm water runoff from the waste management depot on the environment.
- VI. Geological Assessment of the impact of the proposals on unstable soils.
- VII. Visual Impact Assessment of the impact of options on the scenic vista, including existing urban and natural landscapes.
- VIII. Air Quality Impact Assessment of the impact of the proposals on the quality of the air in the area, including estimates of gaseous emissions resulting from the project.
- IX. Noise Impact Assessment of the impact of proposals on noise levels in the area.
- X. Heritage and Cultural Impact Assessment of the impact on the proposals on cultural, historic, prehistoric or archaeological resources in the area.

(d) Application. Application must be undertaken in terms of the administrative procedures and requirements of DACERD.

Environmental Impact Assessment Inputs.

The scope of the project includes the provision of all engineering and other related services that may be required for the environmental impact assessment. The scope of these services, includes, but is not limited to, the following:

- a) Obtain and study all available existing information and reports pertinent to the project (including the full preliminary design). The information and reports will be made available to the consultants during the project.
- b) The consultants must undertake the necessary inspections of the site to which officials and other interested parties must be invited. The site inspections are required for various purposes, including the verification of information obtained from other studies and identification of possible problems and issues.
- c) Prepare a topographical plan for the development of alternatives.
- d) The development of different alternatives required for the environment impact assessment. Where required, mitigating measures aimed at limiting the environmental impacts must be developed. The alternatives must be developed taking into account issues identified during the environmental scan undertaken by the environmental assessment practitioner. Alternatives must be submitted to the practitioner for comments and adjusted where required. Cooperation with the practitioner is required to ensure that all issues are addressed and feasible alternatives are identified as required by the Environmental Impact Assessment Regulations.
- e) All engineering and other related studies and investigations required for the environmental impact assessment. These studies includes, but are not limited to, the following Cost of the different options (including capital costs as well as cost of mitigating measures).
- f) All costs must be taken into account
- g) Preparation of all information, documents, reports, plans and drawings that may be required for the assessment.
- h) Discussions with all relevant national and provincial authorities include, but are not limited to the following:
 - ❖ Department of Roads & Public Works
 - ❖ Directorate: Technical Services & Management
 - ❖ Directorate: Public Safety
 - ❖ Environmental Management Unit of the Municipality
 - ❖ The Department of Water Affairs and Forestry
 - ❖ Unit Health & Safety
 - ❖ Department of Agriculture, Conservation, Environmental & Rural Development.

Preliminary Design

The preliminary design must include all work required to undertake investigations and other aspects of the project. The scope of the project includes, but is not limited to the following tasks:

- a) Obtain any additional information and undertake any additional site inspections that may be required. Undertake any additional discussions that may be required with national, provincial and municipal authorities.
- b) Geological surveys and investigations. These surveys will consist of the collection of available information from various sources, establishing the general geological conditions of the area by means of a walkover site survey using geological maps,

identification of important geological problems, the provisional indication of foundation conditions and a provisional indication of sources for construction material.

- c) Undertake the preliminary design for all required architectural and engineering services required for the project. This includes aspects such as the layout design. Prepare all required architectural and expropriation plans.
- d) Estimate implementation cost based on a preliminary bill of quantities, for all components of the project.
- e) Prepare and submit a Preliminary Design Report and prepare all required plans and drawings.
- f) Provision of temporary accommodation for possible relocation or affected parties.

Project Co-ordination

The co-ordination of all work to be undertaken during the stage on behalf of the Municipality. The lead consultant must co-ordinate all work to be undertaken during this stages of the project. This co-ordination includes, but is not limited, to the following services:

- a) Leadership and management of the professional team.
- b) Overall management and administration of the project, including the co-ordination of the work of the team, the programming of the execution of the services and the overall financial control of the project (including budget control).
- c) Convene regular meetings for purpose of planning the project, including preparing and distributing agendas and minutes to all concerned. The Municipality will provide a list of names of persons, organisations and authorities that must be invited to the meetings.

Deliverables

The deliverables of stage 1 of the project include the following, for each subproject:

- a) Environmental Impact Assessment
 - The decision from DACERD
 - All reports and documentation prepared for DACERD
 - Reports as required by the Regulations
- b) Preliminary Design Report containing the following information:
 - I. Executive summary
 - II. Background, problem statement, project purpose and scope, study methodology
 - III. Status quo information collected during the project
 - IV. Report on all consultants undertaken during the project
Proposed engineering design standards together with motivations for the standards as well as future upgrade strategies. Options, alternatives and mitigating measures considered during the project and motivations for the proposed options.
 - V. Proposed architectural designs for the building to be constructed, including all engineering services. Estimate implementation cost (including preliminary bill of quantities). Conclusions and recommendations.
 - VI. Reduced scale copies of plans in appendices to the report.
- c) The following plans must be provided as part of the Preliminary Design Report:
 - I. Locality plan indicating the location of all proposed improvements.
 - II. Layout plans on survey sheets to a scale of 1:1000 showing the area to be developed against the background of topographical details, existing roads, properties and improvements, as well as the extent of the road reserve.
- d) The following details are required:

- I. Topographical details and contours
- II. Other plans that may be required for the project

STAGE 2 & 3: DETAIL DESIGN AND PREPARATION OF TENDER AND CONTRACT DOCUMENTS

The required scope of Stage 2 services for the project includes the following;

Engineering Services.

- I. Design and Tender stage.
- II. Working Drawing Stage (Civil and Structural Engineering).
- III. Additional Services: Occupational Health and Safety Agent Services.

Project Co-ordination. The co-ordination of all work to be undertaken during the stage on behalf of the Municipality. The scope of the services is as described for Stage 1 of the project. The project proposal must provide for the detail design of and preparation of tender documents for the alternative approved by DACERD. The proposal must be based on the assumption that a positive decision will be obtained from DACERD for all aspects of the project. This stage of the project will only process if a positive decision has been obtained. The detail design must include all work required to prepare the required working drawings, specifications, schedules of quantities, tenders and contract documents for the construction of all components of the project.

DELIVERABLES

The deliverables of this stage of the project include, but are not limited to the following for all elements of the project:

- Demolition detail (if any)
- Temporary accommodation for relocation of affected parties (whenever required)
- Project specifications and contract documents.
- Tender documents
- Evaluation of tenders
- Working drawings

1. Conception and Initiation

- Feasibility Study and advise on Environmental issues
- Gather Data, Capturing & Submission of Business Plan/ MIG 1 Funding Application.
- Preliminary Design and Scope of Works
- Project Preliminary Cost Analysis/ Estimate and Budget

2. Planning and Implementation

- Provide Strategic Project Planning and Implementation

3. Documentation and Construction

- Detailed design
- Detailed Specification and Scope of works
- Detailed Cost Estimate
- Compilation of Project Tender Documents

- Overall Project Supervision during construction
- Report regularly on Project Progress

4. Commissioning and Handover

- Final Project Approval
- Monitoring and evaluation ensuring quality on projects
- Close out Report
- Operational Maintenance Plan
- Report regularly on project progress of the

STAGE 4: CONSTRUCTION MONITORING

The services include:

- I. Construction Stage
- II. Completion of all architectural services
- III. Additional Services
- IV. Construction Monitoring (Level 4 case 2)
- V. Occupational Health and Safety Agent Services

STAGE 5: CLOSE OUT

The services include:

- I. As Built Drawings
- II. Project Close Out Report

C3.3 APPOINTMENT AND REMUNERATION

- 3.3.1. Appointment will be made in terms of the Standard appointment of Mtubatuba Local Municipality as when required.
- 3.3.2. All the professional fees will be paid in accordance with the fees scales as determined by the statutory councils or negotiated and the rest will form part of the disbursements.
- 3.3.3. A number of statutory councils have been established in South Africa to regulate various professions in terms of the following Acts:
 - Architectural Profession Act, 2000
 - Engineering Profession Act, 2000
 - Landscape Architectural Profession Act, 2000
 - National Scientific Profession Act, 2003
 - Planning Profession Act, 2002
 - Professional and Technical Surveyors 'Act, 1984
 - Project and Construction Management Profession Act, 2000
 - Property Valuers Profession Act, 2000
 - Quantity Surveying Profession Act, 2000

The successful bidder will be required to sign the Service Level Agreement before commencement of the works.

C.3.4 SCOPE OF SERVICES REQUIRED:

The prospective proposers specification and scope of works is the following but not limited:-

TYPES OF INFRASTRUCTURAL DEVELOPMENTS / PROJECTS

- **Urban Roads Upgrade (Rehabilitation & Construction)**
i.e. Stormwater, Drainage System, Kerbs&Channel, Re-Construction/Rehabilitation, Bridge
- **Facilities / Amenities New and Refurbishments**
i.e. Municipal Offices, Tusong Centres/Multi-Purpose Centres, Sportfield with Change Rooms & Ablution Facilities, Sport Complexes, Community Halls, Pension Pay points, Crèches, Market Stalls, etc.
- **Rural Local Access Roads and Causeways Construction / Upgrade**
i.e. Construction, Betterment & Re-Gravelling, Causeways, etc.

C3.5 GENERAL SPECIFICATION

C3.5.1 STATUS

The general specification forms an integral part of the contract and supplements the Construction Industry Development Board Standard Professional Services Contract, the Construction Industry Development Board Act and the Engineering Council of South Africa gazetted Engineering Consultant fee structures.

C3.5.2 GENERAL

This contract is for the provision of consultancy services to perform the duties specified in 3 above for the project described in C3.1 Introduction and background.

C3.5.3 KEY PERSONNEL

The Key Persons as specified, are to be Principals or permanent employees of the firm. Depending on the specific project requirements one individual may occupy more than one position.

C3.5.4 SERVICES

The Consultancy and project management services to be performed in terms of the contract may be all or any of those defined in the Engineering Council of South Africa : Guideline of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession.

GENERAL CONDITIONS OF CONTRACT

1. DEFINITIONS

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

Contract

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

Contract Data

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

Contract Price

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

Day

A calendar day.

Defect

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

Deliverable

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

Employer

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

Force Majeure

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

Key Persons

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

Others

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

Parties

The Employer and the Service Provider.

Period of Performance

The period within which the Services are to be performed and completed, commencing from the Start Date.

Personnel

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

Personnel Schedule

A schedule naming all Personnel and Key Persons.

Pricing Data

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

Project

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

Scope of Work

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

Service Provider

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

Services

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

Start date

The date on which the Services are to commence. as stated in the Contract Data

Subcontractor

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

2. INTERPRETATION

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

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

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

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

3. GENERAL**3.1 Governing law**

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

3.2 Change in legislation

If after the commencement of the Contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract

Price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14 Days of first having become aware of the change, the Service Provider furnished the Employer with detailed justification for the adjustment to the Contract Price or Period of Performance (or both)..

3.3 Language

- 3.3.1 The language of the Contract and of all communications between the Parties shall be English.
- 3.3.2 All reports, recommendations and reports prepared by the Service Provider under the Contract shall be in English.

3.4 Notices

- 3.4.1 Any notice, request, consent, approvals or other communication made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract Data. Such communication shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or one week after having been sent by registered post, or unless otherwise indicated in the Contract Data, when sent by e-mail or facsimile to such Party
- 3.4.2 A Party may change its address for receipt of communications by giving the other Party 30 Days advance notice of such change.

3.5 Location

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

3.6 Publicity and publication

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

3.7 Confidentiality

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

3.8 Variations

- 3.8.1 The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services in writing or may request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services.
- 3.8.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by the Employer, including any change in the Contract Price, shall be agreed between the Service Provider and the Employer.
- 3.8.3 Where a variation is necessitated by default or breach of Contract by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

3.9 Changes to the Contract Price or Period of Performance

- 3.9.1 The Service Provider is entitled to apply to the Employer for a change in Contract Price or the Period of Performance in the event that:
- a) a change in legislation takes place in accordance with the provisions of Clause 3.2;
 - b) a variation to the Services is made in accordance with the provisions of Clause 3.8;
 - c) the Employer or Others do not perform an action, provide access to people, places or things or perform work in accordance with the programme (see Clause 3.15);
 - d) the contract is suspended in accordance with the provisions of Clause 8.5;
 - e) the contract is restarted following a suspension; or
 - f) an event occurs which neither Party could prevent and which prevents the Service Provider from completing the Services or a part thereof
- 3.9.2 The Service Provider shall submit proposals to change the Contract Price or the Period for Completion (or both) to the Employer within 6 weeks of becoming aware of an event described in 3.9.1 occurring, failing which, the Service Provider shall not be entitled to a change in the Contract Price or Period of Performance.
- 3.9.3 The Employer shall assess the changes to the Contract Price on the effect of the event on the Services based on time-based fees.
- 3.9.4 The Employer shall assess the changes to the Period of Performance on the basis of the time that planned completion as shown on the latest approved programme is delayed.

3.10 Sole agreement

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

3.11 Indemnification

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

3.12 Penalty

- 3.12.1 If due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract or in law, be entitled to levy a penalty for every Day or part thereof, which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.
- 3.12.2 If the Employer has become entitled to the maximum penalty amount referred to in 3.12.1, he may after giving notice to the Service Provider :
- a) terminate the Contract
 - b) complete the Services at the Service Provider's cost.

3.13 Equipment and materials furnished by the Employer

- 3.13.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.
- 3.13.2 The Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.13.1 for their full replacement value.

3.14 Illegal and impossible requirements

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

3.15 Programme

- 3.15.1 The Service Provider shall, within the time period set out in the Contract Data and whenever a programme is amended or revised, submit for the Employer's approval a programme for the performance of the Services which shall, *inter alia*, include:
- a) the order and timing of operations by the Service Provider and any actions, access to people, places and things and work required of the Employer and Others;
 - b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them;
 - c) provisions for float;
 - d) the planned completion of the Services or part thereof in relation to a Period of Performance; and
 - e) other information as required in terms of the Scope of Work or Contract Data.
- 3.15.2 The Employer may, during the course of the Contract, request the Service Provider to amend the programme. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.
- 3.15.3 A programme shall be deemed to be approved if the Employer fails to approve such programme or give reasons for not approving a programme within three weeks of receipt of a request by the Service Provider to approve a programme.
- 3.15.3 The Service Provider shall update the programme:
- a) unless otherwise stated in the Contract Data, every three months to reflect actual progress to date;
 - b) whenever a change in Period of Performance or Contract Price is applied for; and
 - c) whenever a change in the Period of Performance is changed by the Employer

and submit such revised programme to the Employer for approval.

3.16 Price adjustment to time-based fees for inflation

- 3.16.1 Time-based fees which are stated in the Pricing Data as a unique rate and are not calculated by multiplying the total annual cost of employment contained, shall unless otherwise stated in the Contract Data, be adjusted in terms of 3.16.2 on each anniversary of the Starting Date.
- 3.16.2 The adjustment to the time-based fees shall be equal to:

$(CPI_n - CPI_s) / CPI_s$

where CPI_s = the indices specified in the Contract Data during the month in which the start date falls

CPI_n = the latest indices specified in Contract Data during the month in which the anniversary of the Start Date falls

4. EMPLOYER'S OBLIGATIONS

4.1 Information

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

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

4.2 Decisions

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

4.3 Assistance

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

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

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

4.4 Services of Others

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

4.5 Notification of material change or defect

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

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

4.6 Issue of instructions

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

4.7 Payment of Service Provider

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

5. SERVICE PROVIDER'S OBLIGATIONS

5.1 General

5.1.1 The Service Provider shall perform the Services in accordance with the Scope of Work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

5.1.2 If the Service Provider is a joint venture or consortium of two or more persons, the Service Provider shall designate one person to act as leader with authority to bind the joint venture or consortium. Neither the composition nor the constitution of the joint venture or consortium shall be altered without the prior consent in writing of the Employer, which shall not be unreasonably withheld.

5.2 Exercise of authority

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

5.3 Designated representative

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

5.4 Insurances to be taken out by the Service Provider

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

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

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

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

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

5.6 Co-operation with Others

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

5.7 Notice of change by Service Provider

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

6. CONFLICTS OF INTEREST

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

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

6.2 Royalties and the like

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

6.3 Independence

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

7. SERVICE PROVIDER'S PERSONNEL

7.1 General

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

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

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

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

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

7.2 Provision of Personnel in terms of a Personnel Schedule

- 7.2.1 The Service Provider shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.
- 7.2.2 Where the Service Provider proposes to utilise a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval. Should the Employer not object in writing within 10 Days of receipt of such notification, the replacement shall be deemed to have been approved by the Employer.
- 7.2.3 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.2.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.
- 7.2.4 The Service Provider shall, if required in terms of Clause 7.2.1:
- a) forward to the Employer for approval, within 15 Days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
 - b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
 - c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION

8.1 Commencement of Services

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

8.2 Completion

- 8.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when the Service Provider has completed all Deliverables in accordance with the Scope of Work.
- 8.2.2 The Service Provider may request an extension to the Period of Performance if he is or will be delayed in completing the Contract by any of the following causes:
- a) additional Services ordered by the Employer;
 - b) failure of the Employer to fulfil his obligations under the Contract;
 - c) any delay in the performance of the Services which is not due to the Service Provider's default;
 - d) *Force Majeure*; or
 - e) suspension.
- 8.2.3 The Service Provider shall within 14 Days of becoming aware that a delay may occur or has occurred, notify the Employer of his intention to make a request for the extension of the Period of Performance to which he considers himself entitled and shall within 30 days after the delay ceases deliver to the Employer full and detailed particulars of the request.
- 8.2.4 The Employer shall, within 30 Days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or

inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the Services and the matter shall be dealt with as a dispute in terms of Clause 12.

8.3 Force Majeure

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

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

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

8.4 Termination

8.4.1 The Employer may terminate the Contract:

- (a) where the Services are no longer required;
- (b) where the funding for the Services is no longer available;
- (c) if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) Days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;
- (d) if the Service Provider becomes insolvent or liquidated; or
- (e) if, as the result of *Force Majeure*, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days;

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

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

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

8.4.4 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed

prior to the effective date of termination and reimburse the Service Provider any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

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

8.5 Suspension

- 8.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the performance of the Services and minimise further expenditure.
- 8.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties

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

9. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

- 9.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.
- 9.2 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.
- 9.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

10. SUCCESSION AND ASSIGNMENT

- 10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.
- 10.2 An assignment shall be valid only if it is a written agreement by which the Service Provider transfers his rights and obligations under the Contract, or part thereof, to others.
- 10.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract or any part thereof, or any benefit or interest thereunder, except in the following cases :

- (a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or
 - (b) by assignment to the Service Provider's insurers of the Service Provider's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider's loss or liability.
- 10.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned.
- 10.5 If the Service Provider has assigned his Contract or part thereof without authorization, the Employer may forthwith terminate the Contract and the third party will have no claim against the Employer resulting from such termination.

11. SUBCONTRACTING

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

12. RESOLUTION OF DISPUTES

12.1 Settlement

- 12.1.1 The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed.
- 12.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be settled between the Parties shall in the first instance be referred by the Parties to either mediation or adjudication as provided for in the Contract Data.

12.2 Mediation

- 12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than 14 Days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.
- 12.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.
- 12.2.3 The mediator is authorised to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Parties.
- 12.2.4 If either Party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such Party may require that the dispute be referred to arbitration or litigation in a competent civil court, as provided for in the Contract Data.

12.3 Adjudication

- 12.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.
- 12.3.2 The adjudicator shall be appointed in terms of the Adjudicator's Agreement bound in the Construction Industry Development Board's Adjudication Procedure.
- 12.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data. The Adjudicator shall be appointed in accordance with the Adjudicator's Agreement contained in the CIDB Adjudication Procedure.
- 12.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party notice of dissatisfaction within 28 Days of the receipt of that decision and refer the dispute to arbitration or litigation in a competent civil court as provided for in the Contract Data. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding on the Parties.

12.4 Arbitration

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

13. LIABILITY

13.1 Liability of the Service Provider

13.1.1 The Service Provider shall be liable to the Employer arising out of or in connection with the Contract if a breach of Clause 5.1 is established against him.

13.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time stated in a notification and the Defect arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.

13.1.3 All persons in a joint venture or consortium shall be jointly and severally liable to the Employer in terms of this Contract and shall carry individually the minimum levels of insurance stated in the Contract Data, if any.

13.2 Liability of the Employer

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

13.3 Compensation

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

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

13.4 Duration of Liability

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

13.5 Limit of Compensation

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

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

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

13.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for his reasonable costs incurred as a

result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.

13.6 Indemnity by the Employer

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

13.7 Exceptions

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

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

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

14. REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

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

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

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

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

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

15 AMOUNTS DUE TO THE EMPLOYER

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

3.15.2	The Service Provider shall update the programme at intervals not exceeding weeks.	<i>Insert number of weeks e.g. 5, if require more frequently than once a quarter.</i>
3.16	The time-based fees shall not be adjusted for inflation.	<i>Omit if the default provisions are appropriate</i>
13.16.1	The indices are those contained in Table A of P0141 Consumer Price Index for the CPI for all services published by Statistics South Africa	<i>Omit if no adjustment is to be made for inflation. Amend if necessary</i>
4.3.1(d)	The Service Provider is not required to assist in the obtaining of approvals, licenses and permits from the state, regional and municipal authorities having jurisdiction over the Project	<i>Omit if the Service Provider is required to do so. Reword as necessary.</i>
5.4.1	The Service Provider is required to provide professional indemnity cover as set out in the Professional Indemnity Schedule. The Service Provider is required to provided the following insurances: 1. Insurance against Cover is: Period of cover: 2. Insurance against Cover is: Period of cover:	State requirements for professional indemnity insurance, if any. State requirements for other insurances if required.
5.5	The Service Provider is required to obtain the Employer's prior approval in writing before taking any of the following actions: 1 2	
7.2	The Service Provider is required to provide personnel in accordance with the provisions of clause 7.2 and to complete the Personnel Schedule.	<i>Omit if this is not a requirement</i>
8.1	The Service Provider is to commence the performance of the Services within ... Days of date that the Contract becomes effective.	<i>Insert number of day or amend as appropriate.</i>
8.2.1	The Contract is concluded when	<i>Omit if standard provisions of Clause 8.2.1 are appropriate.</i>
8.4.3 (c)	The period of suspension under clause 8.5 is not to exceed months/ weeks	<i>State maximum period for suspension.</i>
9.1	Copyright of documents prepared for the Project shall be vested with the	<i>Enter Employer or Service Provider</i>
11.1	A Service Provider may subcontract any work which he has the skill and competency to perform.	<i>Omit if not permitted</i>
12.1	Interim settlement of disputes is to be by mediation / adjudication	<i>Delete the option that is not selected</i>
12.2 / Final 12.3	settlement is by litigation / arbitration	<i>Delete the option that is not selected</i>

12.2.1	In the event that the parties fail to agree on a mediator, the mediator is nominated by	<i>Delete if adjudication is selected</i>
12.3.3	The adjudicator is the person appointed by the (name of an official within a body / association) Tel Fax No	<i>Insert particulars of person who appoints or delete if mediation is selected</i>
12.4.1	In the event that the parties fail to agree on an arbitrator, the arbitrator is nominated by	<i>Delete if litigation is selected</i>
13.1.3	All persons in a joint venture or consortium shall carry a minimum professional indemnity insurance of	<i>Delete if not a requirement or amend wording as required.</i>
13.4	Neither the Employer nor the Service Provider is liable for any loss or damage resulting from any occurrence unless a claim is formally made within months from the date of termination or completion of the Contract.	<i>Not required if the standard provisions of Clause 13.4 are acceptable.</i>
13.5.1	The maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to R Or The provisions of 13.5 do not apply to the Contract	<i>Not required if the standard provisions of Clause 13.5.1 are acceptable.</i> <i>Insert if provisions are not to apply</i>
13.6	The provisions of 13.6 do not apply to the Contract	<i>Insert if provisions are not to apply</i>
15	The interest rate will be prime interest rate of the Employers bank at the time that the amount is due. or The interest rates will be The additional conditions of contract are:	<i>Describe interest payable. Amend wording as applicable.</i> <i>Insert additional conditions of contract or delete row:</i>

Part 2: Data provided by the Service Provider

Clause		Guidance notes												
1	The Service Provider is Address: Telephone: Faxsimile:													
5.3	The authorised and designated representative of the Service Provider is: Name: The address for receipt of communications is: Telephone: Faxsimile: Address:													
1	The Period of Performance is	<i>Omit if employer specifies Period of Performance.</i>												
5.5 7.1.2	The Key Persons and their jobs / functions in relation to the services are:	<i>Provide if a requirement</i>												
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