

# O. R. TAMBO DISTRICT MUNICIPALITY



O.R. TAMBO  
DISTRICT MUNICIPALITY

CONTRACT NO.: ORTDM SCMU 21-22/23

KSD PRESIDENTIAL INTERVENTION BULK WATER SUPPLY

CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE  
(80MI/d to 115MI/d): CIVIL WORKS

**VOLUME 1: RETURNABLES**

**MAY 2023**

**NAME OF TENDERER:**

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**TENDER AMOUNT:**

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**CSD SUPPLIER NUMBER:**

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**CLOSING DATE & TIME:** 22 May 2023 @ 12h00

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**Prepared for:**

The Municipal Manager  
O. R. Tambo District Municipality  
Private Bag X6043  
MTHATHA  
5099

Tel. No. (047) 501 6400

**Prepared by:**

The District Engineering Services  
O. R. Tambo District Municipality  
Private Bag X6043  
MTHATHA  
5099

Tel. No. (047) 501 6425

## GENERAL TENDER INFORMATION

**TENDER ADVERTISED** : 05 May 2023

**ESTIMATED CIDB CONTRACTOR GRADING** : 8CE or Higher

**NON-COMPULSORY CLARIFICATION MEETING** : 10h00 on Friday, 12 May 2023

**VENUE FOR CLARIFICATION MEETING** : O. R. Tambo District Municipal Offices:  
Myezo

**CLOSING DATE** : 22 May 2023

**CLOSING TIME** : 12h00

**CLOSING VENUE** : Tender Box  
O. R. Tambo District Municipality  
MTHATHA

**INSTRUCTIONS** : Insert large envelope or parcel containing Volume 1 of the Tender Document only (not Volume 2 or drawings) and accompanying returnable documents file into the tender box on or before the closing date and time.

**TENDERER'S REPRESENTATIVE CONTACT INFORMATION:**

NAME OF TENDERER: .....

CONTACT PERSON: .....

TELEPHONE NUMBER: CODE.....NUMBER.....

CELL PHONE NUMBER:.....

E MAIL ADDRESS:.....

**PLEASE CHECK**

**x / √**

- 1. That you have read all the pages of the tender document. ....
- 2. That you have completed ALL the forms required to be completed in NON-ERASEABLE INK. ....
- 3. That your arithmetic calculation in the pricing schedule is correct. ....
- 4. That you have attached ALL necessary documentation relating to the Composition of the tendering entity, i.e. ....
  - (a) Company registration documents naming the shareholders and Directors / members of the company, close corporation etc.
  - (b) Joint venture agreement, if tendering entity is a joint venture.
- 5. That only the **required** tender documents are submitted (Volume 1 and file with supporting documents, but not Volume 2 or the Tender Drawings) .  
.....
- 6. That the **FORM OF OFFER** is completed in full and signed. ....
- 7. That ALL returnable documents are submitted. ....
- 8. That ALL returnable schedules are completed and signed. ....
- 9. Ensure that your tender is submitted by **12h00** on the closing date of the tender.

**O. R. TAMBO DISTRICT MUNICIPALITY**  
**BID NO: ORTDM SCMU 21- 22/23**  
**KING SABATA DALINDYEBO PRESIDENTIAL INTERVENTION - BULK WATER SUPPLY**  
**INFRASTRUCTURE**  
**CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d): CIVIL WORKS**

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## T1: Tendering Procedures

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<b>Number</b>	<b>Heading</b>	<b>Pages</b>
T1.1	Tender Notice And Invitation To Re-Tender	2
T1.2	Tender Data	5

## T1.1 TENDER NOTICE AND INVITATION TO RE-TENDER



O.R. TAMBO  
DISTRICT MUNICIPALITY

### O. R. TAMBO DISTRICT MUNICIPALITY

**BID NO: ORTDM SCMU 21-22/23**

**KING SABATA DALINDYEBO PRESIDENTIAL INTERVENTION  
BULK WATER SUPPLY INFRASTRUCTURE  
CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d):  
CIVIL WORKS**

**TENDER NOTICE AND INVITATION TO RE-TENDER**

Tenders are hereby invited from suitably qualified and experienced contractors who are registered with CIDB for the Water Services Infrastructure Grant under the O. R. Tambo District Municipality.

<b>Project Number</b>	<b>Name and Description</b>	<b>CIDB Grading</b>
ORTDM SCMU 21-22/23	<b>CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d): CIVIL WORKS</b> <ul style="list-style-type: none"><li>• Bulk &amp; restricted excavation in rock</li><li>• 3 No. Clariflocculator Tanks</li><li>• Rapid Gravity Sand Filter Building (35MI/d)</li><li>• Interlinking pipework (up to DN600)</li><li>• Chlorination Building</li><li>• Modifications and extensions to existing internal segmented block paved roads</li><li>• Staff Quarters sewer pipeline</li><li>• Gabion retaining walls</li></ul>	8CE or Higher

A non-compulsory clarification meeting with representatives of the client will take place at **10h00** on Friday, **12 May 2023** at the O. R. Tambo District Municipal Offices, Foyer: Myezo, before proceeding to site.

**THE MUNICIPALITY WILL NOT REPEAT ANY MATTERS ALREADY COVERED IN THE COMPULSORY BRIEFING MEETING TO THE BIDDERS WHO ARRIVE MORE THAN 10 MINUTES LATE TO THE MEETING, NOR WILL IT ALLOW SUCH BIDDERS TO COMPLETE THE ATTENDANCE REGISTER.**

Bid documents should be downloaded on the e-Tender website ([www.etenders.gov.za](http://www.etenders.gov.za)) alternatively on the O. R. Tambo website ([www.ortambodm.gov.za](http://www.ortambodm.gov.za)) at no cost.

Bids must be completed in black ink, enclosed in a sealed envelope and clearly marked with the "**Project number, project name and description**", deposited in the Open Tender Box, Ground Floor, O. R. Tambo District Municipality Building, Nelson Mandela Drive, Myezo Park, Mthatha, Eastern Cape, not later than **12h00 Midday** on **Monday, 22 May 2023**.

It must be expressly understood that the Municipality does not accept responsibility for ensuring that bid submissions sent by courier or post, or delivered in any other way, are deposited in the Tender Box. It is therefore preferable for the bidder to ensure that its bid submission is placed in the Tender Box by its own staff or representative(s).

Tender submissions will be opened in public at 12h00 midday on Monday, 22 May 2023. The Municipality reserves the right not to accept the lowest priced tender or any tender at all, or to accept the whole or part of any tender. **Bidders who submitted on the previous tender need to re-submit.**

**RETURNABLE DOCUMENTS TO BE SUBMITTED WITH THE BID:**

- Copy of business registration documents, as issued by CIPC.
- Certified copy of identity documents of directors/ shareholders/ partners / members, as the case may be.
- Original Valid Tax Clearance Certificate or a Confirmation of Tax Validity with the pin issued by SARS.
- Proof of latest municipal rates and taxes statement **of the bidder** indicating that rates and taxes are not in arrears for more than 3 months.
- Proof of latest municipal rates and taxes statement of each **company director** indicating that rates and taxes are not in arrears for more than 3 months.
- Proof of latest municipal water and sanitation charges statement **of the bidder** indicating that rates and taxes are not in arrears for more than 3 months for bidders who reside in the O. R. Tambo District Municipality area.
- Proof of latest municipal water and sanitation charges statement of each **company director** indicating that rates and taxes are not in arrears for more than 3 months for bidders who reside in the O. R. Tambo District Municipality area.
- Confirmation of address from a ward councillor where the bidder and company directors operate and reside in a peri-urban area where no rates and taxes and service charges are not billed.
- A copy of a valid lease agreement where the bidder does not own the property they are operating from.

**NB: CERTIFICATION OF DOCUMENTS MUST NOT BE MORE THAN SIX (6) MONTHS FROM DATE CERTIFIED BY COMMISSIONER OF OATHS.**

**THE BID WILL BE REJECTED IF THE BIDDER FAILS TO:**

- Complete fully the bid document or to provide the information requested, or to sign the bid at the appropriate spaces provided or next to errors.
- Fill and properly sign the form of offer.
- Attach proof of registration with CSD.
- Attach joint Venture Agreement or Consortium Agreement signed and initialled on each page (if applicable).
- Attach audited annual financial statements of the bidding entity (for projects in excess of R10 million);
- Attach unaudited annual financial statements for close corporations, as required by the Close Corporations Act (if applicable).

**PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT NO 5, 2000 (PPPFA) POINTS WILL BE AWARDED AS FOLLOWS:-**

Tender submissions will be evaluated in three stages, namely:

- Stage 1- Compliance with Bid Rules and other Requirements
- Stage 2- Functionality Assessment
- Stage 3 - Price and Preference

Item	Weight
<b>Stage 2 of Evaluation-Functionality</b>	<b>100</b>
<ul style="list-style-type: none"> <li>• Company Experience with respect to similar projects</li> </ul>	40
<ul style="list-style-type: none"> <li>• Qualifications and Experience of key staff assigned to the contract</li> </ul>	60
<b>Stage 3 of Evaluation- Price and Preference</b>	<b>100</b>
<ul style="list-style-type: none"> <li>• Specific goals</li> </ul>	10
<ul style="list-style-type: none"> <li>• Price</li> </ul>	90

Tender offers will be allocated a functionality score out of 100 in terms of the Functionality Criteria given. The score will be determined by the Employer, based on interpretation of the comparative quality of the various tender offers, as evidenced by the documentation provided in the tender offer.

The minimum score for Functionality Criteria that tender offers must attain in order to be deemed responsive is **70** out of **100**. Tenderers whose tender offer does not achieve this minimum qualification score will be rejected as non-responsive.

## CONDITIONS OF CONTRACT WITH REGARDS TO SUB-CONTRACTING

IT IS A CONDITION OF CONTRACT THAT SUCCESSFUL TENDERER MUST SUBCONTRACT A MINIMUM OF 15% OF THE VALUE OF THE CONTRACT TO LOCAL SMME'S.

Tenders may only be submitted on tender documentation issued. No late, faxed, e-mailed, or other form of tender will be accepted.

**Technical enquiries:** Mr. N. Noto, telephone number 047 501 6425 or email: [nkosiyabon@ortambodm.gov.za](mailto:nkosiyabon@ortambodm.gov.za).

**All Supply Chain Management enquiries** may be directed to Mr. S. Hopa, telephone number 047 501 6449 or Email: [sakhiwoh@ortambodm.org.za](mailto:sakhiwoh@ortambodm.org.za) during office hours: Monday to Friday 08h00-13h00 and 13h30-16Hh0.

Tenders will be evaluated in terms of the Supply Chain Management policy of the O. R. Tambo District Municipality. The lowest tender will not necessarily be accepted and the Municipality reserves right to accept the whole or part of any tender or not to consider any tender not suitably endorsed. An 90/10-point system shall apply where 90 points is allocated for price and 10 points allocated specific goals as follows:

<b>The specific goals allocated points in terms of this tender</b>	<b>Number of points allocated (90/10 system)</b>
The promotion of enterprises located in a specific province (Eastern Cape): <b>The Tenderer and Directors are based in the Eastern Cape and pay their municipal rates and taxes</b>	05
The promotion of enterprises located in a specific region (O.R Tambo District): <b>The Tenderer and Directors are based in the ORTDM region and pay their municipal rates and taxes</b>	05

Tenderers must submit copies of all supporting documents necessary to prove conformance with Specific Goal criteria listed above in order to be eligible for Specific Goal points.

**B. Matomela**

**Acting Municipal Manager**



## T1.2 TENDER DATA

The conditions of tender are the **Standard Conditions of Tender** as contained in Annexure F of the 30 January 2009 edition of the **CIDB Standard for Uniformity in Construction Procurement**. The Standard Conditions of Tender Procurements make several references to the Tender Data for details that apply specifically to the Tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the standard conditions of Tender. Each item of data given below is cross-referenced to the clause in the Standard Conditions of Tender to which it mainly applies.

*Please note that the word "Client" is used in this document and referred to as "Employer" in the Standard Conditions of Tender document.*

Clause Number	
<b>F.1</b>	<b>General</b>
F.1.1	The Client is: <b>O. R. Tambo District Municipality</b> Private Bag X6043 Mthatha 5099
F.1.2	The Tender documents issued by the Client comprise: <b>Tender</b> T1.1 Tender Notice and invitation to tender T1.2 Tender Data T2.1 List of Returnable Documents T2.2 Returnable Documents for tender evaluation purposes T2.3 Returnable Documents to be incorporated into the contract
	<b>Contract</b> <b>Part 1 : Agreements and Contract data</b> C1.1 Forms of Offer and Acceptance C1.2 Contract Data C1.3 Occupational health and safety specification C1.4 O. R. Tambo District Municipality's Health and Safety Specification <b>Part 2 : Pricing Data</b> C2.1 Pricing Instructions C2.2 Bill of Quantities <b>Part 3 : Scope of Works</b> C3.1 Description of the Works C3.2 Engineering C3.3 Procurement C3.4 Construction C3.5 Management C3.6 Annexures (Specification) <b>Part 4: Site Information</b> C4 Site information <b>Part 5: Tender Drawings</b> C5 Drawings

F1.3	<b>Interpretation</b> 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 tender conditions.		
F.1.4	<b>Communication:</b> Communication with all stakeholders shall be through the O. R. Tambo Municipality's PMU Manager. Communications shall be in the English language. The Employer shall not take any responsibility for non-receipt of communications from or by a tenderer.		
	<table border="1"> <tr> <td> <p>The Employer is <b>O. R. Tambo District Municipality</b> Private Bag x 6043 Mthatha 5099</p> <p>Tel: (047) 501 6425 Email: <a href="mailto:nkosiyabon@ortambodm.gov.za">nkosiyabon@ortambodm.gov.za</a></p> <p>Contact person: Mr. N. Noto</p> </td> <td> <p>The employer's agent is: <b>Lead Consultant</b> GIBB (PTY) LTD 36 Stanford Terrace MTHATHA Email: <a href="mailto:dshaw@gibb.co.za">dshaw@gibb.co.za</a> Contact Person : Mr D Shaw</p> </td> </tr> </table>	<p>The Employer is <b>O. R. Tambo District Municipality</b> Private Bag x 6043 Mthatha 5099</p> <p>Tel: (047) 501 6425 Email: <a href="mailto:nkosiyabon@ortambodm.gov.za">nkosiyabon@ortambodm.gov.za</a></p> <p>Contact person: Mr. N. Noto</p>	<p>The employer's agent is: <b>Lead Consultant</b> GIBB (PTY) LTD 36 Stanford Terrace MTHATHA Email: <a href="mailto:dshaw@gibb.co.za">dshaw@gibb.co.za</a> Contact Person : Mr D Shaw</p>
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F.1.5	<b>The employer's right to accept or reject any tender offer</b>		
F.1.5.1	<b>Reject or accept</b> 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 a cancellation and rejection, but will give written reasons for such action upon written request to do so.		
F.1.6	<b>Procurement procedures</b>		
F.1.6.1	A contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.		
F.2	<b>Tenderer's obligations</b>		
F.2.1.1	<b>Eligibility</b> Only those tenders who are registered with CIDB and have in their employ management and supervisory staff satisfying the requirement of the scope of work for labour intensive competencies for supervisory and management staff are eligible to submit tenders.		
F.2.1.2	<b>CIDB Grading</b> The required CIDB grading for this project is <b>8CE</b> or Higher.		
F.2.2	<b>Cost of tendering</b> Accept that the Employer will not compensate the tenderers 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	<b>Check documents</b> Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.		
F.2.4	<b>Confidentiality and copyright</b> 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	<b>Reference documents</b> 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.		

F2.6	<b>Acknowledge Addenda</b> Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension of the closing time stated in the tender data, in order to take the addenda into account.
F.2.7	The arrangements for a <b>non-compulsory clarification meeting</b> are:
	<b>Date: Friday ,12 May 2023</b> <b>Starting time:</b> 10h00 <b>Location:</b> O. R. Tambo Municipality Offices, Myezo, then proceed to site
F.2.8	<b>Seek clarification</b> 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.
F2.10	<b>Pricing the tender</b>
F.2.10.1	Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.
F.2.10.2	Show VAT payable by the employer separately as an addition to the tendered total of the prices.
F.2.10.3	Provide rates and prices that are fixed for the duration of the Contract, and not subject to adjustment except as provided for in the conditions of contract identified in the Contract data.
F.2.10.4	State the rates and prices in South African Rand
F2.11	<b>Alterations to documents</b> 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	<b>Alternative tender offers</b> Alternative offers may be submitted 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.2.13.5	The Client's address for delivery of Tender offers and identification details to be shown on each Tender offer package are: <b>Location of Tender box:</b> Tender Box, Ground Floor, O. R. Tambo District Municipality Building, Nelson Mandela Drive, Myezo Park, Mthatha, Eastern Cape. <b>Physical address:</b> O. R. Tambo House, Nelson Mandela Drive, Mthatha
F.2.14	<b>Information and data to be completed in all respects</b> 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	<b>Closing time</b> The closing times for submission of Tenders are <b>12h00 Monday, 22 May 2023.</b>
F.2.15	Telephonic, telegraphic, telex, facsimile or e-mailed Bid offers will <b>not</b> be accepted.
F.2.16	<b>Tender offer validity</b> The Tender offer validity period is 90 Days as stated in the tender data.
F.2.17	<b>Clarification of tender offer after submission</b> The tenderer shall provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

F.2.18	<p><b>Provide other material</b></p> <p>The tenderer shall, when requested by the Employer to do so, 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.</p>
F2.20	<p><b>Submit securities, bonds, policies</b></p> <p>Submit to the employer before formation of the contract, certificates of insurance required in terms of the conditions of contract identified in the contract data.</p>
F.2.23	<p><b>The tenderer is required to submit with his tender:</b></p> <p>(1) a valid Tax Verification Pin issued by the South African Revenue Services; and  (2) Certified copy of the original of all the Companies / CC Registration documents.  (3) Joint Venture Agreement where applicable in CIDB format (signed and initialed on each page).  (4) Proof of registration with CIDB  (5) Certified copies of the original green bar-coded ID copies of Members of the companies.</p>
F.3	<p><b>The employer's undertakings</b></p>
F.3.1	<p><b>Respond to requests from the tenderer</b></p>
F.3.1.1	<p>Respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.</p>
F.3.2	<p><b>Issue Addenda</b></p> <p>If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until 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, shall then notify all tenderers who drew documents.</p>
F.3.4	<p><b>Opening of tender submissions</b></p>
F.3.4.1	<p>The employer shall 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.</p>
F.3.4.2	<p>Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed and time for completion for the main tender offer only.</p>
F.3.4.3	<p>The Client shall not be obliged to make available the record outlined in F.3.4.2 to any tenderer who fail to attend the tender opening.</p>
F.3.6	<p><b>Non-disclosure</b></p> <p>The client shall 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.</p>
F.3.7	<p><b>Grounds for rejection and disqualification</b></p> <p>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.</p>
F3.9	<p><b>Arithmetical errors, omissions and discrepancies</b></p>
F.3.9.1	<p>Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.</p>
F.3.9.2	<p>Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:</p> <p>a) the gross misplacement of the decimal point in any unit rate;  b) omissions made in completing the pricing schedule or bills of quantities; or  c) arithmetic errors in:</p>

	<p>i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or ii) The summation of the prices.</p>								
F.3.9.3	Notify the tenderer of all errors or omissions that are identified in the tender offer and invite the tenderer to either confirm the tender offer as tendered or accept the corrected total of prices.								
F.3.9.4	<p>Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:</p> <p>a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.</p> <p>b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.</p>								
F.3.10	<p><b>Clarification of a tender offer</b> Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.</p>								
F3.11	<p><b>Evaluation of tender offers</b></p> <p><i>Replace the contents of the entire sub-clause with the following:</i></p> <p>The procedure for evaluation of responsive tender offers will be method 2 of table F.1 of SANS 294: 2004. Financial offer &amp; Preferences. The bid will be awarded to the bidder who has scored the highest points for price and preferences combined <b>BUT</b> the prerequisite will be to obtain at least <b>70 points</b> for quality (functionality), which will be explained in Stage 2 below.</p> <p>Nevertheless, O. R. Tambo District Municipality retains the right to accept any bid.</p> <p><b>Stage 1: Compliance with Bid Rules and other Requirements</b> The bids will be checked to ensure that they comply with the bid rules and all other requirements of the project document. In particular the following documentation must be completed and/or included within the bid.</p> <ul style="list-style-type: none"> <li>• The form of Offer and Acceptance</li> <li>• Audited financial statements for any tender price over R10million</li> <li>• Certified company registration documents and ID of members</li> <li>• Form C: Compulsory Enterprise Questionnaire</li> <li>• Form D: Certificate of Authority for Signature</li> <li>• Form E: Amendments, Qualifications and Alternatives</li> <li>• Form H: Certificate of Good Standing</li> <li>• Form I: Relevant company experience</li> <li>• Form J: Details of key staff and CVs</li> <li>• Form M: Preference Points Claim Form in Terms of the Preferential Procurement Regulations 2022</li> <li>• All information supporting the above forms</li> <li>• Addenda issued during the bid period, if any.</li> <li>• The pricing schedule</li> </ul> <p>Failure to supply the required information will compromise the bid</p> <p><b>Stage 2: Functionality</b> The next state in the evaluation process will consist of evaluating Functionality scores, as follows:</p> <p><b>FUNCTIONALITY EVALUATION</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">ITEM</th> <th style="text-align: center;">WEIGHT</th> </tr> </thead> <tbody> <tr> <td>Functionality (see detailed criteria below)</td> <td style="text-align: center;"><b>100</b></td> </tr> <tr> <td>• Experience with respect to similar projects</td> <td style="text-align: center;">40</td> </tr> <tr> <td>• Qualifications and Experience of key staff assigned to the contract</td> <td style="text-align: center;">60</td> </tr> </tbody> </table> <p>Only bidders who score <b>70 points or more</b> on stage 2 will be evaluated further and therefore eligible for award.</p>	ITEM	WEIGHT	Functionality (see detailed criteria below)	<b>100</b>	• Experience with respect to similar projects	40	• Qualifications and Experience of key staff assigned to the contract	60
ITEM	WEIGHT								
Functionality (see detailed criteria below)	<b>100</b>								
• Experience with respect to similar projects	40								
• Qualifications and Experience of key staff assigned to the contract	60								

<p>The maximum score for functionality shall be <b>100</b>, distributed as follows: <b><i>Tender functionality / quality claimed</i></b></p>							
<b>Category of Quality / Functionality</b>						<b>Max functionality points</b>	
<b>B1.1 Experience of company on similar projects</b>						<b>40</b>	
<p>Tenderers will be allocated a functionality score in accordance with the criteria below to rate their expertise and experience in construction work of a similar nature. The tender offer must provide the information required in terms of RETURNABLE SCHEDULE B3: TENDERERS EXPERTISE AND EXPERIENCE, in the format specified.</p> <p>In order for a project to be counted for functionality points, the Practical Completion / Completion Certificate for the project must be submitted, together with relevant documentation clearly showing compliance with the above criteria for the WWTW or WTW</p>							
<p>Points for “<b>Experience of company</b>” are awarded based the number of construction contracts successfully completed within the last 10 years which included <b>water-retaining reinforced-concrete structures for a waste water treatment or water treatment works of at least 5MI/d capacity OR a reservoir of at least 6MI capacity.</b></p>							
Contractor failed to provide clear or sufficient evidence of compliance with above minimum criteria for any contract.						0	
The Contractor has successfully completed at least <b>One (1)</b> projects that satisfies the above criteria						10	
The Contractor has successfully completed at least <b>Two (2)</b> projects that satisfies the above criteria						20	
The Contractor has successfully completed at least <b>Three (3)</b> projects that satisfies the above criteria						30	
The Contractor has successfully completed at least <b>Four (4)</b> projects that satisfies the above criteria						40	
<b>B1.2 Qualifications and Experience of key personnel</b>						<b>60</b>	
<p>Tenderers will be allocated a functionality score to rate the key personnel assigned to the Contract in accordance with the criteria below.</p> <p>In order to receive a Functionality score for key personnel, the tender offer must provide the information required in <b>RETURNABLE SCHEDULE B4: EXPERIENCE OF KEY PERSONEL</b></p>							
Key Personnel Role	Qualification		Professional accreditation		Relevant Years of Experience		Maximum points available
	Type	Points	Type	Points	Years	Points	
Construction Manager (Site Agent)	4yr & above Eng degree or BTech	10	ECSA / SACPCMP	5	>10 >6	10 5	25
	3yr Eng diploma	5	ECSA / SACPCMP	5	>10 >6	8 5	
	<4yr Eng Degree & <3yr Eng Diploma	0	ECSA / SACPCMP	0	<6	0	
Concrete Foreman Experience in reinforced concrete structures	Certificate or Accredited Training in Concrete		N/A		>10 >5 >3 <3	25 20 5 0	25
					>10 >5 >3 <3	25 20 5 0	
					>10 >5 >3 <3	25 20 5 0	
Health & Safety Officer	Tertiary in OH&S	3	SACPCMP	3	>8 >3 >3	4 2 2	10
	Other Tertiary	1	SAMTRAC	2	>8 >3	4 2	
	No Tertiary	0	SACPCMP / SAMTRAC	0	<8 and <3 in Tertiary	0	

**STAGE 3: EVALUATION FOR PRICE AND PREFERENCE (90/10)**

The procedure for Stage 3 of evaluation is as follows:

**a) PRICE: ..... 90**

**b) SPECIFIC GOALS: ..... 10**

**a) Points Awarded for Price (Ps)**

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

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

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmax = Price of highest acceptable tender

**b) Points awarded for specific goals**

In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in a table below as may be supported by proof/ documentation included with :

Specific Goals	Number of points allocated (max combined score: 10 points)
The promotion of enterprises located in a specific province (Eastern Cape): <b>The Tenderer and Directors are based in the Eastern Cape and pay their municipal rates and taxes</b>	05
The promotion of enterprises located in a specific region (O.R Tambo District): <b>The Tenderer and Directors are based in the ORTDM region and pay their municipal rates and taxes</b>	05

**F.3.13 Acceptance of Tender Offer**

- F3.13.1 Accept the tender offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the tenderer:
- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
  - b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
  - c) has the legal capacity to enter into the contract,

	<p>d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,</p> <p>e) complies with the legal requirements, if any, stated in the tender data, and</p> <p>f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.</p>
F3.13.2	<p>Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period. 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.</p>
F.3.14	<p><b>Notice to unsuccessful tenderers</b></p> <p>After the successful tenderer has acknowledged the employer's notice of acceptance, after written request, the employer will notify the tenderers that their tender offers have not been accepted on the O. R. Tambo District Municipality's website: <a href="http://www.ortambodm.gov.za">www.ortambodm.gov.za</a>, by listing the successful tender.</p>
F.3.15	<p><b>Prepare Contract documents</b></p> <p>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:</p> <ul style="list-style-type: none"><li>a) addenda issued during the tender period,</li><li>b) inclusion of some of the returnable documents,</li><li>c) other revisions agreed between the employer and the successful tenderer, and</li><li>d) The schedule of deviations attached to the form of offer and acceptance, if any.</li></ul>
F.3.16	<p><b>Issue final contract</b></p> <p>Prepare and issue the final draft of the contract 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).</p>



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## T2: Returnable Documents

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<b>Number</b>	<b>Heading</b>	<b>Pages</b>
T2.1	Schedule Of Returnable Documents	14
T2.2	Returnable Documents	15

## T2.1 SCHEDULE OF RETURNABLE DOCUMENTS

### T2.1.1. General

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 Tenderer is required to complete each and every Schedule and Form listed below to the best of his 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.

### T2.1.2. Returnable Schedules, Forms and Certificates

SCHEDULE	DESCRIPTION	PAGE
	<b>Company Specific</b>	
A1	Authority to sign documents	16
A2	Certificate Of Attendance At Clarification Meeting / Site Inspection	17
A3	Certificate Of Authority For Joint Ventures	18
A4	Joint Venture Agreement	19
A5	Compulsory Enterprise Questionnaire	20
	<b>Municipal Bid Documents (MBD)</b>	
MBD 1	Schedule D: Municipal Bid Document	21
MBD 4	Declaration of Interest	23
MBD 6.1	Preference Points Claim Form	26
	<b>Technical and Evaluation</b>	
B1	Proposed Organisation and Organogram	29
B2	Schedule of Proposed Subcontractors	30
B3	Tenderers Expertise and Experience	31
B4	Experience of Key Personnel	32
B5	Preliminary Quality Assurance Plan	33
B6	Health and Safety Plan	34
B7	Preliminary Program	35
B8	Schedule of Estimated Monthly Expenditure	36
	<b>Contractual</b>	
B9	Amendments / Alternative and Qualifications by Tenderer	37
B10	Record of Addenda to Tender Document	38
C1.1	Form of Offer and Acceptance	40
C1.2	Contract Data	45
C1.3	Surety	63
C1.4	Adjudication	66
C1.5	Occupational Health and Safety Agreement	67
	<b>Pricing Data</b>	
C2.1	Pricing Instructions	70
C2.2	Bill of Quantities	71

## **T2.2 RETURNABLE DOCUMENTS**

**NB: TENDERERS MUST COMPLETE THESE DOCUMENTS / FORMS IN BLACK INK**

**A1. AUTHORITY TO SIGN DOCUMENTS**

I/We\*, the undersigned, am/are\* duly authorised to sign the form of tender on behalf of

.....  
by virtue of the Articles of Association/Resolution of the Board of Directors\*, of which a certified copy is attached, or  
.....  
.....

(\*Delete whichever is inapplicable)

Indicate the status of the tenderer by ticking the appropriate box hereunder :

A Company	B Partnership	C Joint Venture	D Sole Proprietor	E Close Corporation

1. 

<b>NAME</b>	<b>SIGNATURE</b>	<b>DATE</b>

2. 

<b>NAME</b>	<b>SIGNATURE</b>	<b>DATE</b>

**WITNESSES:**

1. 

<b>NAME</b>	<b>SIGNATURE</b>	<b>DATE</b>

2. 

<b>NAME</b>	<b>SIGNATURE</b>	<b>DATE</b>

---

## A2. CERTIFICATE OF ATTENDANCE AT CLARIFICATION MEETING / SITE INSPECTION

This is to Certify that I/We\* .....

of (Tenderer) .....

of (address) .....

.....

Telephone number ..... Fax number.....

E-mail .....

have attended the clarification meeting and examined the Site of the Works and its surroundings for which I/we\* am/are\* submitting this Tender and have, so far as is practicable, familiarised myself/ourselves\* with all information, risks, contingencies and other circumstances which may influence or affect my/our\* tender.

*\*Delete whichever is inapplicable*

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**SIGNED ON BEHALF OF O. R. TAMBO DISTRICT MUNICIPALITY:**

**NAME**

**SIGNATURE**

**A3. CERTIFICATE OF AUTHORITY FOR JOINT VENTURES**

This Returnable Schedule is to be completed only if Tenderer is a joint venture.

We, the undersigned, are submitting this tender offer in joint venture and hereby authorise

Mr/Ms ....., authorised signatory of the company, close corporation or partnership..... acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
Lead partner		Signature : ..... Name : ..... Designation : .....
		Signature : ..... Name : ..... Designation : .....
		Signature : ..... Name : ..... Designation : .....
		Signature : ..... Name : ..... Designation : .....

**Note:**

A copy of the Joint Venture Agreement showing clearly the percentage contribution of each partner to the Joint Venture shall be appended to this Schedule.

**A4. JOINT VENTURE AGREEMENT**

The Tenderer, if a Joint Venture, must attach the Joint Venture Agreement here as per the requirements of Clause C.2.1.4.5 of the **Error! Reference source not found. : Error! Reference source not found..**

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

**A5. 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: The attached SBD4 must be completed for each attender and be attached as a tender requirement**

**Section 7: The attached SBD6 must be completed for each attender and be attached as a tender requirement**

**Section 8: The attached SBD8 must be completed for each attender and be attached as a tender requirement**

**Section 9: The attached SBD9 must be completed for each attender and be attached as a tender requirement**

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

- i) authorises the Employer to obtain a tax Clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that neither the name of the enterprise nor the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I/we are not associated, linked or involved with any other tendering entities submitting tender offers and have no 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;
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

**SIGNED:**

**ENTERPRISE NAME**

**DATE**

**NAME**

**POSITION**

**SIGNATURE**



**SCHEDULE D: MUNICIPAL BIDDING DOCUMENTS (MBDs)**  
**MBD 1**

**PART A**  
**INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF O. R. TAMBO DISTRICT MUNICIPALITY</b>					
<b>BID NUMBER:</b>	ORTDM SCMU 21-22/23	<b>CLOSING DATE:</b>	22 MAY 2023	<b>CLOSING TIME:</b>	12.00PM
<b>DESCRIPTION:</b>	CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d): CIVIL WORKS				

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

<i>TENDER BOX, GROUND FLOOR, O. R. TAMBO DISTRICT MUNICIPALITY BUILDING</i>
<i>NELSON MANDELA DRIVE</i>
<i>MYEZO PARK, MTHATHA</i>

**SUPPLIER INFORMATION**

<b>NAME OF BIDDER</b>					
<b>POSTAL ADDRESS</b>					
<b>STREET ADDRESS</b>					
<b>TELEPHONE NUMBER</b>	<b>CODE</b>		<b>NUMBER</b>		
<b>CELLPHONE NUMBER</b>					
<b>FACSIMILE NUMBER</b>	<b>CODE</b>		<b>NUMBER</b>		
<b>E-MAIL ADDRESS</b>					
<b>VAT REGISTRATION NUMBER</b>					
<b>TAX COMPLIANCE STATUS</b>	<b>TCS PIN:</b>			<b>CSD No:</b>	
<b>STATEMENT OF RATES AND TAXES</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<b>PROOF OF REGISTRATION WITH CSD</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	

*[CSD REPORT AND STATEMENT OF RATES AND TAXES ] MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR PREFERENCES]*

<b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	<b>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
<b>TOTAL NUMBER OF ITEMS OFFERED</b>		<b>TOTAL BID PRICE</b>	R
<b>SIGNATURE OF BIDDER</b>	.....	<b>DATE</b>	
<b>CAPACITY UNDER WHICH THIS BID IS SIGNED</b>			

<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>		<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>	
<b>DEPARTMENT</b>	SCM DEPARTMENT	<b>CONTACT PERSON</b>	Mr. N.Noto
<b>CONTACT PERSON</b>	MR. SAKHIWO HOPA	<b>TELEPHONE NUMBER</b>	047 501 6425
<b>TELEPHONE NUMBER</b>	047 501 6449	<b>FACSIMILE NUMBER</b>	N/A
<b>E-MAIL ADDRESS</b>	<a href="mailto:sakhiwoh@ortambodm.gov.za">sakhiwoh@ortambodm.gov.za</a>	<b>E-MAIL ADDRESS</b>	<a href="mailto:nkosiyabon@ortambodm.gov.za">nkosiyabon@ortambodm.gov.za</a>

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	<b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED).</b>
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a> .
2.4	FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
2.5	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.6	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.7	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>	
3.1.	IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.2.	DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.3.	DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.4.	DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.5.	IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.  
NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

**SIGNATURE OF BIDDER:** .....

**CAPACITY UNDER WHICH THIS BID IS SIGNED:** .....

**DATE:** .....

**MBD 4**

**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.
  - 3.1 Full Name of bidder or his or her representative.....
  - 3.2 Identity Number: .....
  - 3.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>):  
.....
  - 3.4 Company Registration Number: .....
  - 3.5 Tax Reference Number: .....
  - 3.6 VAT Registration Number: .....
  - 3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.
  - 3.8 Are you presently in the service of the state?..... **YES / NO**
    - 3.8.1 If yes, furnish particulars.....  
.....

<sup>1</sup> 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.

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

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

3.9.1 If yes, furnish particulars.....  
.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?..... **YES / NO**

3.10.1 If yes, furnish particulars .....  
.....

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

3.11.1 If yes, furnish particulars.....  
.....

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

3.12.1 If yes, furnish particulars .....  
.....

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

3.13.1 If yes, furnish particulars.....  
.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?..... **YES / NO**

3.14.1 If yes, furnish particulars .....  
.....

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

Full name	Identity number	State employee number

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

.....  
**Name of Bidder**

## MBD 6.1

### PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

#### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

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

#### 1.2 To be completed by the organ of state

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) The highest acceptable tender will be used to determine the accurate system once tenders are received.
- c) The maximum points for this tender are allocated as follows:

	POINTS
PRICE	90
SPECIFIC GOALS	10
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

1.3 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.4 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

#### 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

### 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

#### 3.1. POINTS AWARDED FOR PRICE

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system)	Number of points claimed by Tenderer (To be completed by the Tenderer)
The promotion of enterprises located in a specific province (Eastern Cape): <b>The Tenderer and Directors are based in the Eastern Cape and pay their municipal rates and taxes</b>	05	
The promotion of enterprises located in a specific region(O.R Tambo District): <b>The Tenderer and Directors are based in the ORTDM region and pay their municipal rates and taxes</b>	05	

**The following documents shall be submitted to prove compliance with the above Specific Goals where claimed:**

- Copy of business registration documents, as issued by CIPC.
- Certified copy of identity documents of directors/ shareholders/ partners / members, as the case may be.
- Original Valid Tax Clearance Certificate or a Confirmation of Tax Validity with the pin issued by SARS.
- Proof of latest municipal rates and taxes statement **of the bidder** indicating that rates and taxes are not in arrears for more than 3 months.
- Proof of latest municipal rates and taxes statement of each **company director** indicating that rates and taxes are not in arrears for more than 3 months.
- Proof of latest municipal water and sanitation charges statement **of the bidder** indicating that rates and taxes are not in arrears for more than 3 months for bidders who reside in the O. R. Tambo District Municipality area.
- Proof of latest municipal water and sanitation charges statement of each **company director** indicating that rates and taxes are not in arrears for more than 3 months for bidders who reside in the O. R. Tambo District Municipality area.
- Confirmation of address from a ward councillor where the bidder and company directors operate and reside in a peri-urban area where no rates and taxes and service charges are not billed.
- A copy of a valid lease agreement where the bidder does not own the property they are operating from.

**5. DECLARATION WITH REGARD TO COMPANY/FIRM**

5.1. Name of company/firm.....

5.2. Company registration number: .....

5.3. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

5.4. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- 1 The information furnished is true and correct;
- 2 The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- 3 In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- 4 If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

..... <b>SIGNATURE OF TENDERER</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	..... ..... ..... .....



## B1. PROPOSED ORGANISATION AND STAFFING

The tender offer shall include an organogram showing the team of key personnel the Tenderer proposes to assign to the Contract and how responsibilities for the various disciplines or work and components of the Works will be assigned. The name, roles and responsibilities of each person must be clearly set out, and corresponding job descriptions must be provided as an addendum to the organogram.

In the case of a Joint Venture or where major sub-contractors are made use of, the organogram must show how respective responsibilities are to be allocated.

As a minimum, the organogram must show how respective responsibilities are to be allocated. As a minimum, the organogram must include for the personnel detailed in Returnable Schedule B4: Experience of Key Personnel.

The Tenderer shall include the requisite organogram and CVs in the Supporting Documentation file.

In addition to the detail request above, **the names of the following shall be entered below** (the CVs for these names will be used to score Functionality):

Construction Manager (Site Agent)	
Construction Supervisor (Main Concrete Foreman)	
Health & Safety Officer	

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

**B2. SCHEDULE OF PROPOSED SUBCONTRACTORS**

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

<b>SUBCONTRACTORS</b>			
<b>Category/type</b>	<b>Subcontractor Name/Address/Contact Person/Phone/e-mail/Details of Organisation/Firm/ Experience</b>	<b>Items of work (pay items) to be undertaken by the Subcontractor</b>	<b>Estimated Cost of Work (Rand)</b>
<b>TOTAL (Excluding VAT)</b>			

If there is insufficient space above, the Tenderer may include the additional sheets in the Supporting Documentation file, to be submitted in accordance with Clause C.2.13.3 of **Error! Reference source not found. Error! Reference source not found.**

Number of additional sheets submitted by the Tenderer to this Schedule .....(If nil, enter NIL)

Acceptance of this tender shall not be construed as approval of all or any of the listed subcontractors. Should any of the subcontractors not be approved subsequent to acceptance of the tender, this shall in no way invalidate this tender, and the tendered unit rates for the various items of work shall remain final and binding, even in the event of a subcontractor not listed above being approved by the Engineer.

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

**B3 TENDERERS EXPERTISE AND EXPERIENCE**

The evaluation of the Tenderer’s relevant Construction Experience shall be based on the minimum qualifying criteria for Functionality Scoring set out in Tender Data reproduced below:

Criteria	Description of requirements
<b>Tendering Entity’s Relevant Experience</b>	<p>Number of contracts of a similar nature successfully completed by Tendering Entity.</p> <p><b>Minimum qualifying requirements for Functionality Scoring:</b></p> <p>Construction contracts successfully completed within the last 10 years which included <b>water-retaining reinforced-concrete structures for a waste water treatment or water treatment works of at least 5MI/d capacity OR reservoir of at least 6MI capacity.</b></p> <p>Practical Completion / Completion Certificate/s to be attached.</p> <p>Relevant documentation clearly showing compliance with the minimum requirements as set out above to be attached</p>

Details to be provided in the table of expertise and experience must, as a minimum, include:

- Project name
- Project location
- Employing authority/Client with Contact details (NEEDED FOR REFEREE CHECKS FOR VERIFICATION)
- Supervising Engineer, with Contact details (NEEDED FOR REFEREE CHECKS FOR VERIFICATION)
- Period of construction (commencement and completion)
- Description and value of principle work content.
- Value of Contract
- Documentation clearly showing compliance with the minimum requirements

The Tenderer shall include the requisite documentation in the Supporting Documentation file.

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

## B4 EXPERIENCE OF KEY PERSONNEL

The Functionality point scoring of Key Personnel's relevant Roles, Construction Experience and qualifications shall be based on the scoring criteria set out in Tender Data.

Curriculum Vitae (CV), up to a maximum of five (5) pages must be submitted, for each of the above key personnel. The CVs must specifically include the qualifications, professional accreditation and relevant experience in construction projects of a similar nature. Minimum information to be included in the CV's is given overleaf.

Each CV must be clearly cross-referenced to and labelled to correspond with the organogram submitted in terms of Returnable Schedule **B1 Proposed organisation and staffing**, so as to indicate which role the person in question is proposed to fulfil in the Contract.

The Tenderer shall include the requisite CVs in the Supporting Documentation file..

### KEY PERSONNEL CVs : MINIMUM INFORMATION TO BE SUPPLIED

Name:  
Professional:  
Date of Birth:  
Parent Firm:  
Position in Firm:  
Years with Firm:  
Nationality:

Tertiary Education (and year obtained):

Professional Accreditation (and year obtained):

Years of Relevant Experience: *Relevant experience shall relate to their proposed roles in this Contract.*

Languages: Indicate first language. If the first language is not English, please indicate proficiency in English. In other languages, including South African indigenous languages, please show speaking, reading and writing ability.

Language	Speaking	Reading	Writing
English			

**Countries of Work Experience:** .....

**Key Qualifications:** *Under this heading, give outline of staff members experience and training most pertinent to the assigned work on the team.*

**Relevant Experience:** *Describe degree of responsibility held by staff member on relevant previous assignments, and give dates, project values and locations. For experience in the last ten years, also give types of activities performed and Client references where appropriate.*

**Summary of Other Experience:** *Under this heading, list all positions held by staff member since graduation, giving dates, names of employing organisation, title of position held and location, type and value of construction projects.*

### References

### Declaration

I confirm that the above information contained in the CV is an accurate description of my experience and qualifications and that, at the time of signature, I am available and will serve in the position indicated for me in the proposal for **BID NO: ORTDM SCMU 21-22/23: CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADING (80MI/d to 115MI/d): CIVIL WORKS.**

**SIGNED BY/ON BEHALF OF TENDERER:**

NAME

SIGNATURE

DATE

## B5 PRELIMINARY QUALITY ASSURANCE PLAN

The Tenderer must submit a Preliminary Quality Assurance Plan showing how the Tenderer will comply with Sub-Clause 4.9 in C1.2: Contract Data.

The Preliminary Quality Assurance Plan must outline processes, procedures and associated resources, applied by whom and when, to meet the requirements and indicate how risks will be managed and what contribution can be made regarding value management. Particular attention in the plan must be given to the following:

- a) The preparation and internal approval process for the Contractors Documents in terms of Clause 5 of the General Conditions of Contract.
- b) The proposed internal quality management procedures pertaining to the Works and including aspects such as:
  - Control and tracking of the Contractor's Documents
  - Testing procedures

The plan must include a technical description of systems and equipment offered, highlighting the main features, benefits and innovations thereof, and showing how these can meet the Employer's objectives and the specified services requirements. This must be supplemented by technical literature such as brochures, drawings, for the various items of plant and equipment offered.

This plan must address the Tenderer's plans for completing the Works within the specified Time for Completion, paying particular attention to:

- a) Interfacing with (i) the Tenderer's own sub-contractors or Joint Ventures and (ii) the Mechanical and Electrical Contractor; and
- b) The sequencing of the Works in terms of the requirements of C3: Scope of Work.

The Tenderer must include the required Quality Assurance Plan and supporting information in the Supporting Documentation file to be submitted in accordance with Clause C.2.13.3 of **Error! Reference source not found. : Error! Reference source not found..**

### SIGNED BY/ON BEHALF OF TENDERER:

NAME

SIGNATURE

DATE

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## B6 HEALTH AND SAFETY PLAN

Tenderers are to note the requirements of the Occupational Health and Safety Act No. 85 of 1993 and the Construction Regulations 2014 issued in terms of Section 43 of the Act. The Tenderer shall be deemed to have read and fully understood the requirements of the above Act and Regulations and to have allowed for all costs in compliance therewith.

In this regard, the Tenderer shall prepare and attach a Health and Safety Plan in respect of the Works in order to demonstrate the necessary competencies and resources to perform the construction work all in accordance with the Act and Regulations. The Health and Safety specification for the Employer is attached. The Tenderer's Health and Safety Plan shall cover inter-alia the following details:

- 1) Management Structure, Site Supervision and Responsible Persons including a succession plan
- 2) Contractor's induction training program for employees, sub-contractors and visitors to the Site
- 3) Health and safety precautions and Procedures to be adhered to in order to ensure compliance with the Act, Regulations and Safety Specifications
- 4) Regular monitoring Procedures to be performed
- 5) Regular liaison, consultation and review meetings with all parties
- 6) Site security, welfare facilities and first aid
- 7) Site rules and fire and emergency Procedures.

Tenderers are to note that the Contractor is required to ensure that all sub-contractors or others engaged in the performance of the contract also comply with the above requirements.

The Tenderer shall also take into account the additional requirements stated in the Scope of Work when drawing up the Health and Safety Plan for the contract.

**Details of the Health and Safety Plan shall be appended to this Schedule.**

Number of sheets appended by the Tenderer to this Schedule ..... (If nil, enter NIL)

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

## **B7 PRELIMINARY PROGRAM**

The Tenderer shall provide a preliminary program in Gantt Chart format showing how the requirements of C1.2: Contract Data and Part C3: Scope of Work will be met; and outlining the key activities and milestones for the Works and the sequencing thereof.

The program must be based on the tendered Time for Completion and take cognisance of the programming limitations given in the Project Specifications.

The preliminary program must be included in the Supporting Documentation file.

### **SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

**B8 SCHEDULE OF ESTIMATED MONTHLY EXPENDITURE**

The Tenderer shall state his estimated expenditure indicating the values of each monthly claim in terms of Clause 6.10 of the General Conditions of Contract, which he/she estimates will arise based on his/her preliminary program and tendered rates, in the table below.

MONTH	VALUE
1	R
2	R
3	R
4	R
5	R
6	R
7	R
8	R
9	R
10	R
11	R
12	R
13	R
14	R
15	R
16	R
17	R
18	R
19	R
20	R
21	R
22	R
23	R
24	R
<b>TOTAL</b>	<b>R</b>

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**



**B9 AMENDMENTS / ALTERNATIVES AND QUALIFICATIONS BY TENDERER**

The Tender should not make any departures from the provisions of this contract as per Clause C2.12 in the **Error! Reference source not found. Error! Reference source not found.**

(The schedules below are not an invitation for amendments, deviations or alternatives but should the Tenderer desire to make any departures from the provisions of this contract he shall set out his proposals clearly hereunder.)

I / We herewith propose the amendments, alternatives and discounts as set out in the tables below:

**(a) AMENDMENTS**

PAGE, CLAUSE OR ITEM NO	PROPOSED AMENDMENT
	<b>***NO AMENDMENTS ALLOWED***</b>

- (1) *Amendments to the General and Special Conditions of Contract are not acceptable;*
- (2) *The Tenderer must give full details of all the financial implications of the amendments and qualifications in a covering letter attached to his tender.*

**(b) ALTERNATIVES**

PROPOSED ALTERNATIVE	DESCRIPTION OF ALTERNATIVE
	<b>***NO ALTERNATIVES ALLOWED***</b>

- (1) *Individual alternative items that do not justify an alternative tender and an alternative offer for time for completion should be listed here.*
- (2) *In the case of a major alternative to any part of the work, a separate Bill of Quantities, program, etc, and a detailed statement setting out the salient features of the proposed alternatives must accompany the tender.*
- (3) *Alternative tenders involving technical modifications to the design of the works and methods of construction shall be treated separately from the main tender offer.*

**(c) QUALIFICATIONS**

ITEM ON WHICH QUALIFICATION IS MADE	DESCRIPTION OF QUALIFICATION
	<b>***NO QUALIFICATIONS ALLOWED***</b>

- (1) *The Tenderer must give full details of the discounts offered in a covering letter attached to his tender, failing which, the offer will be prejudiced.*

If there is insufficient space above, the Tenderer may append additional sheets.

Number of additional sheets appended by the Tenderer to this Schedule ..... (If nil, enter NIL)

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

**B10 RECORD OF ADDENDA TO TENDER DOCUMENTS**

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

No.	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		

If there is insufficient space above, the Tenderer may include the additional sheets in the Supporting Documentation file.

Number of additional sheets appended by the Tenderer to this Schedule ..... (If nil, enter NIL)

**SIGNED BY/ON BEHALF OF TENDERER:**

**NAME**

**SIGNATURE**

**DATE**

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## C1: Agreements and Contract Data

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<b>Number</b>	<b>Heading</b>	<b>Pages</b>
C1.1	Form of Offer and Acceptance	55
C1.2	Contract Data	45
C1.3		79
C1.4	Adjudication	66
C1.5	Occupational Health and Safety Agreement	67

## C1.1. Form of Offer and Acceptance

### Offer

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

**BID NO: ORTDM SCMU 21-22/23: CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d): CIVIL WORKS**

The tenderer, identified in the offer signature block below, has examined the documents listed in the tender data and addenda thereto as listed in the Schedule of Returnable Documents, and by submitting this offer has accepted the conditions of tender.

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

**THE OFFERED TIME FOR COMPLETION IS:.....WEEKS**

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF 15% VALUE ADDED TAX IS:**

.....  
..... RAND (in words);  
R .....(in figures)

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 Contractor in the Conditions of Contract identified in the Contract Data.

**SIGNED ON BEHALF OF/BY THE TENDERER:**

**NAME**

**SIGNATURE**

**CAPACITY**

**DATE**

**NAME AND ADDRESS OF TENDERER:**

.....

.....

.....

**SIGNED BY WITNESS:**

**NAME**

**SIGNATURE**

**DATE**

## Acceptance

*By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the Tenderer's offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the Conditions of Contract identified in the Contract Data and for the contract period offered. 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 C1: Agreements and Contract Data
- Part C2: Pricing Data
- Part C3: Scope of Work
- Part C4: Site Information

and drawings and documents or parts thereof, which may be incorporated by reference into Parts C1 to C4 above.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto as listed in the Returnable Documents 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 representative(s) of both parties.

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

Notwithstanding anything contained herein, this Agreement comes into effect on the date of signature of this document, including the Schedule of Deviations (if any). Unless the tenderer (now Contractor) within five days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract between the parties.

### SIGNED ON BEHALF OF/BY THE EMPLOYER:

**NAME**

**SIGNATURE**

**CAPACITY**

**DATE**

Name and Address of Organisation

.....

.....

.....

### SIGNED BY WITNESS:

**NAME**

**SIGNATURE**

**DATE**



## Schedule of Deviations (continued)

SIGNED ON BEHALF OF/BY THE TENDERER *(only on award of Contract)*:

NAME

SIGNATURE

CAPACITY

DATE

SIGNED BY WITNESS *(only on award of Contract)*:

NAME

SIGNATURE

DATE

SIGNED ON BEHALF OF/BY O. R. TAMBO DISTRICT MUNICIPALITY:

NAME

SIGNATURE

CAPACITY

DATE

SIGNED BY WITNESS:

NAME

SIGNATURE

DATE

---

## CONFIRMATION OF RECEIPT

The Tenderer, (now Contractor), identified in the Offer part of this Agreement hereby confirms receipt from the Employer, identified in the Acceptance part of this Agreement, of one fully completed original copy of this Agreement, including the Schedule of Deviations (if any) today:

the .....(day) of ..... (month) ..... (year)

at ..... (place)

**SIGNED ON BEHALF OF/BY THE CONTRACTOR (*only on award of Contract*):**

**NAME**

**SIGNATURE**

**CAPACITY**

**SIGNED BY WITNESS (*only on award of Contract*):**

**NAME**

**SIGNATURE**



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## C1.2. Contract Data

### Part 1: Contract Data Provided by the Employer

#### GENERAL CONDITIONS OF CONTRACT

The following standardised General Conditions of Contract:

#### **General Conditions of Contract for Construction Works (Third Edition, 2015)**

Prepared by the South African Institution of Civil Engineering (SAICE) shall apply to and form the General Conditions of Contract for this contract. Copies of these Conditions of Contract are obtainable from the South African Institution of Civil Engineering (SAICE), Private Bag X200, Halfway House 1685, Tel: (011) 805 5947, Fax: (011) 805 5971, email:civilinfo@saice.org.za.

Copies of the General Conditions of Contract are available for inspection and scrutiny at the offices of the Engineer.

The General Conditions of Contract 2015 makes references to the Contract Data for specific data, which, together with these conditions, collectively describe the risks, liabilities and obligations of the contracting parties and the Procedures for the administration of the Contract. The Contract Specific Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the General Conditions of Contract.

The General Conditions of Contract shall be read in conjunction with the variations, amendments and additions set out in the Contract Specific Data below. Each item of data given is cross-referenced to the Clause in the General Conditions of Contract to which it mainly applies.

#### CONTRACT SPECIFIC DATA

The following Contract specific data are applicable to this Contract:

#### **1. GENERAL**

#### **1.1 Definitions**

#### **1.1.1 The Contract**

*Add the following to **Sub-Clause 1.1.1.5**:*

“The date the Agreement is deemed to come into effect is the date the Contractor receives a valid Purchase Order from the Employer **or** the date the Contractor receives a signed copy of the Contract Document containing the Form of Offer and Acceptance and Schedule of Deviations; whichever comes first.”

*Add the following to **Sub-Clause 1.1.1.7**:*

“and signed by both parties.”

*Add the following to **Sub-Clause 1.1.1.13**:*

“The Defects Liability Period is 12 (twelve) months, measured from the date of the Certificate of Completion.”

*Replace **Sub-Clause 1.1.1.14** with the following:*

“Due Completion Date” means the date of expiry of the **Time for Completion** stated in the Contract Data or as tendered in the Form of Offer for achieving Practical Completion of the Works (whichever is the lessor), calculated from the date of **Site Handover and Instruction to Commence with the Works** and as adjusted by such extensions of time or acceleration as may be allowed in terms of the Contract”

*Add the following to **Sub-Clause 1.1.1.15**:*

“The name of the Employer is O. R. Tambo District Municipality represented by such person or persons duly authorised thereto by O. R. Tambo District Municipality in writing and the legal successors in title to this person.”

*Add the following to **Sub-Clause 1.1.1.16**:*

“The name of the Employer’s Agent is GIBB (Pty) Ltd acting through a director, an associate or an official authorised thereto in writing.”

*Delete the contents of **Sub-Clause 1.1.1.28** and replace with the following:*

- 1.1.1.28** **Scope of Work** means the document(s) containing the Standard Specifications, the Project Particular Specifications and the Drawings, that specify and describe the Works which are to be provided, and any other requirements and constraints relating to the manner in which the work is to be carried out.”

*Add new **Sub-Clauses 1.1.1.35, 1.1.1.36 and 1.1.1.37***

- 1.1.1.35** “**Drawings** means all drawings, calculations and technical information forming part of the Tender Documents (other than information contained in the Specifications) and any modifications thereof or additions thereto from time to time approved in writing by the Engineer or delivered to the Contractor by the Engineer.”

- 1.1.1.36** “**Parties**” means the Contractor and the Employer.

- 1.1.1.37** “**approved program**” means the latest program submitted by the Contractor and approved by the Employer’s Agent. The latest program agreed and approved by the Employer’s Agent supersedes previous approved programs.

## **1.1 Interpretations**

*Delete the contents of **Sub-Clause 1.2** and replace with the following:*

- 1.2.1** Any written communication between the parties shall have been duly delivered or notices issued if:

- 1.2.1.1** Handed to the addressee or to his duly authorise agent; or

- 1.2.1.2** Delivered at the address of the addressee as stated in the Contract Data.

The Employer’s address for receipt of communications and notices is:

The address of the Employer is: *Postal:* Private Bag x 6043, Mthatha 5100.

*Physical:* O. R. Tambo House, Nelson Mandela Drive, Mthatha 5100.

Tel: [047] 501 6400 Fax: [047] 532 4166

The Employer’s Agent address for receipt of communications and notices is:

GIBB (Pty) Ltd  
36 Stanford Terrace  
Mthatha  
5100

Telephone: (047) 532 6573  
Facsimile: (047) 531 4403  
E-mail: [dshaw@gibb.co.za](mailto:dshaw@gibb.co.za)

**1.2.1.3** Any notice or claim required in accordance with this Contract shall be communicated separately from other communications, on a separate cover with specific reference to the clause in terms of which the communication was made

Provided that the Employer, Employer's Agent and Contractor shall be entitled, by written notice to each other, to change their said addresses.

*Add new **Sub-Clause 1.2.6***

**1.2.6** Any act or communication, including but not limited to "accept, agree, appoint, approve, certify, decide, delegate, dispute, elect, grant, inform, instruct, issue, notice, object, order, record, refuse, request, require, state, dispute, call for" and their derivatives indicate an act to be carried out in writing.

### **1.3 General Provisions**

#### **1.3.2 Governing Law**

*Add the following to the end of **Sub-Clause 1.3.2**:*  
"The governing law is the law of South Africa."

#### **1.3.5 Contractors Copyright**

*Add the following to the end of **Sub-Clause 1.3.5**:*

"No part of any document or drawings issued with this enquiry may be copied, photographed or repeated in any manner or by any process without the written consent of the Engineer. Copyright is reserved on all designs, specifications, patents and patentable designs, systems and Processes contained in the documents and drawings.

The person, firm, or body to whom these documents are issued or made available shall be held jointly and severally responsible in their personal and corporate capacities for any contravention of the requirements of Sub-Clause 1.3.5. The recipients of these documents shall treat the documents as well as the details contained herein as private and confidential."

*Add new **Sub-Clause 1.4***

### **1.4 Non Variation Clause**

#### **1.4.1 Non Variation Clause**

This Contract is the entire contract between the parties regarding the matters addressed in this Contract. No representations, terms, conditions or warranties not contained in this Contract shall be binding on the parties. No agreement or addendum varying, adding to, deleting or terminating this Contract including this clause shall be effective unless reduced to writing and signed by both parties.

## **2. BASIS OF THE CONTRACT**

### **2.4 Ambiguity or discrepancy**

*Add the following to the end of **Sub-Clause 2.4.2**:*  
"as read with Clause 6.3"

### **2.5 Assignment**

*Add the following to the end of **Sub-Clause 2.5.1**:*  
"Such assignment or cession shall be null and void without the other parties consent."

## **3. EMPLOYER'S AGENT**

### **3.1 Qualifications of the Employer's Agent**

Delete the contents of **Sub-Clause 1.2** and replace with the following:

“The natural person appointed by the Employer to administer the Contract shall be a registered professional in a built environment profession that is appropriate to the Scope of Work.”

### 3.2.1 Functions of the Employer’s Agent

Delete the contents of **Sub-Clause 3.2.1** and replace with the following:

“The function of the Employer’s Agent is to administer the Contract in accordance with the provisions of the Contract.”

### 3.2.3 Specific approval of the Employer’s required

Add the following to the end of **Clause 3.1.3**:

“The Engineer shall obtain specific approval from the Employer before executing any of his functions or duties according to the following Clauses of the General Condition of Contract:

1. The issuing of instructions for dealing with fossils and the like in terms of Clause 4.7.
2. The issuing of an instruction to accelerate progress in terms of Clause 5.7.
3. Suspend the progress of the works in terms of Clause 5.11.2.
4. The approval of any extension of time for completion in terms of Clause 5.12.
5. The reduction of a penalty for delay in terms of Clause 5.13.2.
6. The issuing of a variation order in terms of Clause 6.3.2.
7. The agreeing of the adjustment of the sums for general items in terms of Clause 6.11.
8. The giving of a ruling on a contractor’s claim in terms of Clause 10.1.5.
9. The inclusion of credits in the next payment certificate in terms of Clause 10.1.5.2.

## 4. CONTRACTOR’S GENERAL OBLIGATIONS

### 4.2 Employer’s Agent instructions

Add new **Sub-Clause 4.2.3**:

- 4.2.3 Should the Contractor fail to proceed with due diligence with any Employer's Agent's instruction, the Employer's Agent may notify the Contractor to proceed within 7 days from receipt of such notice. Without further notice, on default by the Contractor, the Employer may employ other parties or use its own resources to give effect to such instruction in addition to any other rights that the Employer may have inter alia in terms of Clause 9.2.1.3.6. The Employer may recover such costs from the Contractor resulting from same.

### 4.3 Legal Provisions

#### 4.3.1 Compliance with applicable laws

Add the following to the end of **Sub-Clause 4.3.1**:

“For conventional construction works the Basic Conditions of Employment Act of 1997 (Act No 75 of 1997) shall apply and the minimum employment conditions which will apply shall be guided by the latest Sectorial Determination: Civil Engineering Sector published from time to time.

Basic Conditions of Employment Act of 1997 (Act No 75 of 1997) as per Government Notice R63 of 25 August 2002, shall apply to works described in the Scope of Work as being labour intensive and which are undertaken by unskilled or semi-skilled workers.

The Contractor shall comply with the Occupational Health and Safety Specification prepared by the Employer in terms of the Construction Regulations, 2014 promulgated in terms of Section 43 of the Occupational Health and Safety Act (Act No. 85 of 1993).

Without limiting the Contractor's obligations in terms of the Contract, the Contractor shall before commencement of the Works or any part thereof, be in the possession of an approved Health and Safety Plan.

The Contractor shall submit an approved Health and Safety Plan to the Engineer within 28 days of the Commencement Date."

*Add the following new **Sub-Clauses 4.3.3 and 4.3.4:***

#### **4.3.3 Contractor's Liability as Mandatory**

The Employer and the Contractor shall enter into an agreement required for the construction of the Works in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act (Act 85 of 1993) and the latest Construction Regulations promulgated thereunder.

Notwithstanding any actions which the Employer may take, the Contractor accepts sole liability for due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures imposed by the Occupational Health and Safety Act, 1993 (Act 85 of 1993), and all its regulations, including the Construction Regulations, 2014, for which he is liable as mandatory. By entering into this Contract it shall be deemed that the parties have agreed in writing to the above provisions in terms of Section 37 (2) of the Act.

a) The Employer and the Contractor hereby agree, in terms of the provisions of Section 37 (2) of the Occupational Health & Safety Act, 1993 (Act 85 of 1993, hereinafter referred to as 'the Act'), that the following arrangements and procedures shall apply between them to ensure compliance by the Contractor with the provisions of the Act, namely:

- i) The Contractor undertakes that the appropriate officials and employees of the Contractor will fully acquaint themselves with all relevant provisions of the Act and the Regulations promulgated in terms of the Act;
- ii) The Contractor undertakes that all relevant duties, obligations and prohibitions imposed in terms of the Act and Regulations will be fully complied with;
- iii) The Contractor hereby accepts sole liability for such due compliance with the relevant duties, obligations and prohibitions imposed by the Act and Regulations, and expressly absolves the Employer from itself being obliged to comply with any of the aforesaid duties, obligations and prohibitions, with the exception of such duties, obligations and prohibitions expressly assigned to the Employer in terms of the Act and its associated Regulations;
- iv) The Contractor agrees that any duly authorised official of the Employer shall be entitled (although not obliged) to take such steps as may be necessary to ensure that the Contractor has complied with his undertakings as set out more fully in paragraphs (a) and (b) above, which steps may include, but will not be limited to, the right to inspect any appropriate site or premises occupied by the Contractor, or, to inspect any appropriate records or Safety Plans held by the Contractor;
- v) The Employer retains an interest in all inquiries conducted under this Contract in terms of Section 31 and/or 32 of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and its Regulations following any incident involving the Contractor and/or Sub-Contractor and/or their employees. The Contractor shall be obliged to report forthwith to the Employer any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the Act and Regulations, pursuant to work performed in terms of this Contract, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge;
- vi) The Contractor shall furthermore, in compliance with the Construction Regulations of 2014 (Notice No. 37305, dated 07 February 2014) to the Act:
  - i) Acquaint himself with the requirements of the Employer's Health & Safety Specification as laid down in Regulation 4(1)(a) of the Construction Regulation of 2014, and prepare a suitably and sufficiently documented Health and Safety Plan as contemplated in Regulation

5(1) of the Construction Regulation of 2014 for approval by the Employer or his assigned agent. The Contractor's Health and Safety Plan and Risk Assessment shall be submitted to the Employer for approval within 14 days from the date of the Letter of Acceptance and shall be implemented and maintained from the Commencement of Works;

- ii) The Employer, or his assigned agent, reserves the right to conduct periodic audits, as contemplated in the Construction Regulations of 2014, to monitor that the Contractor is compliant in respect of his obligations. Failure by the Contractor to comply with requirements of these Regulations shall entitle the Engineer, at the request of the Employer or his agent, to suspend all or any part of the Works, with no recourse whatsoever by the Contractor for any damages incurred as a result of such suspension, until such time as the Employer or his agent are satisfied that the issues in which the Contractor has been in default have been rectified.

#### **4.3.4 Contractor's Designer**

"The Contractor and his designer shall accept full responsibility and liability to comply with the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and the latest Construction Regulations promulgated thereunder for the design of the Temporary Works and those part of the Permanent Works which the Contractor is responsible to design in terms of the Contract."

#### **4.4 Subcontracting**

##### **4.4.5 Contractor's liability unaffected by selection of subcontractors**

*Delete the contents of **Sub-Clause 4.4.5** and replace with the following:*

"Any consent granted in accordance with Clause 4.4 or appointment of a sub-contractor in accordance with Clause 4.4.3 shall not imply a contract between the Employer and the subcontractor, or a responsibility or liability on the part of the Employer to the subcontractor and shall not relieve the Contractor from any liability or obligation under the Contract and he shall be liable for the acts, defaults and neglects of any subcontractor, his agents or employees as fully as if they were the acts, defaults or neglects of the Contractor, his agents or employees.

The Engineer's consent in respect of any particular subcontractor may be withdrawn at any time should reasonable grounds be given therefore in writing to the Contractor by the Engineer, in which event the Contractor shall forthwith terminate the engagement of that subcontractor on the Works.

The withdrawal by the Engineer of his consent in respect of any particular sub-contractor that is engaged in the execution of any portion of the works, including any portions of the Works which are sub-let by the Contractor in accordance with Clause 4.4.3 shall not relieve the Contractor of any of his obligations under the Contract, nor of any of his obligations to sub-let the particular portions of the Works concerned."

#### **4.5 Notices and Fees**

##### **4.5.4 Contractor to be compensated**

*Delete the contents of **Sub-Clause 4.5.4** and replace with the following:*

"For this contract the fees, taxes, levies and other charges to be paid by the Contractor in terms of Sub-Clause 4.5.1.1 will not be refunded by the Employer. The cost thereof shall be deemed to be included in the prices tendered for relevant items in the Bill of Quantities."

#### **4.12 Contractor's Superintendence**

##### **4.12.2 Construction Manager**

*Add the following to the end of **Sub-Clause 4.12.2**:*

The Contractor's Construction Manager and senior foremen shall be on site at all times when work is being performed. No work may be performed without these persons being on site.

## 5. TIME AND RELATED MATTERS

### 5.3 Commencement of Works

#### 5.3.1 Commencement of Works

*Add the following to the end of **Sub-Clause 5.3.1**:*

"The documentation to be submitted to and approved by the Employer's Agent before Site handover and before the instruction to commence with the Works is issued are:

- Currently-valid Letter of Goodstanding with Compensation Commissioner (or proof of insurance with licenced Compensation Insurer).
- An approved Health and Safety Plan (refer to Clause 4.3)
- An approved Initial program (refer to Clause 5.6)
- An approved original Surety, issued by a registered Financial Services Provider, delivered into the hands of the Employer (refer to Clause 6.2)
- Proof of the required insurances in place and premiums paid (refer to Clause 8.6)
- The names, qualifications and experience of Key Staff
- Confirmation of qualifying local EME / QME subcontractor/s and Employer's approval of same.
- All information required for the Employer to apply for a Construction Permit

The Site Handover and Instruction to Commence with the Works will only be granted once the Construction Permit has been obtained and the Contractor has been introduced to the local community leadership (this is arranged by the Employer in parallel with the above approval process)."

#### 5.3.2 Unacceptable documentation

*Add the following to the end of **Sub-Clause 5.3.2**:*

"The time limit to submit the required documentation is 28 days from the Contract Commencement Date."

*Add the following to the end of **Sub-Clause 5.3.3**:*

"However, deemed commencement of the Works shall not be construed as approval of the documentation submitted."

### 5.4 Access to the Site

*Add the following new **Sub-Clause 5.4.4**:*

- #### 5.4.4
- "The Contractor shall bear all costs and charges for special and temporary rights of way required by him in connection with access to the Site. The Contractor shall also provide at his/her own cost any additional facilities outside the Site required by him/her for the purposes of the Works."

### 5.5 Time for Practical Completion

*Add the following to the end of **Sub-Clause 5.5.1**:*

"The Works shall be completed within the Time for Completion as tendered in the Form of Offer, exclusive of the special non-working days and the year-end break and calculated from date of Site Handover."

### 5.6 Program

### 5.6.1 Program of Works

*Add the following to the end of **Clause 5.6.1**:*

“The Contractor shall deliver his/her initial program of work within 14 days of receipt of a set of drawings issued by the Engineer for construction.”

### 5.6.2 Contents of the program

*Add new **Sub-Clauses 5.6.2.8 and 5.6.2.9**:*

5.6.2.8 Health and safety requirements.

5.6.2.9 The links between all predecessors and successors for activities.

### 5.6.4 Review and adjustment of the program

*Delete the contents of **Sub-Clause 5.6.4** and replace with the following:*

“The program, method statements and the cash flow forecast shall be subject to updates and review on a monthly basis. The Contractor shall deliver to the Employer's Agent an adjusted program reflecting actual progress and updated dates in accordance with Clause 5.6.2, even though it may reflect that the planned date(s) of Practical Completion will be later than the corresponding Due Completion Date(s), every month, and in addition;

5.6.4.1 when instructed by the Employer's Agent,

5.6.4.2 when it no longer reflects the actual progress,

5.6.4.3 when a specific event, circumstance, act or omission may delay the execution of the Works, or

5.6.4.4 with each extension of time claim.”

### 5.7 Progress of the Works

#### 5.7.3 Acceleration

*Delete the last sentence of the **Clause 5.7.3** and replace with the following:*

“If accepted by the Employer, the adjusted Due Completion Date and the conditions for payment of cost shall be agreed in writing and signed by the parties prior to the Contractor commencing to accelerate progress.”

### 5.8 Non-working times

#### 5.8.1 Non-working times

*Delete the words “sunset and sunrise” from **Clause 5.8.1** and replace with “17:00 to 07:00”.*

*Add the following to the end of **Clause 5.8.1**:*

“Normal non-working days shall be Saturdays and Sundays.

The Contractor will be allowed to work on Saturdays if he so chooses, but Saturdays will not be taken into account when calculating working days or any extension of time granted.

The special non-working days are:

- All statutory holidays as declared by National or Regional Government.
- The year-end break that commences on the first working day after 16 December. Work resumes on the first working day after 5 January of the next year.”



## 5.9 Instructions

*Delete the contents of **Sub-Clause 5.9.3** and replace with the following:*

- 5.9.3** “The Contractor shall give adequate written notice to the Employer's Agent of any instructions or drawings, which the Contractor may require for the execution of the Works and the Employer's Agent shall deliver such instructions and/or drawings to the Contractor. The notice shall include details of the necessary drawing or instruction, details of by when it should be issued, and details of the nature and amount of the delay likely to be suffered if it is late.”

## 5.12 Extension of time for Practical Completion

*Add the following to the end of **Clause 5.12.2.2**:*

Extension of time resulting from abnormal weather shall be calculated as per the provisions of Part C3.5: Management.

*Add new **Sub-Clause 5.12.2.5 and 5.12.2.6**:*

- 5.12.2.5** “Any delay, impediment, or prevention caused by or attributable to the Employer, Employer's Agent, the Employer's personnel or the Employer's other contractor's on the Site.

### 5.12.2.6 Additional Statutory Holidays

Any additional statutory holidays proclaimed after the closing date of Tenders over and above the statutory holidays which existed at the time of tendering.”

## 5.12.3 Relevant adjustments to General Items

*Delete the contents of **Clause 5.12.3** and replace with the following:*

“If an extension of time is granted, other than an extension resulting from abnormal climatic conditions in terms of Clause 5.12.2.2 as amended, the Contractor shall be paid such additional time-related General Items as are appropriate, having regard to any other compensation which may already have been granted in respect of the circumstances concerned.

In the case of an additional public holiday declared by the State President, a claim for the cost of temporary or hourly-paid workers who would have been actively engaged in the construction work had the day not been declared a public holiday, will be considered by the Employer. Except for proven extra cost, claims for standing time of plant and equipment will not be considered as the cost thereof is deemed to be included in the Contractor's provisional and general items.”

## 5.12.4 Acceleration instead of extension of time

*Delete the contents of **Clause 5.12.4** and replace with the following:*

“Instead of granting extension of time, if feasible, the Employer's Agent may request the Contractor to accelerate the rate of progress to achieve Practical Completion without extension of time and agree the cost for payment of such acceleration in accordance with Clause 5.7.3.”

*Add new **Sub-Clause 5.12.5**:*

## 5.12.5 “Critical Path Provision

A delay in so far as extension of time is concerned, will be regarded as a delay only if, on a claim by the Contractor in accordance with the General Conditions of Contract, the Engineer rules that the critical path of the approved program for the execution of the Works by the Contractor has been delayed by the claimed circumstances and that the latter was outside the Contractor's control.

Delays on normal working days only, based on a working week of five normal working days, will be taken in account for the extension of time.”

### 5.13 Penalty for Delay

*Delete the contents of **Sub-Clause 5.13** and replace with the following:*

**5.13.1** If the Contractor fails by the Due Completion Date to complete the Works, or any specific portion thereof that is identified in the Scope of Works to the extent which entitles him in terms of Clause 5.14.2 to receive a Certificate of Practical Completion for the Works, then the Contractor shall be liable to the Employer for the sum(s) stated below as (a) penalty/ies for every day which shall elapse between the Due Completion Date for the Works or the specific portion of the Works and the actual Date of Practical Completion of the Works or of the specific portion. The penalty for delay shall be: **0.02% of the Contract Value (excluding VAT) per day.**”

**5.13.2** If before the issue of a Certificate of Practical Completion for the whole of the Works, or for any specific portion thereof that is identified in the Scope of Works, any further part of the Works has been:

- 1 Certified as complete in terms of a Certificate of Practical Completion; or
- 2 Occupied or used by the Employer, his agents, employees or other contractors (not being employed by the Contractor);

then the appropriate penalty for delay referred to in Clause 5.13.1 above shall be reduced by the amount which is determined by the Engineer to be appropriate under the circumstances.

**5.13.3** The imposition of penalties in terms of Clause 5.13.1 shall not relieve the Contractor from his obligation to complete the Works, nor from any of his obligations and liabilities under the Contract.

**5.13.4** All penalties for which the Contractor becomes liable in terms of Clause 5.13.1 shall be accumulative. The Employer may, without prejudice to any other method of recovery, deduct the amounts of all such penalties from any monies in his possession that are or may become due to the Contractor.

**5.13.5** The imposition of any penalties in terms of Clause 5.13.1 shall not limit the right of the Engineer or of the Employer to act in terms of Clause 5.14.5: Consequences of Completion.”

### 5.14 Completion

*Delete the contents of **Sub-Clause 5.14.1** and replace with the following:*

**5.14.1** “Save as otherwise provided in the Contract, the Contractor shall be entitled to receive a Certificate of Practical Completion when the Works have reached Practical Completion. The **requirement for achieving Practical Completion** is that all components of the Works can each be used for its intended purpose within the limits of the Scope of Work (eg water retaining structures shall have passed the specified water tightness tests and the backfill completed to the levels required by the Employer’s Agent and, if applicable, the structures are ready for hand-over to the mechanical and electrical contractor).

When the Works are about to reach the said stage, the Contractor shall, in writing, request a Certificate of Practical Completion and the Employer’s Agent shall, within 14 days after receiving such request, either where the Works:

- Has reached Practical Completion issue a Certificate of Practical Completion to the Contractor and to the Employer; or
- Has not reached Practical Completion, issue a written list to the Contractor defining the incomplete work and defects to be rectified to achieve Practical Completion. Should the Employer’s Agent not issue a Certificate of Practical Completion or such a list within the 14 days, Practical Completion shall be considered to have been achieved on the expiry of the 14 days of the written request in terms of Clause 5.14.1.

*Delete the contents of **Sub-Clause 5.14.2** and replace with the following:*

**5.14.2** “As soon as the work referred to in the list issued in terms of Clause 5.14.1 has been duly completed and defects that manifested after the list was issued rectified, the Employer's Agent shall deliver to the Contractor and to the Employer a Certificate of Practical Completion together with a further written list setting out the work to be completed to justify the issuing of a Certificate of Completion.”

**5.16 Approval**

**5.16.3 Latent defect liability**

*Add the following to the end of **Sub-Clause 5.16.3**:*

“The latent defect liability is 10 years.”

**6. PAYMENT AND RELATED MATTERS**

**6.2 Security**

**6.2.1 Delivery of Security**

*Add the following to the end of **Sub-Clause 6.2.1**:*

“The security to be provided by the Contractor shall be:

A performance guarantee of ten per cent (10%) of the Contract Sum (worded exactly as per the pro forma included in C1.5).

The performance guarantee shall be from an approved South African Insurance Company or Bank to be jointly and severally bound with the Contractor, in accordance with the provisions of the Form of Guarantee.”

**6.2.3 Validity of the performance guarantee**

*Delete the contents of **Sub-Clause 6.2.3** and replace with the following:*

“The Contractor shall ensure that the performance guarantee remains valid and enforceable until the issue of the Certificate of Completion and shall submit proof of renewal to the Employer's Agent.”

**6.5 Dayworks**

**6.5.1 Basis of payment for Dayworks**

*Add the following to the end of **Sub-Clause 6.5.1.2.1**:*

“Gross remuneration” referred to in **Sub-Clause 6.5.1.2.1** shall be the nominal hourly or monthly remuneration actually paid to workmen and foremen before any additions for the Contractor's contribution to pension, medical aid, housing, tools, unemployment insurance, site allowance etc., and also before any deductions for tax, pension, medical aid, unemployment insurance, etc.”

*Add the following to the end of **Sub-Clause 6.5.1.2.2**:*

“Net cost of materials” referred to in Sub-Clause 6.5.1.2.2 shall be the net invoiced cost of materials after the deductions of all discounts, direct or indirect.”

*Add the following to the end of **Sub-Clause 6.5.1.2.3**:*

The percentage allowances to cover overhead charges for Daywork are as follows:

- 80% of the gross remuneration of workmen and foremen actually engaged in the daywork;
- 20% on the net cost of materials actually used in the completed work.

## 6.8 Adjustment in rates and/or prices

### 6.8.2 Application of Contract Price Adjustment Factor

*Add the following to the end of **Sub-Clause 6.8.2**:*

“The value of the certificates issued shall be adjusted in accordance with the Contract Price Adjustment Schedule (GCC 2015) with the following coefficients / indices / references:

- 1) x = 0.15
  - a (labour) = 0.15
  - b (equipment) = 0.20
  - c (materials) = 0.55
  - d (fuel) = 0.10

2) The relevant geographical area is “Eastern Cape”.

3) The base month will be the month prior to the month in which tenders close.

*The Contract Price Adjustment Schedule in GCC 2015 (page 86) is to be amended. Delete and replace the corresponding paragraph(s) with the following:*

- “L” is the “Labour Index” and shall be the “Consumer Price Index” for the urban area nearest to the Site as stated in the Contract Data and as published in the Statistical News Release P0141, Table 7 All areas of Statistics South Africa.
- “P” is the “Plant Index” and shall be the “Producer Price Index” for “Civil Engineering Plant” as published in the Statistical News Release P0151, Table 4 of Statistics South Africa.
- “M” is the “Materials Index” and shall be the “Consumer Price Index” for “Building and Construction”, for the industry as stated in the Contract Data, and as published in the Statistical News Release P0151, Table 3 of Statistics South Africa.
- “F” is the “Fuel Index” and shall be the “Producer Price Index” for “Diesel at Wholesale Level”, for the area as stated in the Contract Data, as published in the Statistical News Release P0151, Table 1 of Statistics South Africa.

### Special Materials

For those special materials allowed in Clause 6.8.3 below, the Contractor shall provide proof of costs at time of tender (and associated foreign exchange rates if applicable) and costs and exchange rates at time of purchase and provide calculations of Rand amount by which costs of said special materials exceed the general CPA calculation. The Engineer shall allow any such additional proven costs for payment over and above the general CPA.

### 6.8.3 Variation in Cost of Special Materials

*Add the following to the end of **Sub-Clause 6.8.3**:*

“No Special Materials are allowed.”

### 6.8.4 Subsequent changes in legislation

*In line 7 of **Sub-Clause 6.8.4** delete the words “between the Employer and the Contractor”.*

## 6.9 Vesting of Plant and materials

### 6.9.3 Identification of Plant and materials

*Add the following to the end of **Sub-Clause 6.9.3**:*

“Materials or equipment allowed by the Engineer to be temporarily stored off-site, on the premises of a manufacturer or supplier, must be stored in separate containers or compartments and must be properly and conspicuously marked and identified to the effect that the Employer is the sole owner of the materials or equipment.”

## 6.10 Payments

### 6.10.1 Interim Payments

*Add the following to the end of **Sub-Clause 6.10.1.5**:*

“The percentage advance on materials on site not yet built into the Permanent Works, referred to in Cause 6.9.1 is 80%. No payment will be made for any Plant and/or materials off site, except if expressly agreed otherwise.”

**6.10.3 Retention Money**

In terms of the latest National Treasury directive regarding the holding of retention on state-funded Contracts, no Retention Monies Guarantee in lieu of retention monies deducted from interim Payment Certificates will be allowed.

The retention monies limit is 5% of the Contract Price (including VAT).

The percentage of retention that will deducted from each Payment Certificate is 10% until the limit of 5% of the Contract Price is reached.

**6.10.4 Delivery, dissatisfaction with and payment of payment certificate**

*Replace the words “28 days” with “30 days”.*

**6.10.8 Contractor’s completion statement**

*Replace the words “28 days” with “30 days”.*

**6.10.9 Final Payment Certificate**

*In the ninth line of **Sub-Clause 6.10.9**, add the words “or the Employer, as the case may be,” after the words “the Contractor”*

**6.11 Variations exceeding 15% (fifteen percent)**

*Delete “15” and replace with “25%”.*

**7. QUALITY AND RELATED MATTERS**

**7.2.1 Quality of Plant, workmanship and materials**

*Add the following to the end of **Sub-Clause 7.2.1**:*

“Unless otherwise directed in writing by the Engineer, materials for the Permanent Works shall be new and unused.”

**7.4 Samples and testing**

*Replace the comma after the word “them” in the last line of **Sub-Clause 7.4.4.1** with a full stop, and replace the word “and” with the following:*

“The cost of all tests and testing required as part of the Contractor's own quality control program, whether particularised or not, shall be deemed to have been allowed for in his tender; and”

**8. RISK AND RELATED MATTERS**

**8.6 Insurances**

**8.6.1 Insurances to be effected**

*Add the following to the end of **Sub-Clause 8.6.1**:*

“Insurances shall be maintained in force for the duration of the Contract, and in respect of Sub-Contractors, the Contractor shall be deemed to have complied with the provisions of the

requirements relating to insurance by ensuring that the Sub-Contractors have effected such insurances."

*Add the following to the end of **Sub-Clause 8.6.1.1.3**:*

"The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is R0.00 (Nil)."

*Add the following to the end of **Sub-Clause 8.6.1.2**:*

"SASRIA (Riot) Certificate to be issued in joint names of Employer and Contractor for the full value of the works (including VAT)."

*Add the following to the end of **Sub-Clause 8.6.1.3***

"The limit of indemnity for liability insurance is R10 000 000.00 for any single claim – the number of claims to be unlimited during the construction."

*Add the following to the end of **Sub-Clause 8.6.1.5**:*

"Furthermore, the insurance cover effected by the Contractor shall meet the following requirements:

- a) Insurance of Construction Plant and Equipment (including tools, offices and other temporary structures and contents) and all other items (except those intended for incorporation into the Works) brought onto the site for a sum sufficient to provide for their replacement.
- b) Insurance in terms of the provisions of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993.
- c) Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity. Motor vehicles provided for the Engineer's Site Staff shall carry fully comprehensive insurance.
- d) Where the contract involves manufacturing and/or fabrication of the works or part thereof at premises other than the Site, the Contractor shall satisfy the Employer that all materials and equipment for incorporation in the works are adequately insured during manufacture and/or fabrication. In the event of the Employer having an insurable interest in such works during manufacture or fabrication then such interest shall be noted by endorsement to the Contractor's Policies of Insurance.
- e) The insurance policy held by the Contractor shall cover "wet risks" where a portion of the works is subject to possible, occasional or regular inundation."
- f) Where one or more hired vehicles or Contractor's own vehicles are required for the Engineer's site monitoring staff, such vehicles are to be fully comprehensively insured.

#### **8.6.5 Employer to approve insurance policy**

*In the second line of **Sub-Clause 8.6.5**, after the word "effected" add the words "in the joint names of the Employer and the Contractor"*

*Add the following to the end of **Sub-Clause 8.6.5**:*

"The insurance policy shall contain a specific provision whereby cancellation of the policy prior to the end of the period referred to in Cause 8.2.1 cannot take place without the prior written approval of the Employer."

## 9. TERMINATION OF CONTRACT

### 9.2.1 Termination by the Employer

*Add the following to the end of **Sub-Clause 9.2.1.3.2**:*

“or to maintain and extend the validity of the performance guarantee until the Certificate of Completion; or”

*Delete the contents of **Sub-Clause 9.2.1.3.6** and replace with the following:*

“Is not executing the Works in accordance with the Contract, or is neglecting or failing to carry out his obligations under the Contract, inter alia to comply with any instruction under Clause 4.2;or”

*Add new **Sub-Clauses 9.2.1.3.9** and **9.2.1.3.10**:*

**9.2.1.3.9** “The Contractor committed a corrupt or fraudulent act during the procurement process or the execution of the contract.

**9.2.1.3.10** An official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited the Contractor.”

## 10. CLAIMS AND DISPUTES

### 10.1 Contractor's Claims

*In the third line of **Sub-Clause 10.1.1**, delete the word "Permanent"*

*Delete the contents of **Sub-Clause 10.1.1.1** and replace with the following:*

**10.1.1.1** “The Contractor shall within 28 days after the commencement of each circumstance, event, act or omission giving rise to such a claim, deliver to the Employer's Agent a written claim, referring to this Clause and setting out:”

*Delete the contents of **Sub-Clause 10.1.1.1.3** and replace with the following:*

**10.1.1.1.3** “The length of the extension of time, if any, claimed and the basis of the calculation by incorporating the effects of each circumstance, event, act or omission on the critical path of an approved program, indicating the delay to Practical Completion, and”

Delete the contents of Sub-Clause 10.1.1.2 and replace with the following:

**10.1.1.2** “If, by reason of the nature and circumstances of the claim, the Contractor cannot reasonably comply with all or any of the provisions of Clause 10.1.1.1.11 to 10.1.1.1.4 to deliver a claim within the said period of 28 days, he shall:

**10.1.1.2.1** Within the said period of 28 days issue a further notice referring to the relevant notice in terms of Clause 10.1.2 and confirming his intention to make the claim and comply with such of the requirements of Clause 10.1.1.1.1 to 10.1.1.1.4 as he reasonably can, and

**10.1.1.2.2** As soon as practicable, comply with such of the requirements of Clause 10.1.1.1.1 to 10.1.1.1.4 as have not yet been complied with.”

*Delete the contents of **Sub-Clause 10.1.1.3** and replace with the following:*

**10.1.1.3** “If the circumstance, event, act or omission relating to the claim are of an ongoing nature:

**10.1.1.3.1** The Contractor shall, within 14 days after the commencement of each circumstance, event, act or omission giving rise to such a claim, deliver to the Employer's Agent a written notice of his intention to submit a claim, referring to this Clause and setting out the particulars of the circumstance, event, act or omission. Provided that the additional payment or compensation or delay that occurred before 14 days prior the date on which the notice in terms of this clause was

delivered, shall be deemed to be covered by the rates and/or prices set out in the Pricing Data and the time stated in the Contract Data relating to Clause 5.5.1.

- 10.1.1.3.2** The Contractor shall, in addition to delivering the said further notice within 28 days in terms of Clause 10.1.1.2.1, each month deliver to the Employer's Agent, in writing, updated particulars required in terms of Clause 10.1.1.1.1 to 10.1.1.1.4 and, within 28 days after the end of the circumstance, event, act or omission deliver his final claim."

*Add the following new **Sub-Clause 10.1.1.4**:*

- 10.1.1.4** Discussions of claims during site meetings and minutes of such discussions shall not be regarded as a claim or notice by the Contractor of his intention to make a claim unless it is supported by a written submission in terms of Clause 10.1.1.1"

*Add the following to the end of **Sub-Clause 10.1.3.6**:*

"in terms of this Clause."

*Delete the contents of **Sub-Clause 10.1.4** and replace with the following:*

- 10.1.4** **"Contractor's failure to comply with notice period**

If, in respect of any claim to which this Clause refers, the Contractor fails to deliver his claim within the 28 day claim period in terms of Clause 10.1.1.1 or does not deliver a further notice within the period of 28 days in terms of Clause 10.1.1.2.1 or does not deliver his final claim within 28 days after the circumstance, event, act or omission ceased in terms of Clause 10.1.1.3.2, the Due Completion Date shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged all liability in connection with the claim.

Provided that failure by the Contractor to give an early warning notice in terms of Clause 10.1.2 which an experienced Contractor could have given, the claim shall be assessed by the Employer's Agent and the ruling in terms of Clause 10.1.5 shall be taken into account the lack of mitigation measures employed due the lack of such early warning notice."

- 10.1.5** **Employer's Agent ruling on Contractor's Claim**

*Add the following to the end of **Sub-Clause 10.1.5**:*

"Where the Employer's Agent fails to make a ruling within such 28 days the claim shall be deemed to be refused"

*Add the following to the end of **Sub-Clause 10.1.5.1** after "Employer's Agent:*

"prior to the expiry of such 28 days"

- 10.3.2** **Dispute to be referred**

*Add the following to the end of **Sub-Clause 10.3.2**:*

"Amicable settlement in terms of Sub-Clause 10.4 shall be utilised for all disputes prior to referring any dispute to adjudication."

- 10.4** **Amicable settlement**

- 10.4.2** **Amicable settlement failure**

*Add the following to the end of **Sub-Clause 10.3.2**:*

Where an amicable settlement fails subsequently to adjudication, the dispute shall be resolved by arbitration.

- 10.5** **Adjudication**



**10.5.1 Ad-hoc adjudication**

*Add the following to the end of **Sub-Clause 10.5.1**:  
“Dispute resolution must be by ad-hoc adjudication.”*

**10.5.3 Rules for adjudication**

*Add the following to the end of **Sub-Clause 10.5.3**:  
“The number of Adjudication Board Members to be appointed is one (1).”*

**10.10 Common Provisions**

*Delete the contents of **Sub-Clause 10.10.1** and replace with the following:*

**10.10.1** Nothing herein contained shall deprive the Contractor or the Employer of either party's right to institute immediate court proceedings in respect of failure by the Employer or the Contractor, as the case may be, to pay the amount of a payment certificate on its due date, or to pay any amount of retention money on its due date for payment.

*Delete the contents of **Sub-Clause 10.10.3** and replace with the following:*

**10.10.3** The Adjudication Board, arbitrator and the court shall have full power to open up, review and revise any ruling, decision, order, instruction, certificate or valuation of the Employer's Agent. The Arbitrator and the court shall have full power to and to reconsider any decision by the Adjudication Board relevant to the matter in dispute, and neither party shall be limited in such proceedings before such arbitrator or court to the evidence or arguments put before the Employer's Agent for the purpose of obtaining his ruling, or the Adjudication Board for the purpose of obtaining a decision.

**ADDITIONAL CONDITIONS OF CONTRACT**

*The additional Conditions of Contract are:*

**Clause 11: Contractor to Provide Everything Necessary**

The Contractor is to provide all labour, material, workmanship, machinery and everything which is or may be necessary in and for the execution and entire completion of the Contract in accordance with the Conditions of Contract, Drawings and Scope of Work.

**Clause 12: Details to be Confidential**

The Contractor shall treat the details of the Works comprised in this Contract as private and confidential (save in so far as may be necessary for the purposes hereof) and shall not publish or disclose the same or any particulars thereof in any trade or technical paper elsewhere without prior written consent of the Engineer.

**Clause 13: Subcontracting to qualifying EMEs and / or QSEs**

It is a condition of Contract that the successful Bidder subcontract at least 15% of the value of the work to qualifying EME's or QSE's that are at least 51% owned by Black people who are South African Citizens and comply with the specifications set out in Project Specifications.

The stipulated percentage shall be for direct participation in all or some of the civil works excavation/construction, supply/fabrication of pipework specials etc. Supply of materials and/or equipment only without involvement in fabrication, installation etc will not be accepted.

---

## Part 2: Data Provided by the Contractor

### Clause 1.2.1: Delivery of Notices

The name of the Contractor is .....

The address of the Contractor is .....

Physical Address

Postal Address

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

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

Telephone:.....

Fax:.....

Email:.....

### SIGNED ON BEHALF OF/BY THE TENDERER:

**NAME**

**SIGNATURE**

**CAPACITY**

**DATE**

## C1.3. Performance Guarantee

### GUARANTOR DETAILS AND DEFINITIONS

“Guarantor: ..... means:

Physical  
address:  
.....

“Employer” means: **O. R. TAMBO DISTRICT MUNICIPALITY**

“Contractor”  
means:”  
.....

“Engineer” means: **GIBB**

“Works” means: **CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d): CIVIL WORKS**

“Site” means: The Site as defined by clause 1.1.1.29 of the General Conditions of Contract, 2015.

“Contract” means: The Agreement made in terms of the Form of Offer and Acceptance and such amendments or additions to the Contract as may be agreed in writing between the parties.

“Contract Sum” means: The accepted amount inclusive of tax of R

Amount in words:  
.....

“Guaranteed Sum” means: The maximum aggregate amount of R

Amount in words:  
.....

“Expiry Date” means:  
.....

### CONTRACT DETAILS

Engineer issues: Interim Payment certificates, Final Payment Certificate and the Certificate of Completion of the Works as defined in the Contract.

### PERFORMANCE GUARANTEE

1. The Guarantor’s liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor’s period of liability shall be from and including the date of issue of this Performance Guarantee and up to and including the Expiry Date or the date of issue by the Engineer of the certificate of Completion of the Works or the date of payment in full of the Guaranteed Sum, whichever occurs first. The Engineer and/or the Employer shall advise the Guarantor in writing of the date on which the certificate of Completion of the Works has been issued.
3. The Guarantor hereby acknowledges that:
  - 3.1. any reference in this Performance Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
  - 3.2. its obligation under this Performance Guarantee is restricted to the payment of money.

4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3
- 4.1. A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Engineer in an Interim or Final Payment certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;
- 4.2. A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;
- 4.3. A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum or the full outstanding Balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:
  - 5.1. the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 5; or
  - 5.2. a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 5; and
  - 5.3. the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
7. Where the Guarantor has made payment in terms of 5, the Employer shall upon the date of issue of the Final Payment certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Employer until the date of refund.
8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
9. Payment by the Guarantor in terms of 5 will only be made against the return of the original Performance Guarantee by the Employer.
10. The Employer shall have the absolute right to arrange his/her affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his/her release from this Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
11. The Guarantor chooses the physical address as stated above for the service of all Notices for all purposes in connection herewith.
12. This Performance Guarantee is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.
13. This Performance Guarantee, with the required demand Notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.
14. Where this Performance Guarantee is issued in the Republic of South Africa, the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Continued on next page.

SIGNED  
AT:



**GUARANTOR (1)**

**SIGNATURE**

**DATE**

**CAPACITY**

**GUARANTOR (2)**

**SIGNATURE**

**DATE**

**CAPACITY**

**WITNESS (1)**

**SIGNATURE**

**WITNESS (2)**

**SIGNATURE**

## **C1.4. Adjudication**

Adjudication shall be carried out in terms of Clauses 10.5 and 10.6 of the General Conditions of Contract 2015.

The Disclosure Statement and the Adjudication Board Member Agreement to be used in this Contract are contained Appendices 4 and 5 of the General Conditions of Contract 2015.

## C1.5. Occupational Health and Safety Agreement

### AGREEMENT MADE AND ENTERED INTO BETWEEN O. R. TAMBO DISTRICT MUNICIPALITY (HEREINAFTER CALLED THE "EMPLOYER") AND

.....  
(Contractor/Mandatory/Company/CC Name)

#### **IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, ACT No. 85 OF 1993 AS AMENDED 2014**

I, .....  
representing

....., as an employer in its own right, do hereby undertake to ensure, as far as is reasonably practicable, that all work will be performed, and all equipment, machinery or plant used in such a manner as to comply with the provisions of the Occupational Health and Safety Act (OHSA) and the Regulations promulgated there under.

I furthermore confirm that I am/we are registered with the Compensation Commissioner and that all registration and assessment monies due to the Compensation Commissioner have been fully paid or that I/We are insured with an approved licensed compensation insurer.

COID ACT Registration Number: .....

OR Compensation Insurer: ..... Policy No.: .....

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge him/them with the duty of ensuring that the provisions of OHSA and Regulations as well as the Council's Special Conditions of Contract, Way Leave, Lock-Out and Work Permit Procedures are adhered to as far as reasonably practicable.

I further undertake to ensure that any subcontractors employed by me will enter into an Occupational Health and Safety Agreement separately, and that such subcontractors comply with the conditions set.

I hereby declare that I have read and understand the appended Occupational Health and Safety Conditions and undertake to comply therewith at all times.

I hereby also undertake to comply with the Occupational Health and Safety Specification and Plan.

Signed at ..... on the ..... day of ..... 20.....

#### **SIGNED BY/ON BEHALF OF CONTRACTOR - MANDATORY**

**NAME**

**SIGNATURE**

**DATE**

#### **SIGNED BY WITNESS:**

**NAME**

**SIGNATURE**

**DATE**

Signed at ..... on the ..... day of ..... 20.....

**SIGNED BY/ON BEHALF OF O. R. TAMBO DISTRICT MUNICIPLITY**

**NAME**

**SIGNATURE**

**DATE**

**SIGNED BY WITNESS:**

**NAME**

**SIGNATURE**

**DATE**

**Occupational Health and Safety Conditions**

1. The Chief Executive Officer of the Contractor shall assume the responsibility in terms of Section 16(1) of the Occupational Health and Safety Act (as amended). Should the Contractor assign any duty in terms of Section 16(2), a copy of such assignment shall immediately be provided to the representative of the Employer as defined in the Contract.
2. All work performed on the Employer's premises shall be performed under the supervision of the construction supervisor who understand the hazards associated with any work that the Contractor performs on the site in terms of Construction Regulations 2014.
3. The Contractor shall appoint a Competent Person who shall be trained on any occupational health and safety aspect pertaining to them or to the work that is to be performed.
4. The Contractor shall ensure that he familiarises himself with the requirements of the Occupational Health and Safety Act and that he/she, his/her employees, and any sub-contractors, comply with them.
5. Discipline in the interests of occupational health and safety shall be strictly enforced.
6. Personal protective equipment shall be issued by the Contractor as required and shall be worn at all times where necessary.
7. Written safe work Procedures and appropriate precautionary measures shall be available and enforced, and all employees shall be made conversant with the contents of these practices.
8. No substandard equipment/machinery/articles or substances shall be used on the site.
9. All incidents referred to in terms of Section 24 of the Occupational Health and Safety Act shall be reported by the Contractor to the Department of Labour and the Employer.
10. The Employer hereby obtains an interest in the issue of any formal inquiry conducted in terms of Section 32 of the Occupational Health and Safety Act and into any incident involving a Contractor and/or his/her employees and/or his/her sub-contractor/s.
11. No use shall be made of any of the Employer's machinery/plant/equipment/substance/personal protective equipment or any other article without prior arrangement and written approval.
12. No alcohol or any other intoxicating substance shall be allowed on the site. Any person suspected of being under the influence of alcohol or any other intoxicating substance shall not be permitted access to, or allowed to remain on the site.
13. Prior to commencement of any work, verified copies of all documents mentioned in the agreement, must be presented to the Employer.



## C2: Pricing Data and Bill of Quantities

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<b>Number</b>	<b>Heading</b>	<b>Pages</b>
C2.1	Pricing Instructions	70
C2.2	Bill Of Quantities	71

## C2.1. Pricing Instructions

1. Measurement and payment shall be in accordance with the relevant provisions of Clause 8 of each of the SANS 1200 Specifications for Civil Engineering Construction referred to in the Scope of Work. The Preliminary and General items shall be measured in accordance with the provisions of SANS 1200-A, General.

2. The units of measurement described in the Bill of Quantities are metric units. Abbreviations used in the Bill of Quantities are as follows:

%	=	percent	m <sup>2</sup> .pass	=	square metre-pass
h	=	hour	m <sup>3</sup>	=	cubic metre
ha	=	hectare	m <sup>3</sup> .km	=	cubic metre-kilometre
kg	=	kilogram	MN	=	meganewton
kl	=	kilolitre	MN.m	=	meganewton-metre
km	=	kilometre	MPa	=	megapascal
km-pass	=	kilometre-pass	No.	=	number
kPa	=	kilopascal	Prov sum	=	Provisional sum
kW	=	kilowatt	PC sum	=	Prime Cost sum
l	=	litre	sum	=	lump sum
m	=	metre	t	=	ton (1 000 kg)
mm	=	millimetre	W/day	=	Work day
m <sup>2</sup>	=	square metre			

3. Unless otherwise stated, items are measured net in accordance with the drawings with no allowance for waste.

4. The prices and rates to be inserted in the Bill of Quantities are to be the full inclusive prices for the work described under the items. Such prices and rates shall cover all costs and expenses that may be required in accordance with the provisions of the Scope of Work, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract Data, as well as overhead charges and profit. These prices shall be used as a basis for assessment of payment for additional work that may have to be carried out.

5. It will be assumed that prices included in the Bill of Quantities are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders. (Refer to [www.sabs.co.za](http://www.sabs.co.za) or [www.iso.org](http://www.iso.org) for information on standards).

6. Where the Scope of Work requires detailed drawings and designs or other information to be provided, all costs associated therewith are deemed to have been provided for and included in the unit rates and sum amount tendered for such items.

7. An item against which no price is entered will be considered to be covered by the other prices or rates in the Bill of Quantities. A single lump sum will apply should a number of items be grouped together for pricing purposes.

8. The quantities set out in the Bill of Quantities are approximate and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in the Bills of Quantities.

9. Reasonable compensation will be received where no pay item appears in respect of work required in the Bills of Quantities in terms of the Contract and which is not covered in any other pay item.

10. The short descriptions of the items of payment given in the Bill of Quantities are only for the purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Scope of Work.

11. Descriptions in the Bill of Quantities are abbreviated and comply generally with those in the SANS 1200 Standardised Specifications.

12. If there is a discrepancy in description of items between the Bill of Quantities and the Drawings, the Bill of Quantities Description shall be used.

## C2.2. Bill of Quantities

SECTION	DESCRIPTION	PAGE
1	PRELIMINARY AND GENERAL	72
2	PROVISIONAL SUMS & DAYWORKS	75
3	SITWORKS	77
4	CLARIFLOCCULATORS	80
5	RAPID GRAVITY FILTER BUILDING	87
6	CHLORINATION BUILDING	101
7	MINOR CONCRETE STRUCTURES	110
8	INTERCONNECTING PIPEWORK	118
9	STAFF QUARTERS SEWER	124
10	INTERNAL ROADS & FINISHES	127
	SUMMARY OF BILL OF QUANTITIES .....	132
	DECLARATION .....	133

## Summary of Bill of Quantities

BILL OF QUANTITIES	AMOUNT
SECTION NO 1 : PRELIMINARY AND GENERAL	R.....
SECTION NO 2 : PROVISIONAL SUMS AND DAYWORKS	R.....
SECTION NO 3 : SITEWORKS	R.....
SECTION NO 4 : CLARIFLOCCULATORS	R.....
SECTION NO 5 : RAPID GRAVITY FILTER BUILDING	R.....
SECTION NO 6 : CHLORINATION BUILDING	R.....
SECTION NO 7 : MINOR CONCRETE STRUCTURES	R.....
SECTION NO 8 : INTERCONNECTING PIPEWORK	R.....
SECTION NO 8 : STAFF QUARTERS SEWER	R.....
SECTION NO 10 : INTERNAL ROADS & FINISHES	R.....
<b>A: NETT TOTAL OF TENDER</b> .....	<b>R</b> .....
B: ALLOWANCE FOR CONTINGENCIES: ADD 10% OF SUBTOTAL (A) .....	R .....
<b>C: TOTAL INCLUDING CONTINGENCIES (A + B)</b> .....	<b>R</b> .....
D: ALLOWANCE FOR ESCALATION: ADD 15% OF SUBTOTAL C	R.....
<b>E: TOTAL INCLUDING ESCALATION (C + D)</b> .....	<b>R</b> .....
F: ALLOWANCE FOR VAT: ADD 15% OF SUBTOTAL E .....	R.....
<b>GROSS TOTAL OF TENDER (E + F) CARRIED TO PART C1.1 FORM OF OFFER AND ACCEPTANCE</b>	<b>R</b> .....

**NOTE: Any amendment / omission / addition / change to the added percentages or summations above will result in the tender being ruled a material deviation and therefore non-responsive**

SIGNED BY/ON BEHALF OF TENDERER

NAME

SIGNATURE

DATE

COMPANY STAMP

## Declaration

### In respect of completeness of Tender

The Municipal Manager  
O. R. Tambo District Municipality  
Private Bag X6043  
MTHATHA  
5099

I/we, the undersigned, do hereby declare that these are the properly priced Bills of Quantities forming part C2.2 of this Contract Document upon which my/our tender for the **CONSTRUCTION OF THORNHILL WTW Ph3 UPGRADE (80MI/d to 115MI/d): CIVIL WORKS** has been based.

### SIGNED BY/ON BEHALF OF TENDERER

NAME

SIGNATURE

DATE