

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

Making progress possible. Together.

MEMORANDUM OF AGREEMENT

MADE AND ENTERED INTO BETWEEN

CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY

And

[REDACTED]

[REDACTED]

PREAMBLE

WHEREAS Tender 253S/2019/20- CLEANING OF WINDOWS, LEDGES AND DIFFICULT TO REACH AREAS (INTERNAL AND EXTERNAL) AT CITY OF CAPE TOWN FACILITIES FOR THE CITY OF CAPE TOWN was awarded to [REDACTED] in respect of Areas 1-4 and Rope Access Category on 20 July 2020 in line with resolution SCMB 24/07/20, for the period of 60 months from commencement of contract ("the Tender").

AND WHEREAS in line with resolution SCMB 24/07/20, the conclusion of this Memorandum of Agreement between the City of Cape Town and the Supplier is subject to the conclusion of the process prescribed by section 33 of the Local Government: Municipal Financial Management Act 56 of 2003.

AND WHEREAS it is recorded that this Contract will be governed by the provisions of the National Treasury General Conditions of Contract revised July 2010 ("**GCC**"), as amended by the Special Conditions of Contract ("**SCC**"), read with the terms and conditions of the Tender.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PARTIES

The Parties to this Contract are:

1.1. **The City of Cape Town**, a metropolitan municipality, established in terms of the Local Government: Municipal Structures Act. 117 of 1998 read with the Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000, as amended ("**the Employer**"), herein represented by the **City Manager or his nominee** and duly authorised hereto;

1.2. [REDACTED] a private company registered in terms of the laws of the Republic of South Africa, with registration no. [REDACTED] herein represented by its duly authorised representative,

each a "**Party**" and together the "**Parties**".

2. INTERPRETATION

2.1. In the event of any conflict between the provisions of this Contract, the GCC and any annexure or appendix attached hereto, or any other document incorporated by reference to this Contract, save to the extent expressly stated to the contrary,



such conflict will be resolved by giving precedence to such different parts of this Contract in the following order of precedence:

2.1.1. first, the terms and conditions of the SCC;

2.1.2. second, the terms and conditions of the GCC;

2.1.3. third, Annexures and/or Appendices and schedules to this Contract; and

2.1.4. fourth, any other documents incorporated by reference.

2.2. The provisions of this Contract supersede and replace the provisions of any previous agreement entered into between the Parties relating to the same subject matter.

3. APPOINTMENT AND DURATION

3.1. The Employer hereby appoints the Service Provider for the contract period of 60 months from commencement of contract, unless terminated earlier in accordance with the provisions as set out in the GCC or any other provision in terms of this Contract.

4. MUTUAL GOOD FAITH / CO-OPERATION

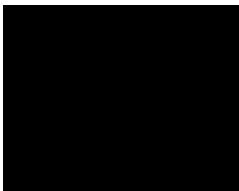
4.1. The Parties represent and undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give effect to the execution of this Contract.

4.2. The Parties shall at all times during the continuance of this Contract observe the principles of good faith towards one another in the performance of their obligations in terms of this Contract.

5. OBLIGATIONS OF THE EMPLOYER

5.1. The Employer undertakes to perform its obligation subject to the satisfactory fulfilment of the obligations by the Service Provider as set out in this Contract.

5.2. The Employer shall monitor and evaluate the supplier's performance in respect of the Contract and in accordance with the provisions of this Contract, the GCC, SCC and any annexure and/or appendix attached hereto, or any other document incorporated by reference to this Contract, including the specifications and conditions of the Tender.

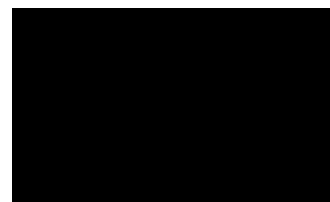


OBLIGATIONS OF THE SERVICE PROVIDER

- 5.3. The Service Provider hereby agrees and undertakes to provide the Services to the Employer as set out in this Contract, the GCC and any annexure and/or appendix attached hereto, or any other document incorporated by reference to this Contract, including the specifications and conditions of the Tender.
- 5.4. The Service Provider will perform the obligations as expeditiously as possible and furthermore agrees and undertakes to provide goods and the supply of services in accordance with the operational requirements of the Employer
- 5.5. The Service Provider will ensure that the Services supplied will be of a satisfactory quality and fit for purpose.
- 5.6. The Service Provider shall ensure that its employees, agents, representatives, sub-contractors and suppliers comply with this Contract and all applicable Laws in the execution of the provision of the Goods and supply of the Services.
- 5.7. The Service Provider will not conduct any activity of whatsoever nature which may be detrimental to the Purchaser's reputation and goodwill.
- 5.8. The Service Provider undertakes to and in favour of the Employer that it –
 - 5.8.1. has the resources, necessary expertise and skill, capabilities and technology to provide the Goods and supply the Services; and
 - 5.8.2. has effective, efficient and transparent financial management and control systems in place.

6. PRICING SCHEDULE

- 6.1. The pricing schedule for the provision of goods and supply of Services shall be as set out in Appendix 1: Pricing Schedule.
- 6.2. The Service Provider shall not be entitled to any other consideration for the provision of Goods and supply of Services other than as provided for in this Contract, the GCC, SCC and any annexure and/or appendix hereto, or any other document incorporated by reference to this Contract, including the specifications and conditions of tender for the Tender.

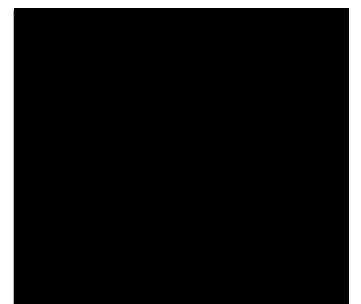
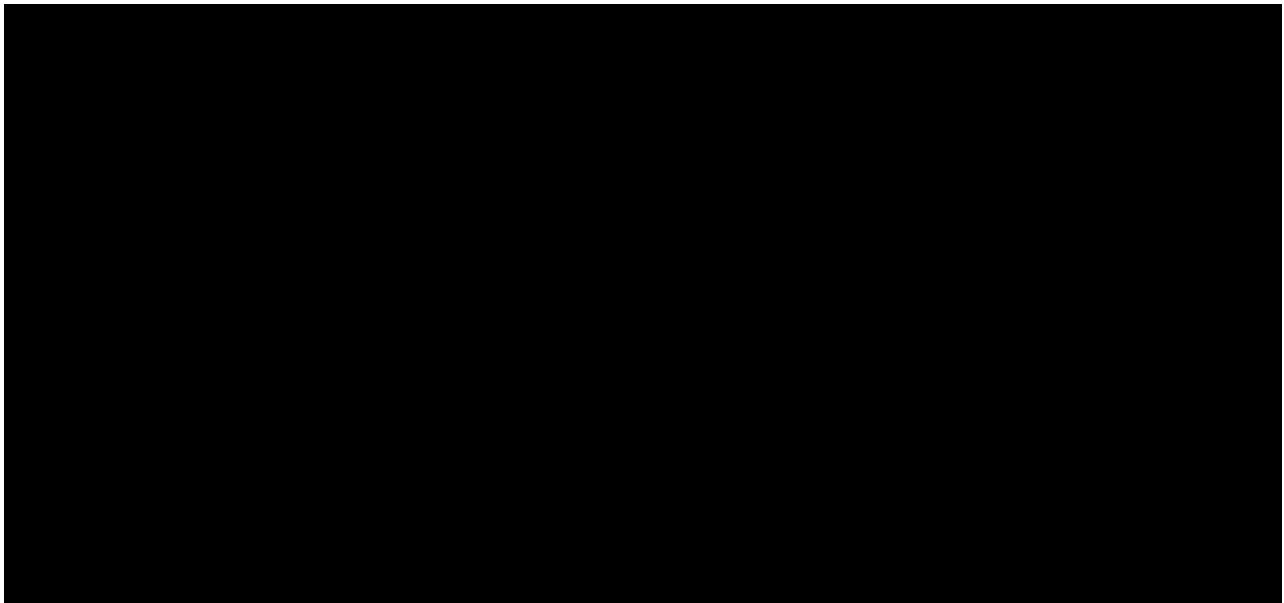


7. ENTIRE AGREEMENT

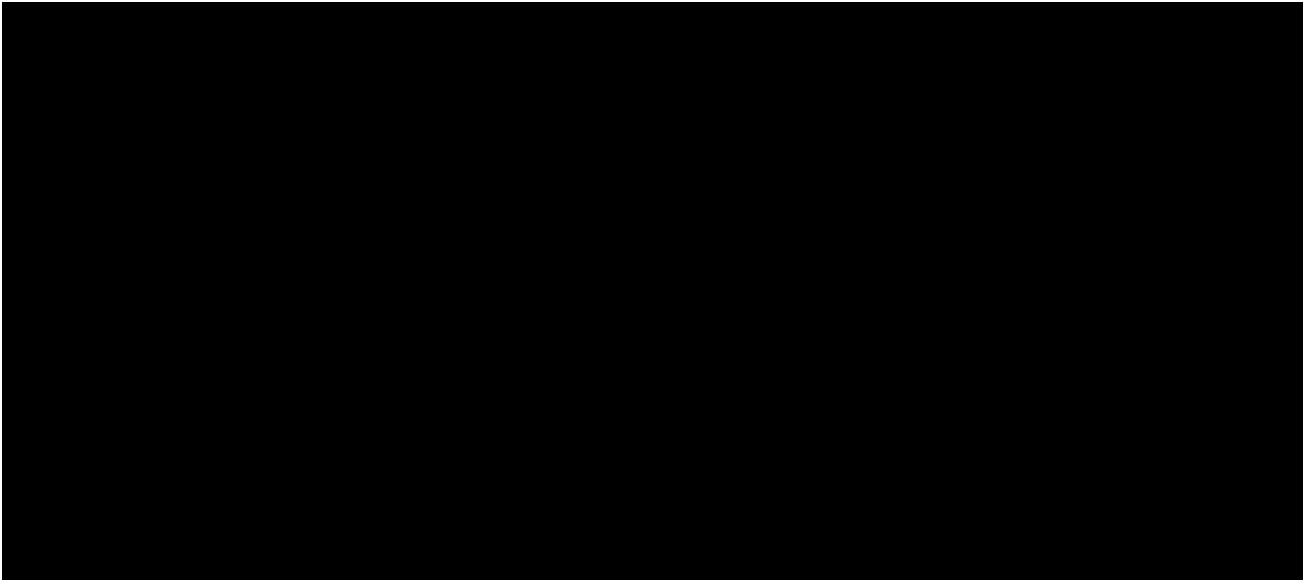
- 7.1. This Agreement constitutes the entire agreement between the Parties and no amendment, alteration, addition or variation of any right, term or condition of this Agreement will be of any force or effect unless reduced to writing and signed by the Parties to this Agreement.
- 7.2. The Parties agree that there are no conditions, variations or representations, whether oral or written and whether expressed or implied or otherwise, other than those contained in this Agreement.
- 7.3. This Agreement replaces any other previous verbal or written agreements entered into between the Parties.
- 7.4. The Conditions of Tender, returnable schedules and annexures which are required for tender evaluation purposes, shall form part of the contract arising from the invitation to tender. Accordingly, the conditions of tender and relevant returnable schedules, although not attached to this Contract, are specifically incorporated by way of reference and shall form part of the Contract between the parties.

8. SIGNATURE

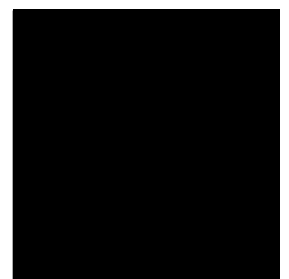
FOR THE CITY OF CAPE TOWN



FOR THE SERVICE PROVIDER



APPENDIX 1: Agreements and Contract Data



APPENDIX 1: Agreements and Contract Data

A1.1 Form of Offer and Acceptance

TENDER: 253S/2019/20- CLEANING OF WINDOWS, LEDGES AND DIFFICULT TO REACH AREAS (INTERNAL AND EXTERNAL) AT CITY OF CAPE TOWN FACILITIES FOR THE CITY OF CAPE TOWN

PART A

Name of Tendering Entity
("the tenderer")

Trading as (if different from above)

AND WHO IS represented herein by

duly authorised to act on behalf of the tenderer in his/her capacity as:

Business Development Executive

HEREBY AGREES THAT by signing the *Form of Offer and Acceptance*, the tenderer:

1. confirms that it has examined the documents listed in the Index (including Schedules and Annexures) and has accepted all the Conditions of Tender;
2. confirms that it has received and incorporated any and all notices issued to tenderers issued by the CCT;
3. confirms that it has satisfied itself as to the correctness and validity of the tender offer; that the price(s) and rate(s) offered cover all the goods and/or services specified in the tender documents; that the price(s) and rate(s) cover all its obligations and accepts that any mistakes regarding price(s), rate(s) and calculations will be at its own risk;
4. offers to supply all or any of the goods and/or render all or any of the services described in the tender document to the CCT in accordance with the:
 - 4.1 terms and conditions stipulated in this tender document;
 - 4.2 specifications stipulated in this tender document; and
 - 4.3 at the prices as set out in the Price Schedule (**Section 4**).
5. accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on it in terms of the Contract.



INITIALS OF CITY OFFICIALS		
1	2	3

FORM OF OFFER AND ACCEPTANCE (continued)

TENDER 253S/2019/20- CLEANING OF WINDOWS, LEDGES AND DIFFICULT TO REACH AREAS (INTERNAL AND EXTERNAL) AT CITY OF CAPE TOWN FACILITIES FOR THE CITY OF CAPE TOWN (TO BE FILLED IN BY THE CITY OF CAPE TOWN)

By signing this *Form of Offer and Acceptance* the City of Cape Town (also referred to as the 'Purchaser'):

1. accepts the offer submitted by , thereby concluding a contract with the supplier for a contract period for the period of 60 months from commencement date of contract.
2. undertakes to make payment for the goods/services delivered in accordance with the terms and conditions of the Contract.

SIGNED AT Civic Centre ON THIS THE 18 DAY OF April 20 23
(PLACE) (DD) (MM) (YY)


Signature(s) and stamp of
Executive Director or his/ her delegated authority


Print name(s):
(duly authorised in terms of the System
of Delegations as approved by Council)

Notes:

1. The extent of deviations from the tender documents issued by the CCT before the tender closing date is limited to those permitted in terms of the conditions of tender.

2. A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1 Subject

Details

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2 Subject

Details

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3 Subject

Details

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4 Subject

Details

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By the duly authorised representatives signing this agreement, the CCT and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to this tender document and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the CCT during this process of offer and acceptance.

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



3. PRICE SCHEDULE

Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

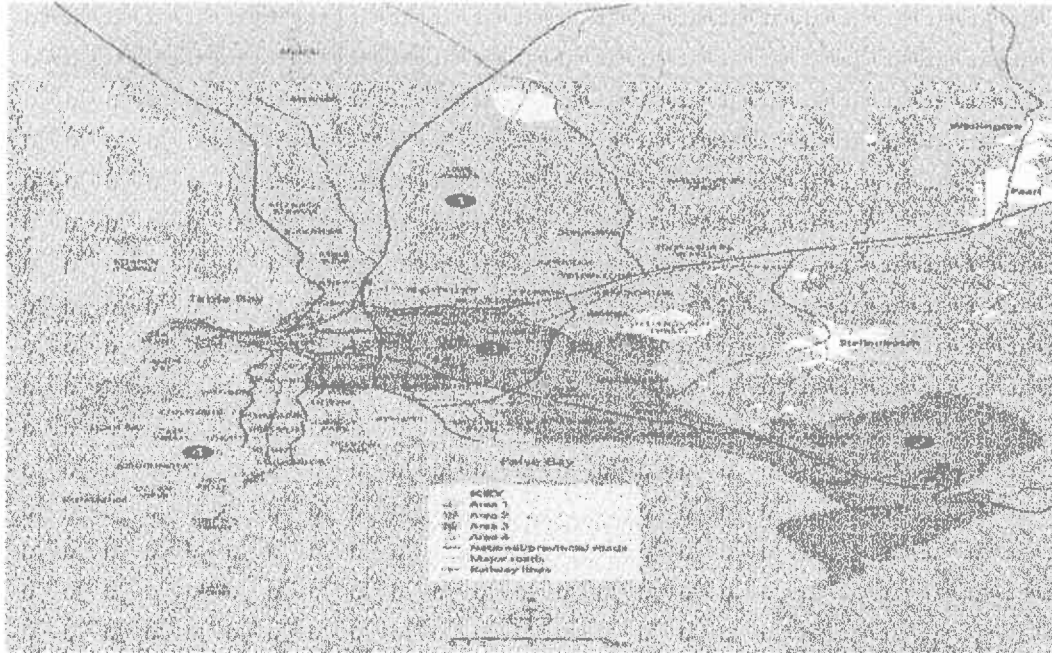
All descriptions or clauses where trade names or proprietary products are specified herein, are deemed to include the phrase "or equivalent."

Item No	Description	Unit of measure	Price per unit (excl VAT)				
			AREA 1	AREA 2	AREA 3	AREA 4	*ROPE ACCESS (ALL AREAS)
1.1.	Window cleaning from floor or fixed platform	m ²	R1.99	R1.99	R1.99	R1.99	R12.09
1.2.	Window cleaning by ladder	m ²	R3.48	R3.48	R3.48	R3.48	R12.09
1.3.	Window cleaning by scaffolding	m ²	R8.45	R8.45	R8.45	R8.45	R12.09
1.4.	Window cleaning by cherry picker	m ²	R36.11	R36.11	R36.11	R36.11	R12.09
1.5.	Window cleaning from a hydraulic platform	m ²	R17.89	R17.89	R17.89	R17.89	R12.09
1.6.	Window cleaning by rope access/abseiling/bosuns chair	m ²	R12.09	R12.09	R12.09	R12.09	R12.09
2.1.	Window cleaning from floor height or fixed platform	m ²	R2.29	R2.29	R2.29	R2.29	R12.39
2.2.	Window cleaning by ladders	m ²	R3.78	R3.78	R3.78	R3.78	R12.39
2.3.	Window cleaning by scaffolding	m ²	R8.75	R8.75	R8.75	R8.75	R12.39
2.4.	Window cleaning by cherry picker	m ²	R36.41	R36.41	R36.41	R36.41	R12.39
2.5.	Window cleaning from a hydraulic platform	m ²	R18.19	R18.19	R18.19	R18.19	R12.39
2.6.	Window cleaning by rope access/abseiling/bosuns chair	m ²	R12.39	R12.39	R12.39	R12.39	R12.39

TENDER NO: 2039/2015/20									
Item No	Description	Unit of measure	Price per unit (excl VAT)				*ROPE ACCESS (ALL AREAS)		
			AREA 1	AREA 2	AREA 3	AREA 4			
3.1.	Cleaning of windows from floor height or fixed platform	m ²	R2.04	R2.04	R2.04	R2.04		R12.14	
3.2.	Window cleaning by ladders	m ²	R3.53	R3.53	R3.53	R3.53		R12.14	
3.3.	Window cleaning by scaffolding	m ²	R8.50	R8.50	R8.50	R8.50		R12.14	
3.4.	Window cleaning by cherry picker	m ²	R36.16	R36.16	R36.16	R36.16		R12.14	
3.5.	Window cleaning from a hydraulic platform	m ²							
3.6.	Window cleaning by rope access/abseiling/bosuns chair	m ²	R17.94	R17.94	R17.94	R17.94		R12.14	
			R12.14	R12.14	R12.14	R12.14		R12.14	
4.1.	Window cleaning from floor height or fixed platform	m ²	R63.19	R63.19	R63.19	R63.19		R80.22	
4.2.	Window cleaning by ladders	m ²	R64.68	R64.68	R64.68	R64.68		R80.22	
4.3.	Window cleaning by scaffolding	m ²	R69.65	R69.65	R69.65	R69.65		R80.22	
4.4.	Window cleaning by cherry picker	m ²	R97.66	R97.66	R97.66	R97.66		R80.22	
4.5.	Window cleaning from a hydraulic platform	m ²							
4.6.	Window cleaning by rope access/abseiling/bosuns chair	m ²	R79.09	R79.09	R79.09	R79.09		R80.22	
			R80.22	R80.22	R80.22	R80.22		R80.22	
5.1.	Cleaning exterior cladding and other surfaces from floor height or fixed platform	m ²							
5.2.	Cleaning exterior cladding and other surfaces by ladder	m ²	R1.99	R1.99	R1.99	R1.99		R12.09	
5.3.	Cleaning exterior cladding and other surfaces by scaffolding	m ²	R3.48	R3.48	R3.48	R3.48		R12.09	
5.4.	Cleaning exterior cladding and other surfaces by cherry picker	m ²	R8.45	R8.45	R8.45	R8.45		R12.09	
5.5.	Cleaning exterior cladding and other surfaces by hydraulic platform	m ²	R36.11	R36.11	R36.11	R36.11		R12.09	
5.6.	Cleaning by rope access/abseiling/bosuns chair	m ²	R17.89	R17.89	R17.89	R17.89		R12.09	
			R12.09	R12.09	R12.09	R12.09		R12.09	

Item No	Description	Unit of measure	Price per unit (excl VAT)					*ROPE ACCESS (ALL AREAS)
			AREA1	AREA 2	AREA 3	AREA 4		
6.1.	Cleaning from the ground	litre	R0.50	R0.50	R0.50	R0.50	R0.50	
6.2.	Cleaning by ladders	litre	R0.50	R0.50	R0.50	R0.50	R0.50	
6.3.	Cleaning by scaffolding	litre	R0.50	R0.50	R0.50	R0.50	R0.50	
6.4.	Cleaning by cherry picker	litre	R0.50	R0.50	R0.50	R0.50	R0.50	
6.5.	Cleaning by hydraulic platform	litre	R0.50	R0.50	R0.50	R0.50	R0.50	
6.6.	Cleaning by rope access/abseiling/bosuns chair	litre	R0.50	R0.50	R0.50	R0.50	R0.50	
7.1.	Cleaning from the ground	litre	R0.32	R0.32	R0.32	R0.32	R0.32	
7.2.	Cleaning by ladders	litre	R0.32	R0.32	R0.32	R0.32	R0.32	
7.3.	Cleaning by scaffolding	litre	R0.32	R0.32	R0.32	R0.32	R0.32	
7.4.	Cleaning by cherry picker	litre	R0.32	R0.32	R0.32	R0.32	R0.32	
7.5.	Cleaning by hydraulic platform	litre	R0.32	R0.32	R0.32	R0.32	R0.32	
7.6.	Cleaning by rope access/abseiling/bosuns chair	litre						

Figure 1: Map of Districts



Please note that Areas 1-4 are depicted in Figure 1: Map of Districts. The Areas are as follows:

Area	Work Areas
Area 1	As depicted in Figure 1: Map of Districts (excluding buildings requiring rope access),
Area 2	As depicted in Figure 1: Map of Districts also including Garbo/ Steenbras/Gordons Bay, Voelvlei-Gouda, Wemmershoek-Franschhoek(excluding buildings requiring rope access),
Area 3	As depicted in Figure 1: Map of Districts
Area 4	As depicted in Figure 1: Map of Districts

3. SPECIFICATION(S)

GENERAL REQUIREMENTS AND STANDARDS

3.1. General Requirements

- 3.1.1. The successful Contractor(s) will be required to provide external and internal window cleaning services and cleaning of hard to reach surfaces and ledges to various City of Cape Town premises throughout the four Areas of the City of Cape Town. The Contractor(s) shall operate a fully managed window cleaning service, which will meet the requirements identified in the Specification below.

3.2. Consents and Licences

- 3.2.1. It is the Contractor's responsibility to obtain and maintain all licences, consents, permits and approvals required for the delivery, performance and provision of services, and comply with the terms thereof.

3.3. Provision of Equipment, Materials and Uniforms

- 3.3.1. The Contractor is responsible for purchasing and maintaining all equipment, and materials required for the delivery, performance and provision of the Services, at their own cost, unless otherwise specified.
- 3.3.2. All equipment & fittings used for the delivery of the Services should be 'fit for purpose'. Only persons who are trained and competent to use them do so in accordance with the manufacturers operating instructions.
- 3.3.3. Equipment and items to be maintained in perfect working order and should be repaired or replaced at the Contractor's expense.
- 3.3.4. The Contractor shall supply all staff with a clearly identifiable uniform. The cost of which shall be included in the overall contract price

(Note: The colour and design of all uniforms shall be agreed with the City of Cape Town prior to introduction).

3.4. Environmental Issues

- 3.4.1. There is an obligation on the Contractor to comply at all times not only with the Environmental Protection Act 1990 and but all other relevant environmental legislation.
- 3.4.2. All Services shall be carried out at the most appropriate time dependent on the nature of the work and weather conditions.

3.5. Methods of Cleaning

- 3.5.1. Waterless cleaning of external windows may include external glass frames, ledges, tinted armour plate and / or special cladding such as aluminium. The Contractor must ensure that appropriate methods and cleaning materials are used so that deterioration to building finishes will not be experienced. Access to external windows can be in the form of, rope access, ladders, scaffolding or cherry picker. Cleaning will also comprise of external glass surfaces, frames (including aluminium), ledges, tinted armour plate and / or special cladding.
- 3.5.2. Cleaning by reverse osmosis includes the cleaning of all external glass surfaces, frames, ledges, and tinted armour plate and as well as special cladding, such as aluminium cladding. Reverse Osmosis (RO) is a technique whereby salt or dissolved solids are removed from the solution, thus making it possible to use seawater/brack water/wastewater for industrial application.
- 3.5.3. Cleaning by nanotechnology includes the cleaning of all external glass surfaces, frames, ledges, and tinted armour plate and as well as special cladding, such as aluminium cladding. Nanotechnology being the application of a solution of colloidal sol gel materials for glass coating. This is by way of spray and wipe, spray atomization or dip application. The intention within the window cleaning / cladding application to extend and enhance window cleaning to facilitate longer cleanliness of windows or cladding
- 3.5.4. Normal water cleaning includes the cleaning of all external glass surfaces, frames, ledges, and tinted armour plate and as well as special cladding, such as aluminium cladding. Normal window cleaning will mean washing by means of potable water in times of adequate water. Water will be used from the relevant facilities where possible. Tenderers must price for cartage and supply of water where required
- 3.5.5. Non-potable water cleaning includes the cleaning of all external glass surfaces, frames, ledges, and tinted armour plate and as well as special cladding, such as aluminium cladding. Non-potable will apply in times of water restrictions. Water to be used must be treated and safe for use on windows. Tenderers must price for cartage and supply of water where required
- 3.5.6. Cleaning methods must also cater for difficult to reach areas and internal windows which may be located on balconies, double volume areas, overhangs and ledges. These areas might not be accessible directly from the ground.
- 3.5.7. All external windows as aforementioned must be cleaned on an "as and when required" basis on the instruction of the relevant City of Cape Town's representative or his/her duly appointed representative
- 3.5.8. Where rope access window cleaning is involved, there must be close interaction between the service

provider and the City's Project Manager or his/her duly appointed representative in terms of all the legislative requirements, including load testing certificates. It is the Service Providers' responsibility to include the cost of such load testing in his/her quotation and to ensure that the load testing is done by a suitably qualified and certificated technician. The certificate is to be submitted to the City's Project Manager. Traffic exclusion zones will be the implicit responsibility of the Contractor, and so too the required signage.

3.6. Staff

- 3.6.1. If the tenderer is tendering for the Rope Access category, the tenderer must have in their employ a Rope Access Level 3 Supervisor.

3.7. Health and Safety Specification

3.7.1. Scope

A Health & Safety Specification is to be developed that address all aspects of occupational health and safety, as affected by the proposed construction work in accordance with the provisions in the OHS Act - Construction Regulations 2014.

The specification will provide the requirements that Principle Contractors and other Contractors shall have to comply with in order to reduce the risks associated with the construction work to a level as low as reasonably practicable.

3.7.2. Introduction

In terms of Construction Regulation 5(1) (a & b) of the Occupational Health and Safety Act, No. 85 of 1993, the City of Cape Town, as the Client, is required to compile a Baseline Risk Assessment and Health & Safety Specification for any intended project and provide such specification to any prospective tenderer. The Client's further duties are stipulated in Clause 3, and in the Construction Regulations, published in Government Gazette No 25207 of 2014. This specification has an objective to ensure that Principle Contractors and other Contractors entering in to a contract with The City of Cape Town, achieve an acceptable level of Occupational Health & Safety performance. This document forms an integral part of the Contract and Principle Contractors should make it part of any Contracts that they may have with Contractors and/or Suppliers.

Compliance with this document does not absolve the Principle Contractor and other Contractors from complying with minimum legal requirements. All Contractors remain responsible for the health & safety of his employees, persons other than his employees in terms of Section 9 of the Occupational Health and Safety Act, No. 85 of 1993 and those of his Mandatory's

3.7.3. General Occupational Health and Safety Provisions

3.7.3.1. Health and Safety Plan

3.7.3.2. General information table

The Tenderer shall complete details as required

3.7.3.3. Mandatory requirements

The Tenderer shall submit a signed (by the authorised person)

The Tenderer shall submit a valid **COIDA** Letter of Good standing

3.7.3.4. Method Statement requirements

- 3.7.3.5. The Tenderer shall submit a Method Statement(s) as per the Method Statement Template
Each main work task (job type) must have its own completed Method Statement Template

3.7.3.6. Legal Appointments

The Tenderer must identify all applicable legal appointments as required by the OHS Act and its Regulations as listed in the H&S Template.

Legal Appointment letters must be attached as well as motivation or proof of competence.

A Health and Safety Management Structure/Organogram; including the names of all designated persons / legal appointments as identified on the checklist must be attached.

3.7.4. Certification requirements for City of Cape Town equipment, machinery or infrastructure

The Tenderer must list all applicable statutory certification requirements for equipment, machinery or infrastructure in this section of the template.

Proof of all applicable statutory certification requirements for equipment, machinery or infrastructure need NOT be submitted at tender stage unless specifically required in the tender document or on request subsequently.

3.7.5. Legal Requirements

All Contractors entering into a Contract with the City of Cape Town, shall, as a minimum, comply with the:

- Occupational Health & Safety Act and Regulations (Act 85 of 1993). A current, up-to-date copy of the Occupational Health Safety Act shall be available on site at all times.
- Compensation for Occupational Injuries & Diseases Act (Act 130 of 1993). The principle Contractor will be required to submit a letter of Registration and "good-standing" from the Compensation Insurer before being awarded the Contract. A current, up-to-date copy of the Compensation for Occupational Injury and Diseases Act (COIDA) shall be available on site at all times.
- Where work is being carried out on or near live electrical machinery such work must be done under the general supervision of a competent person [Responsible Person] in terms of regulation 5(1) of the General Machinery Regulations, 1988. All persons that will work in such area need to have undergone an Entry Course in order for them to work in such areas.
- The requirements of regulation 5 of the Electrical Machinery Regulations, 2011 must also be adhered to, as to, no person authorised thereto by the user shall enter, or be required or permitted by the user to enter, premises housing switch gear or transformers unless all live conductors are insulated against inadvertent contact or are screened off.

i. The consolidated health and safety file

The Principal contractor must hand over a Consolidated Health and Safety File to the client on completion of the construction work.

The Consolidated H&S File shall include all relevant information about each of the following where they are relevant to health and safety related to any future construction work. The level of detail should allow the likely risks to be identified and addressed by those carrying out the work:

- any residual risks which remain and how they have been dealt with (information concerning asbestos, contaminated land, water bearing strata, buried services etc.)
- key structural principles (i.e. bracing, sources of substantial stored energy – including pre- and post-tensioned members, etc.) and safe working loads for floors and roofs particularly where these may preclude/inhibit placing scaffolding or heavy machinery there
- hazardous material used (i.e. lead paint, pesticides, special coatings which should not be burnt off etc.)
- information regarding the removal or dismantling of installed plant and equipment (i.e. any special arrangements for lifting, order or other special instructions for dismantling etc.)
- health and safety information about equipment provided
- the nature, location and markings of significant services, including underground cables, pipes etc., gas supply equipment, fire-fighting services etc.,
- information about the structure, its plant and equipment (i.e. the means of access to and from service voids, fire doors and compartmentalisation etc.) and details about the storage/location of as-built drawings and a list of relevant drawing numbers etc.

4.7.5. OH&S Goals & Objectives & Arrangements for Monitoring & Review of Occup

Health and Safety Performance

The Contractor is required to report all incidents to the Project Manager/Client. The Project manager must also submit an update report regarding all incidents to the Head, OHS.

4.7.6. Notification of Construction Work

The Contractor shall, where the Contract meets the requirements laid down in Construction Regulation 4, notify the Department of Labour within 5 working days of the intention to carry out construction work.

4.7.7. Training, Awareness and Competence

4.7.7.1. General Induction Training

All persons on site are to attend a general induction session presented by the Contractor.

All persons on the site shall be in possession of documentation/proof that they have undergone General Induction training.

The Contractor will be required to develop project specific induction training based on the Risk Assessments for the Contract work and train all employees and other Contractors and their employees in this.

4.7.5.1. Competence

The Contractor shall ensure that all appointed staff is competent and that all training required to do the work safely and without risk to health, has been completed before work commences

The Contractor shall ensure that follow-up and refresher training is conducted as the contract work progresses and the work situation change. Records of all training shall be kept on the Health & Safety file for auditing purposes.

4.7.5.2. Consultation, Communication and Liaison

Occupational Health & Safety Liaison between the Client, Principal Contractor, other Contractors, Designer and other concerned parties will be through the Client/Project Manager. In addition to the above, communication may be directly with the Client or his appointed Agent, verbally or in writing, as and when the need arises.

The Principle Contractor will be required to do Site Safety Audits with the Client/Project Manager on a basis to be determined between the two parties.

4.7.6. Checking, Reporting and Corrective Actions

4.7.6.1.1. Monthly Audit by Client (Construction Regulation 5.1(o))

The Client or his agent will conduct Audits to comply with Construction Regulation to ensure that the Contractor has implemented and is maintaining the agreed and approved Occupational Health & Safety Plan.

The Contractor is to conduct his own internal monitoring and audits to verify compliance with his own Occupational Health & Safety plan.

The Occupational Health & Safety Representative is to conduct inspections of their areas of responsibility and report thereon to their supervisor

All the results of the abovementioned inspections shall be in writing, reviewed, endorsed and placed on the Occupational Health & Safety File.

4.7.5. Incident Reporting and Investigation

4.7.5.1. Reporting of Accidents and Incidents

The Contractor shall report all incidents where an employee is injured on duty to the extent that he/she: dies, becomes unconscious, loses a limb or part of a limb
is injured or becomes ill to such a degree that he/she is likely either to die or to suffer a permanent physical defect or likely to be unable for a period of at least 14 days either to work or continue with the activity for which he/she was usually employed

OR where:

a major incident occurred;

the health or safety of any person was endangered;

where a dangerous substance was spilled;

the uncontrolled release of any substance under pressure took place;

machinery or any part of machinery fractured or failed resulting in flying, falling or uncontrolled mo

objects;

machinery ran out of control

to the Client within two days and to the Provincial Director of the Department of Labour within seven days (Section 24 of the Act & General Administrative Regulation 8.) EXCEPT that, where a person has died, has become unconscious for any reason or has lost a limb or part of a limb or may die or suffer a permanent physical defect, the incident must be reported to both the Client and the Provincial Director of the Department of Labour forthwith by telephone, telefax or Email. The Contractor is required to provide the Client with copies of all internal and external accident/incident investigation as well as all statutory reports required in terms of the Act within 7 days of the incident occurring.

4.7.6. Accident and Incident Investigation

The Contractor is responsible for the investigation of all accidents/incidents where employees and non-employees were injured to the extent that he/she/they had to be referred for medical treatment by a doctor, hospital or clinic and the results of the investigation shall be entered into the Accident/Incident Register. The Contractor is responsible for the investigation of all minor, non-injury incidents and near misses. The City of Cape Town, reserves the right to hold its own investigation into an incident or call for an independent external investigation.

4.7.7. Operational Control

4.7.7.1. Emergency Preparedness, Contingency Planning and Response

The Contractor shall appoint a competent person to act as Emergency Coordinator.

The Contractor shall conduct an emergency identification exercise and establish what emergencies could possibly develop. He/she must then develop detailed contingency plans and emergency procedures.

4.7.5.1. First Aid

The Contractor shall provide relevant First Aid equipment and have qualified First Aider/s on site as required by General Safety Regulation 3 of the Occupational Health & Safety Act.

4.7.5.2. Security

The Contractor shall develop, implement and maintain Security- and Site Access Control rules and procedures throughout the construction period. Access control shall include the rule that non-employees will not be allowed on site unaccompanied.

4.7.6. Fall Protection (Working in Elevated Positions)

Any work undertaken at height above ground level higher than two metres or any floor level will be classified as "Work in Elevated Positions" and a pre-emptive Risk Assessment shall be carried out. Workers working in elevated positions shall be trained to do this safely, without risk and compliant with legislation.

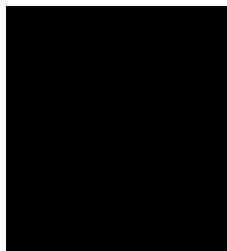
The Risk Assessment shall take the possibility into account of persons falling through fragile material, skylights and other openings in the roof.

4.7.7. Structures

4.7.7.1. The Contractor shall ensure that:

- Steps are taken to ensure that no structure becomes unstable or collapses due to construction work being performed on it or in the vicinity of it
- No structure is overloaded to the extent where it becomes unsafe
- He/she has received from the designer the following information:
- Information on known or anticipated hazards relating to the construction work and the relevant information required for the safe execution of the construction work.
- A geo-scientific report (where applicable)
- The loading the structure is designed to bear
- The methods and sequence of the construction process
- All drawings pertaining to the design are on site and available for inspection

4.7.8. Formwork & Support Work (F&SW)



Formwork & Support work (F&SW) shall be carried out under the supervision of a competent person designated in writing to do so.

All drawings pertaining to the F&SW shall be kept available on site. A competent person shall check all equipment used in the erection of F&WS before it is used.

4.7.9. Access Scaffolding

Access Scaffolding shall be erected, used and maintained safely in accordance with Construction Regulation 14 and SA Bureau of Standards Code of Practice, SANS 085 entitled, 'The Design, Erection, Use & Inspection of Access Scaffolding.

Detailed consideration shall be given to all scaffolding to ensure that it is properly planned to meet the working requirements.

Scaffolding may only be erected, altered or dismantled by a person who has adequate training and experience in this type of work or under the supervision of such a person (Proof of competence to be put on the OHS File).

4.7.10. Construction Vehicles & Mobile Plant (CV&MP)

All Construction Vehicles and Mobile Plant shall be inspected by the Contractor prior to being allowed on a project site and suppliers of hired vehicles, plant and equipment will be required to comply with this specification as well as the Occupational Health & Safety Act and Regulations.

No unauthorised persons are to be allowed to drive CV&MP. Operators/drivers of CV&MP shall be competent to operate the equipment safely and be in possession of a valid medical certificate issued by an Occupational Medicine Practitioner testifying that the holder is physically and psychologically fit to operate the equipment.

4.7.11. Electrical Installations

Temporary electrical installations shall be carried out by competent persons, and controlled by a competent person that has been appointed to do so in writing, in accordance with Construction Regulation 24 and the Electrical Installation Regulations. Temporary electrical installations shall be inspected at least once per week by a competent person and a record of the inspections kept in the Occupational Health & Safety File.

The Contractor shall ensure that:

- existing electrical services are located and marked before construction commences and during the progress thereof. Where this is not possible, workers with jackhammers etc. are to be protected against electric shock by the use of suitable protective equipment like insulated handles, rubber mats etc.
- electrical installations and -machinery are sufficiently robust to withstand working conditions on site.
- all electrical machinery used on site are inspected before start-up on a daily basis by a competent person and that a record of the inspection is kept in the Occupational Health & Safety File.

An electrical and mechanical lock-out procedure for the construction site shall be developed by the Principle Contractor and submitted for approval by the Project Manager before construction commences. This lock-out procedure shall be adhered to by all Contractors on site.

4.7.12. Housekeeping

The Contractor shall ensure that good housekeeping practises are implemented so that:

- an unimpeded work space is maintained for every employee.
- the walls and roof of every indoor workplace is sound and leak-free.
- every workplace is kept clean, orderly and free of tools and materials that are not required for the work being done.
- every floor, walkway, stair, passage and gangway is kept in a good state of repair, skid-free and free of obstruction, waste and materials.
- catch platforms or -nets are erected over entry and exit ways or over places where persons are working to prevent them being struck by falling objects.
- openings in floors, hatchways, stairways and open sides of floors or buildings are barricaded, fenced, boarded over or provided with protection to prevent persons from falling through or off them.
- materials and equipment are stored properly.
- materials ready for use is placed safely and not allowed to accumulate or cause an obstruction to pedestrian and vehicular traffic.

- Scrap, waste and debris are removed regularly and in a safe manner.
- construction sites are fenced off to prevent entry by unauthorised persons.

4.7.13. Eating-, Changing-, Washing- and Toilet Facilities

Eating facilities should be provided in a location that is sheltered from the elements.

Adequate changing-, washing – and toilet facilities shall be provided for both sexes.

At least 1 shower per 15 workers and 1 toilet per 30 workers shall be provided. Chemical toilets may be used instead of the water borne sewerage type.

4.7.14. Personal & Other Protective Equipment

The Contractor shall identify the hazards in the workplace and endeavour to eliminate them. Where this is not possible, suitable steps shall be taken to protect workers from these hazards. engineering- and other solutions to mitigate the hazard(s) should be attempted before the issue of personal protective equipment (PPE) is considered.

The Contractor is required to inform employees of health and safety hazards and issue them with suitable equipment to protect them from these hazards. It is a further requirement that the Contractor maintains the equipment and instructs and train employees in the use of the equipment. Employees do not have the right to refuse to use/wear safety equipment.

On working inside a building (protected) substation contracts all employees shall be required to wear fire retardant and flash proof work wear (e.g. protective overalls 100% cotton, footwear- Safety Shoes/ Boots, headgear- Hardhat and eye/face protection- safety goggles).

4.7.15. Portable Electrical Tools & Equipment

Portable electrical tools and equipment is defined as units taking electrical power from 220Volt 15 Amp power outlets and is moved around the workplace to perform work like drilling, sawing, grinding etc. and also include portable lights. Electrical appliances, on the other hand, include items like fridges, stoves and heaters.

4.7.16. Public Health & Safety

The Contractor is responsible for ensuring that non-employees affected by the construction work, like visitors, the surrounding community and passers-by, are made aware of the dangers likely to arise from the construction work as well as the precautionary measures to be observed to avoid or minimise these dangers. Appropriate signage must be posted to this effect and all employees on site shall be instructed to ensure that non-employees are protected at all times. All non-employees entering the site must receive induction into the hazards and risks and the control measures.

4.7.17. Working at Heights specific requirements

4.7.17.1. Medical certificate of fitness

In terms of the Construction Regulations personnel working at height shall be physically and psychologically fit to work safely in such an environment and shall be in possession of a valid medical certificate of fitness (valid for 1 year since date of issue) issued by an occupational health practitioner who shall be registered with the Health Professions City of Cape Town of south Africa.

4.7.17.2. Rope access

In respect of this specification, rope access methods for industrial purposes are methods used to gain access to buildings and other structures where ropes are used as the primary means of access to and egress from the workplace and to be supported at it and as the primary means of protection against a fall, all with the prime goal of executing the scope of work as specified elsewhere herein in accordance with safe systems of work.

It is recognised that, within the variety of work at height methods available, rope access is an accepted technique to use in appropriate circumstances.

In this regard it is to be noted that rope access work, irrespective of work being performed, is deemed to be "construction work" as per the Construction Regulations, 2014 of the OHS Act.

It is equally recognised that work sites using rope access require two types of supervision, namely:

- o Rope access safety

- Work to be executed as part of the scope of work.

It is to be noted that these two types of supervision may be the responsibility of different people or the same person. The H&S plan shall clearly indicate the relevant appointments, duties, responsibilities, competencies, etc. as applicable.

A safe system of work shall be implemented covering the above mentioned domains of supervision including, amongst others:

- Proper planning and management
- The use of trained competent persons
- COMPETENT ON SITE supervision
- The careful selection of appropriate equipment
- Proper care, maintenance and inspection of equipment
- Proper control of working methods, including;
 - Provision for emergencies
 - The protection of third parties
 - The use of work equipment
 - Exclusion zones.

i. Rope access – compliance, supervision and worksite management.

Rope Access Compliance

All rope access shall comply with:

- The Occupational Health and Safety Act, no 85 of 1993 and all regulations promulgated thereunder, in particular, the Construction Regulations, 2014
- SANS 10333-1 and SANS 10333-3,
- and, inter alia,
 - Any applicable "Good Practice Note" issued by the Rope Access Chamber of the Institute for work at height (IFWH), and generally
 - The IRATA International Code of Practice for Industrial Rope Access.

Worksite classification: Type A & B Work Sites

SANS 10333-1 distinguishes between type A and B worksites.

All work sites are by default type A worksites and require direct supervision by a registered rope access level 3 supervisor

A rope access level 3 supervisor may have a maximum of six rope access practitioners working under his/her direct supervision. However, where required, rope access level 2 team leaders may be appointed to work under the direct supervision of the rope access level 3 supervisor. In such cases, each rope access level 2 team leader may preside over a maximum of three rope access level 1 practitioners. A maximum of four such teams may work under a rope access level 3 supervisor.

Type B worksites are simple, descending-only worksites where a lesser degree of supervision is required. Notwithstanding the requirement of SANS 10333-1 which require the classification of a worksite from a type A to type B to be done by a site inspector, currently no such inspectors exist and hence the following IFWH (Institute for Working at Heights) policy shall be applied in classifying worksites and implementing sufficient supervision, namely:

In order for a worksite to be eligible for classification as a type B worksite, the following basic criteria must be met:

- Worksite that only involve straight forward descending –i.e. access working lines from the top and descending towards the ground.
- No other rope manoeuvres or skills are required in order to do the work (no ascending, rebelay, deviations, aid manoeuvres, rope to rope transfers, etc.).
- The rope access team size consists of four or less persons.
- There are no uncommon or multifarious risks present on the worksite (for example, working above water, night shift work, heavy lifting etc. can be deemed as uncommon or multifarious)

All of the above-mentioned criteria must be met in order to be able to classify a worksite as a type B worksite. Should all of the above mentioned criteria be met, a worksite may be classified as a type B worksite by following the process specified below:

- A rope access level 3 supervisor is appointed as supervisor (in terms of the Occupational Health and Safety Act) for the worksite
- The rope access level 3 supervisor completes a site visit in person and prepares the documentation for the work, including facilitating a Fall Protection Plan, risk assessment (including rescue plans), rope access operation plans and method statement. Mention must be made that the work site is classified as a type B worksite in these documents, and justification for the classification is recorded.
- The rope access level 3 supervisor appoints, in writing, a rope access level 2 practitioner, as team leader for that worksite.

Once the classification has been documented and approved, the appointed rope access level 2 practitioner acts as team leader on the worksite and the rope access level 3 supervisor does not need to be present on the work site any longer.

NOTE: Notwithstanding the aforesaid, the rope access level 3 supervisor remains ultimately responsible for the worksite and the classification of a worksite as a type B worksite is in no way a dereliction of his/her duties.

The appointed rope access level 2 team leader fulfils the on-site duties of the rope access level 3 supervisor. This includes monitoring, and reviewing of risks and work circumstances, completing the necessary documentation and briefing the work team every day before work commences.

Should any of the circumstances on the worksite or the scope of work change (for example, a previously undefined risk is identified), work is to immediately be suspended and the rope access level 3 supervisor be notified. The work site effectively reverts back to a type A worksite and no further work may be done without the rope access level 3 supervisor being present on the worksite. Once the rope access level 3 supervisor has reviewed the changes, updated the necessary documentation and re-classified the worksite as a type B worksite, the work can once again commence with the rope access level 2 team leader overseeing it. Alternatively, the work may only recommence with the rope access level 3 supervisor present on site.

A rope access level 3 supervisor may only have one type B worksite active under his/her supervision at any given time.

ii. Competency of installer, inspector and tester of anchor devices

Anchor devices shall only be installed, inspected and tested by competent persons who have been trained in the installation of the type of anchor device to be installed and for each type of base material into which they are to be installed. A valid and accredited rope access qualification at any level is not sufficient to assure competency to install or test anchor devices.

All persons engaged in industrial rope access work shall have been trained and certified in accordance with the procedures described in SANS 10333-2. No person shall be allowed to take part in any form of industrial rope access work without these qualifications and certification. It is to be noted that only a valid certificate of proficiency (i.e. 3 years since date of issue) will be accepted. Re-certification after the expiry of the initial 3-year period shall apply.

Proof of training/competency required:

Qualification for rope access technicians as recognized by RAFAA

(Rope Access and Fall Arrest Association, formerly known as SAIRAA) and IRATA (Industrial Rope Access Trade Association).

iii. 1 Anchor devices/points Specifications

All anchor devices/points supplied and installed as part of this contract shall comply fully with the requirements of the following:

SANS 33:2007 Equipment for Use in Industrial Rope Access Work, and one or both of the following:

SANS 50795:EN795: Protection against falls from a height – anchor devices – safety requirements and testing

BS 7883 Code of practice for the design, selection, installation, use and maintenance of anchor devices conforming to BS EN 795.

as well as IRATA International code of practice for industrial rope access

When selecting, fitting and using anchors, the principle of double protection applies (2.11.1 of IRATA COP) and, therefore at least two anchors should always be used for single person use with an energy absorber to EN 355. Additional anchors may be required to facilitate workmate retrieval. These should be of adequate strength for at least a two-person load.

All components of anchor bolts assemblies mounted into concrete or masonry structures shall be grade 316 stainless steel.

When bolted directly on to a steel structure, the bolt steel shall be of similar composition to that of the structure.

All bolts used in chemical anchor assemblies shall be of minimum 10mm diameter, and minimum length 100mm.

All chemical anchor bolts shall be secured with a two-part epoxy-type resin, injected by means of an application gun.

The anchors shall be selected appropriate to the situation in which they are fitted or to be used, i.e. that they are the correct type of anchor device for the given situation and that they are positioned and fitted correctly. Anchors should be of adequate strength taking into consideration the mass of the user including any equipment worn or carried. 2.11.2.6 and 2.11.2.8 of IRATA COP apply.

All anchor devices shall be fitted, tested and inspected by competent persons and strictly in accordance with the manufacturer's instructions.

Each manufacturer of the various structural anchor components shall supply instructions for installation and use of the anchor devices. The instructions for use shall include (as far as practicable and applicable) a statement that the anchor devices have been tested to the applicable standards detailed above and that, unless otherwise stated, they are appropriate for single person use with an energy absorber to EN 355.

Notwithstanding the aforesaid, the anchor arrangement shall be Hilti HY200 injection mortar with Hilti HIS-RN, 12 mm bolt/sleeve set of stainless steel in conjunction with fixed single man 12mm anchor set for concrete conforming to EN 795 class A or approved equal.

The local supplier of the specified equipment shall have competent staff who have had extensive training in the equipment being supplied and who are approved to install, test and maintain the said equipment.

The installer shall be in possession of accreditation certificates issued by the relevant supplier/manufacturer of the single man bolt/sleeve anchor set as well as the supplier/manufacturer of the anchor injection mortar.

iv. Anchor testing

Type test requirements of typical sample area of anchor fitment.

The installer shall ensure the suitability of the base material into which the structural anchor devices are to be fitted.

For fixings into concrete and masonry structural material, the installer shall verify the suitability thereof by carrying out a type test in a convenient "sample" area representative of the material into which the anchors will be fixed to – these are to be numbered and marked "sample test only" and tested in accordance with EN 795. The sample test should meet the 4.3.1.1 type static test requirements i.e. 10 kN applied for 3 minutes. The sample should hold the force.

When testing single point anchor devices that have been installed in bricks, the testing device shall not make contact with the brick into which the anchor has been installed.

Test requirements for structural anchors to be used for abseiling.

Each structural anchor to be used for industrial rope access work shall, after installation and setting/curing of the two-part epoxy-type resin, be submitted to an axial pull-out force of 5 kN to confirm the soundness of fixing. The structural anchor shall sustain the force for a minimum of 15 seconds.

When testing single point anchor devices that have been installed in bricks, the testing device shall not make contact with the brick into which the anchor has been installed.

v. Anchor identification, marking and certification

For any single installed anchor device/point to be used for industrial rope access work or fall protection systems, the following markings (identifying the anchor device/anchor point) and information related thereto shall be included, namely:

- Relevant Building name and address
- The unique serial or identification number for each anchor including tag.
- A location layout or site plan clearly depicting where the anchor point is positioned on a building and at what level
- A clear statement on the purpose of the anchor or fall protection system (e.g. for use with rope access equipment and methods, fall arrest equipment and method etc.).
- Details of the anchor device (type, make, model, supplier etc.)
- Details of the epoxy type used (type, make, model, supplier etc. and expiry date on the package). A testing standard reference or test method specifications (e.g. SANS 50795/ISO 14567/ EN 795/etc.).
- Testing device details (make, model, serial number, date last calibrated etc.). For single point anchors, the direction in which to load the anchor.
- The rating of the anchor (e.g. maximum number of people/load rating/maximum permissible load to be exerted on that anchor
 - The date of installation.
 - The most recent testing date of test or the date that the test certificate expires.
 - The installation company's information and contact details.
 - A warning or recommendation that states that the anchor or fall protection system should be visually inspected before it is used.
 - A warning that the anchor or fall protection system has to be recertified in the event of a fall occurring.

vi. Anchor types and anchor installation/placement.

The installation or placement of anchor devices shall

- only be carried out from a safe place, i.e. a place arranged so that there is no risk of a fall from a height, and where there is a safe means of access and egress,
- when deciding where anchor devices are to be installed or placed, account shall be taken of the envisaged work to be carried out from them, and
- be in accordance with IRATA Code of Practice for Industrial Rope Access Part 3 Informative Annexes: Annex F: Safety considerations when installing or placing anchor devices for use in rope access.

4.7.17.3. Scaffolding

Scaffolding shall comply with the requirements of SANS 10085-1:2004

Competent persons to be appointed in writing to:

- Erect scaffolding (scaffolds erector/s)
- Act as scaffold team leader/s
- Inspect scaffolding immediately after erection and thereafter weekly and after inclement weather, as applicable by scaffold inspector/s). Every scaffold erected must be registered and the results of each inspection must be recorded in writing and kept in the job specific Health and Safety file.

Scaffolders must adopt a safe system of work when erecting scaffolding and must wear fall arrest equipment during erection/dismantling of scaffolding.

Every scaffold shall be erected by a competent scaffolding erector and on completion thereof a competent scaffolding inspector shall provide written certification that such scaffolding is safe for use.

Consideration must be given to trip hazards on the walkways.

Safe means of access must be provided by way of secured vertical ladders or ladders placed at a suitable angle for easy use. All ladders must be tied. The working platforms must provide a handhold for getting on or off access ladders etc.

Strict control measures must be put in place to prevent unauthorised alterations to scaffolding such as removing ties and scaffold boards, toe boards etc. Changes should only be made when properly assessed, planned and undertaken by competent person.

After heavy rains or strong winds an inspection of all external scaffolding must be done and written

certification must be obtained from a scaffolding inspector that the scaffolding is safe to use prior to re-commissioning.

All scaffolding shall otherwise be inspected every day before commencement of work by the user and at least once a week by a scaffolding inspector and written certification must be obtained from such inspector that the scaffolding is safe to use.

All scaffolding certificates, of whatever nature, shall be filed in the relevant Health and Safety File to be kept on site.

Scaffolding to be under the control of the scaffold competent person and all safety signage and safety PPE as required in terms of the SANS document shall be provided and used.

4.7.18. Ladders and ladder Work

Ladders are legal and not banned for work at height. Ladders may be used as a workplace, within stipulated limitations, when it is not reasonably practical to use other potentially safer means and the risk assessment shows that the risks are low.

Ladders are best used as a means of access to or egress from a work place and may be used as a work place for short duration light work as detailed below.

Ladders should only be used as a work place for short duration (maximum 30 minutes per task), light work (up to 10 kg) only and where

- the work only requires one hand to be used
- the work can be reached without stretching
- the ladder can be fixed or footed to prevent slipping
- a good handhold is available.

Ladders to be checked daily for damage etc. by user before use (i.e. pre-use check prior to setting up the ladder to quickly establish whether the ladder is safe to use there and then); recheck if it has been unattended (a pre-use check is a visual and functional check which might include, for example, stiles that are warped, cracked, bent, rotten or of different lengths or rungs that are missing, worn or loose or feet that are in a bad state of repair or dirty etc. or paint or dirt on the ladder hiding defects or rivets or screws that are missing or welds that are cracked or corroded, etc.)

The Contractors shall ensure that all ladders are inspected (more in depth than pre-use checks) monthly by appointed competent ladder inspectors, are in good safe working order, are of the correct height for the task, extended at least 1m above the landing, fastened and secured or at minimum held, and at a safe angle (one in four rule). Records of inspections must be available on request.

Wherever possible tie a ladder (by its stiles) to prevent it from slipping, either at the top, the bottom or both.

Ladders should be fitted with safety feet to prevent slipping – feet to be in good repair (not loose, missing, splitting, excessively worn, secure etc.), clean and in good contact with the ground (ground to be level, firm and clean).

Access ladders should extend about 1 metre above the working platform providing a handhold for getting on or off.

Don't rest ladders against weak upper surfaces (e.g. glazing, plastic gutters etc.); use effective spreader bars or effective stand-offs

Avoid side-on work.

Do not overreach and do not work off the top three rungs (leaning ladder) or top two steps (stepladder).

When working from a ladder, try and maintain three points of contact (e.g. both feet and one hand).

Wearing of safety belt and fall protection equipment is recommended.

Users should face the ladder at all times whilst climbing or dismounting.

Only one person to work from a ladder.

All tools and equipment should be hauled up or lowered by rope or other means in a safe manner. No tools to be left on top of ladders. Heavy or bulky loads should not be carried up or down ladders – a gin wheel or other suitable lifting equipment should be used.

Ladders should be kept clean and free from greasy and oily deposits.

Ladder inspection training shall be accredited by Department of Labour, SAQA or SETA.

4.7.19. Hired plant and Machinery. (including "Cherry Pickers" [elevated moving platforms])

All contractors shall ensure that any hired plant and machinery used on site is safe to use and complies in all respects with the OHS Act.

All contractors shall ensure that operators hired with machinery are competent and licenced (where applicable) and that certificates are kept on site.

All contractors shall ensure that their employees working with/operating hired plant and machinery shall receive suitable training.

Cherry Picker Operators

Operators must:

- be competent to operate the Cherry Picker in the working conditions to which they are exposed,
- be instructed in local hazards and site rules,
- have attended a recognised basic training course, and
- be familiar with the make and model of Cherry Picker they are authorised to operate.

Written proof of competency and/or training to be available on request.

Cherry Picker operator training shall be accredited by Department of Labour, SAQA or SETA.

Cherry Picker Supervisors

Supervisors should be instructed in the hazards, risk factors, and control measures identified in the task specific risk assessments for the work to be carried out. They should be familiar with the plans (Method Statement) for the work to be carried out and take part in regular on site emergency lowering drills.

4.8. Traffic exclusion zones

It will be the Contractors responsibility to apply for permits and traffic exclusion zones should the service require this and the cost of all such arrangements will be deemed to be included in the tendered price. It will be the Contractors responsibility to gain permission from neighbouring businesses should this be deemed necessary. This may require Sunday work schedules.

4.9. TRADE NAMES OR PROPRIETARY PRODUCTS

Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

All descriptions or clauses where trade names or proprietary products are specified herein, are deemed to include the phrase "or equivalent."

4.10.EMPLOYMENT OF SECURITY PERSONNEL

All security staff employed by the supplier on behalf of the CCT or at any CCT property must be registered with Private Security Industry Regulatory Authority (PSIRA). Proof of such registration must be made available to the CCT's agent upon request.

4.11.FORMS FOR CONTRACT ADMINISTRATION

The supplier shall complete, sign and submit with each invoice, the following:

- a) Monthly Project Labour Report
- b) B-BBEE Sub-Contract Expenditure Report
- c) Joint Venture Expenditure Report

The Monthly Project Labour Report must include details of all labour (including that of sub-contractors) that are South African citizens earning less than R350.00 per day, as adjusted from time to time (excluding any benefits), who are employed on a temporary or contract basis on this contract in the month in question.

In addition to the Monthly Project Labour Report the Supplier shall simultaneously furnish the CCT's Agent with

TENDER NO: 253S/2019/20

copies of the employment contracts entered into with such labour, together with certified copies of identification documents as well as evidence of payments to such labour in the form of copies of payslips or payroll runs. If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it and proof of such acknowledgement shall be furnished to the CCT's Agent.

The Monthly Project Labour Reports shall be completed and submitted in accordance with the instructions therein.

The **B-BBEE Sub-Contract Expenditure Report** is required for monitoring the supplier's compliance with the sub-contracting conditions of the **Preference Schedule**.

The Joint Venture Expenditure Report is required for monitoring the joint venture's/consortium/partnership compliance with the percentage contributions of the partners as tendered, where the joint venture/consortium/partnership has been awarded preference points in respect of its consolidated B-BBEE scorecard.

(7) SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract, referring to the National Treasury – Conditions of Contract (revised July 2010), are applicable to this Contract:

1. Definitions

Delete Clause 1.15 and substitute with the following

- 1.15 The word 'Goods' is to be replaced everywhere it occurs in the GCC with the phrase 'Goods and / or Services' which means all of the equipment, machinery, materials, services, products, consumables, etc. that the supplier is required to deliver to the purchaser under the contract. This definition shall also be applicable, as the context requires, anywhere where the words "supplies" and "services" occurs in the GCC.

Delete Clause 1.19 and substitute with the following

- 1.19 The word 'Order' is to be replaced everywhere it occurs in the GCC with the words 'Purchase Order' which means the official purchase order authorised and released on the purchaser's SAP System and the date of the Purchase Order will be the contract commencement date

Delete Clause 1.21 and substitute with the following:

- 1.21 'Purchaser' means the **City of Cape Town**. The address of the Purchaser is **12 Hertzog Boulevard, Cape Town, 8001**.

Add the following after Clause 1.25:

- 1.26 'Supplier' means any provider of goods and / or services with whom the contract is concluded

3. General Obligations

Delete Clause 3.2 in its entirety and replace with the following clauses.

- 3.2 The parties will be liable to each other arising out of or in connection with any breach of the obligations detailed or implied in this contract, subject to clause 28.
- 3.3 All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms of this contract and shall carry individually the minimum levels of insurance stated in the contract, if any.
- 3.4 The parties shall comply with all laws, regulations and bylaws of local or other authorities having jurisdiction regarding the delivery of the goods and give all notices and pay all charges required by such authorities.
- 3.5 The **supplier** shall:
- 3.5.1 Arrange for the documents listed below to be provided to the Purchaser prior to the issuing of the order:
- Proof of Insurance (Refer to Clause 11) or Insurance Broker's Warrantee
 - Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer (Refer to Clause 11)
 - Initial delivery programme
 - Other requirements as detailed in the tender documents
- 3.5.2 Only when notified of the acceptance of the bid by the issuing of the order, the supplier shall commence with and carry out the delivery of the goods in accordance with the contract, to the satisfaction, of the purchaser
- 3.5.3 Provide all of the necessary materials, labour, plant and equipment required for the delivery of the goods including any temporary services that may be required
- 3.5.4 Insure his workmen and employees against death or injury arising out of the delivery of the goods

- 3.5.5 Be continuously represented during the delivery of the goods by a competent representative duly authorised to execute instructions;
- 3.5.6 In the event of a loss resulting in a claim against the insurance policies stated in clause 11, pay the first amount (excess) as required by the insurance policy
- 3.5.7 Comply with all written instructions from the purchaser subject to clause 18
- 3.5.8 Complete and deliver the goods within the period stated in clause 10, or any extensions thereof in terms of clause 21
- 3.5.9 Make good at his own expense all incomplete and defective goods during the warranty period
- 3.5.10 Pay to the purchaser any penalty for delay as due on demand by the purchaser. The supplier hereby consents to such amounts being deducted from any payment to the supplier.
- 3.5.11 Comply with the provisions of the OHAS Act & all relevant regulations.
- 3.5.12 Comply with all laws relating to wages and conditions generally governing the employment of labour in the Cape Town area and any applicable Bargaining City of Cape Town agreements.
- 3.5.13 Deliver the goods in accordance with the contract and with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.
- 3.6 The **purchaser** shall:
 - 3.6.1 Issue orders for the goods required under this Contract. No liability for payment will ensue for any work done if an official purchase order has not been issued to the supplier.
 - 3.6.2 Make payment to the **supplier** for the goods as set out herein.
 - 3.6.3 Take possession of the goods upon delivery by the supplier.
 - 3.6.4 Regularly inspect the goods to establish that it is being delivered in compliance with the contract.
 - 3.6.5 Give any instructions and/or explanations and/or variations to the supplier including any relevant advice to assist the supplier to understand the contract documents.
 - 3.6.6 Grant or refuse any extension of time requested by the supplier to the period stated in clause 10.
 - 3.6.7 Inspect the goods to determine if, in the opinion of the purchaser, it has been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended.
 - 3.6.8 Brief the supplier and issue all documents, information, etc. in accordance with the contract.

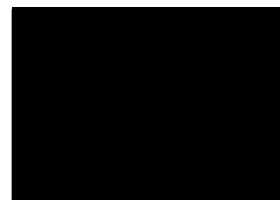
5. Use of contract documents and information; inspection, copyright, confidentiality, etc.

Add the following after clause 5.4:

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

The ownership of data and factual information collected by the supplier and paid for by the purchaser shall, after payment, vest with the purchaser

- 5.6 Publicity and publication



The supplier shall not release public or media statements or publish material related to the services or contract within two (2) years of completion of the services without the written approval of the purchaser, which approval shall not be unreasonably withheld.

5.7 Confidentiality

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

7. Performance Security

'Not Applicable.

8. Inspections, tests and analyses

Delete Clause 8.2 and substitute with the following:

- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisation acting on behalf of the purchaser.

10. Delivery and documents

Delete clauses 10.1 and 10.2 and replace with the following:

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The time for delivery of the goods shall be the date as stated on the order.
- 10.2 The purchaser shall determine, in its sole discretion, whether the goods have been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended. When the purchaser determines that the goods have been satisfactorily delivered, the purchaser must issue an appropriate certification, or written approval, to that effect. Invoicing may only occur, and must be dated, on or after the date of acceptance of the goods.

11. Insurance

Add the following after clause 11.1:

- 11.2 Without limiting the obligations of the supplier in terms of this contract, the supplier shall effect and maintain the following additional insurances:
- a) Public liability insurances, in the name of the supplier, covering the supplier and the purchaser against liability for the death of or injury to any person, or loss of or damage to any property, arising out of or in the course of this Contract, in an amount not less than **R20 million** for any single claim;
 - b) Motor Vehicle Liability Insurance, in respect of all vehicles owned and / or leased by the supplier, comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity;
 - c) Registration / insurance in terms of the Compensation for Occupational Injuries and Disease Act, Act 130 of 1993. This can either take the form of a certified copy of a valid Letter of Good Standing issued by the Compensation Commissioner, or proof of insurance with a licenced compensation insurer, from either the bidder's broker or the insurance company itself (see **Proof of Insurance / Insurance Broker's Warranty** section in document for a pro forma version).

In the event of under insurance or the insurer's repudiation of any claim for whatever reason, the CCT will retain its right of recourse against the supplier.

- 11.3 The supplier shall be obliged to furnish the CCT with proof of such insurance as the CCT may require from time to time for the duration of this Contract. Evidence that the insurances have been affected in terms of this clause, shall be either in the form of an insurance broker's warranty worded precisely as per the pro forma version contained in the **Proof of Insurance / Insurance Broker's Warranty** section of the document or copies of the insurance policies.

15. Warranty

Add to Clause 15.2:

15.2 This warranty for this contract shall remain valid for **not applicable** after the goods have been delivered.

16. Payment

Delete Clause 16.1 in its entirety and replace with the following:

16.1 A monthly payment cycle will be the norm. All invoices which are dated on or before the 20th of a particular month will typically be paid between the 23rd and 26th of the following month. The supplier may submit a fully motivated application regarding more frequent payment to the Employer for consideration. Requests for more frequent payments will be considered at the sole discretion of the Employer and is not a right in terms of this contract.

Delete Clause 16.2 in its entirety and replace with the following:

16.2 The supplier shall furnish the purchaser's Accounts Payable Department with an original tax invoice, clearly showing the amount due in respect of each and every claim for payment.

Add the following after clause 16.4

16.5 Notwithstanding any amount stated on the order, the supplier shall only be entitled to payment for goods actually delivered in terms of the Project Specification and Drawings, or any variations in accordance with clause 18. Any contingency sum included shall be for the sole use, and at the discretion, of the purchaser.

The CCT is not liable for payment of any invoice that pre-dates the date of delivery of the goods.

16.6 The purchaser will only make advanced payments to the supplier in strict compliance with the terms and details as contained on **Proforma Advanced Payment Guarantee**.

17. Prices

Add the following after clause 17.1

17.2 The prices for the goods delivered and services performed shall be subject to contract price adjustment and the following conditions will be applicable:

- a) Consumer Price Index (CPI) adjustment as published in statistical release P0141 by Statistics South Africa will be applicable to this tender
- b) The mechanisms as stipulated in Schedule 8 shall apply

18. Contract Amendments

Delete the heading of clause 18 and replace with the following:

18. Contract Amendments and Variations

Add the following to clause 18.1:

Variations means changes to the goods or any extension of the duration of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior approval by the purchaser's delegated authority as reflected on an authorised amended order. Should the supplier deliver any goods not described in a written instruction from the purchaser, such work will not become due and payable until amended order has been issued by the purchaser.

21. Delays in the supplier's performance

Delete Clause 21.2 in its entirety and replace with the following:

21.2 If at any time during the performance of the contract the supplier or its sub-contractors should encounter conditions beyond their reasonable control which impede the timely delivery of the goods, the supplier shall

notify the purchaser in writing, within 7 Days of first having become aware of these conditions, of the facts of the delay, its cause(s) and its probable duration. As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation, and may at his discretion extend the time for delivery.

Where additional time is granted, the purchaser shall also determine whether or not the supplier is entitled to payment for additional costs in respect thereof. The principle to be applied in this regard is that where the purchaser or any of its agents are responsible for the delay, reasonable costs shall be paid. In respect of delays that were beyond the reasonable control of both the supplier and the purchaser, additional time only (no costs) will be granted.

The purchaser shall notify the supplier in writing of his decision(s) in the above regard.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of goods from a national department, provincial department, or a local authority.

22. Penalties

Delete clause 22.1 and replace with the following:

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum as stated herein for each day of the delay until actual delivery or performance.

The penalty for this contract shall be 2.5% per day or part thereof of the value of the overdue purchase order. Penalties shall not exceed 10% of the value of the purchase order [

23. Termination for default

Delete the heading of clause 23 and replace with the following:

23. Termination

Add the following to the end of clause 23.1:

If the supplier fails to remedy the breach in terms of such notice

Add the following after clause 23.7:

- 23.8 In addition to the grounds for termination due to default by the supplier, the contract may also be terminated:
- 23.8.1 Upon the death of the supplier who was a Sole Proprietor, or a sole member of a Close Corporation, in which case the contract will terminate forthwith.
- 23.8.2 The parties by mutual agreement terminate the contract.
- 23.8.3 If an Order has been issued incorrectly, or to the incorrect recipient, the resulting contract may be terminated by the purchaser by written notice
- 23.9 If the contract is terminated in terms of clause 23.8, all obligations that were due and enforceable prior to the date of the termination must be performed by the relevant party.

27. Settlement of Disputes

Amend clause 27.1 as follows:

- 27.1 If any dispute or difference of any kind whatsoever, with the exception of termination in terms of clause 23.1(c), arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

Delete Clause 27.2 in its entirety and replace with the following:

- 27.2 Should the parties fail to resolve any dispute by way of mutual consultation, either party shall be entitled to refer the matter for mediation before an independent and impartial person appointed by the City Manager in accordance with Regulation 50(1) of the Local Government: Municipal Finance Management Act, 56 of 2003 – Municipal Supply Chain Management Regulations (Notice 868 of 2005). Such referral shall be done by either party giving written notice to the other of its intention to commence with mediation. No mediation may be commenced unless such notice is given to the other party.

Irrespective whether the mediation resolves the dispute, the parties shall bear their own costs concerning the mediation and share the costs of the mediator and related costs equally.

The mediator shall agree the procedures, representation and dates for the mediation process with the parties. The mediator may meet the parties together or individually to enable a settlement.

Where the parties reach settlement of the dispute or any part thereof, the mediator shall record such agreement and on signing thereof by the parties the agreement shall be final and binding.

Save for reference to any portion of any settlement or decision which has been agreed to be final and binding on the parties, no reference shall be made by or on behalf of either party in any subsequent court proceedings, to any outcome of an amicable settlement by mutual consultation, or the fact that any particular evidence was given, or to any submission, statement or admission made in the course of amicable settlement by mutual consultation or mediation.

28. Limitation of Liability

Delete clause 28.1 (b) and replace with the following:

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the sums insured in terms of clause 11 in respect of insurable events, or where no such amounts are stated, to an amount equal to twice the contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

Add the following after clause 28.1:

- 28.2 Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shall be solely liable for and hereby indemnifies and holds harmless the purchaser against all claims, charges, damages, costs, actions, liability, demands and/or proceedings and expense in connection with:

- a) personal injury or loss of life to any individual;
- b) loss of or damage to property;

arising from, out of, or in connection with the performance by the supplier in terms of this Contract, save to the extent caused by the gross negligence or wilful misconduct of the purchaser.

- 28.3 The supplier and/or its employees, agents, concessionaires, suppliers, sub-contractors or customers shall not have any claim of any nature against the purchaser for any loss, damage, injury or death which any of them may directly or indirectly suffer, whether or not such loss, damages, injury or death is caused through negligence of the purchaser or its agents or employees.

- 28.4 Notwithstanding anything to the contrary contained in this Contract, under no circumstances whatsoever, including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall any party or its servants (in whose favour this constitutes a *stipulatio alteri*) be liable for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever, whether or not the loss was actually foreseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, including but not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss of contracts.

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

31. Notices

Delete clauses 31.1 and 31.2 and replace with the following:

- 31.1 Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and forwarded to the addresses specified in the contract and may be given as set out hereunder and shall be deemed to have been received when:
- a) hand delivered – on the working day of delivery
 - b) sent by registered mail – five (5) working days after mailing
 - c) sent by email or telefax – one (1) working day after transmission

32. Taxes and Duties

Delete the final sentence of 32.3 and replace with the following:

In this regard, it is the responsibility of the supplier to submit documentary evidence in the form of a valid Tax Clearance Certificate issued by SARS to the CCT at the Supplier Management Unit located within the Supplier Management / Registration Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5).

Add the following after clause 32.3:

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

ADDITIONAL CONDITIONS OF CONTRACT

Add the following Clause after Clause 34:

35. Reporting Obligations.

35.1 The supplier shall complete, sign and submit with each delivery note, all the documents as required in the Specifications. Any failure in this regard may result in a delay in the processing of any payments.

(8) GENERAL CONDITIONS OF CONTRACT

(National Treasury - General Conditions of Contract (revised July 2010))

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

1. Definitions

1. The following terms shall be interpreted as indicated:

- 1.1 'Closing time' means the date and hour specified in the bidding documents for the receipt of bids.
- 1.2 'Contract' means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.3 'Contract price' means the price payable to the supplier under the contract for the full and proper performance of his or her contractual obligations.
- 1.4 'Corrupt practice' means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.5 'Countervailing duties' are imposed in cases in which an enterprise abroad is subsidised by its government and encouraged to market its products internationally.

- 1.6 'Country of origin' means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognised new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.7 'Day' means calendar day.
- 1.8 'Delivery' means delivery in compliance with the conditions of the contract or order.
- 1.9 'Delivery ex stock' means immediate delivery directly from stock actually on hand.
- 1.10 'Delivery into consignee's store or to his site' means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 'Dumping' occurs when a private enterprise abroad markets its goods on its own initiative in the RSA at lower prices than that of the country of origin, and which action has the potential to harm the local industries in the RSA.
- 1.12 'Force majeure' means an event beyond the control of the supplier, not involving the supplier's fault or negligence, and not foreseeable. Such events may include, but are not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 'Fraudulent practice' means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 'GCC' means the General Conditions of Contract.
- 1.15 'Goods' means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 'Imported content' means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 'Local content' means that portion of the bidding price which is not included in the imported content, provided that local manufacture does take place.
- 1.18 'Manufacture' means the production of products in a factory using labour, materials, components and machinery, and includes other, related value-adding activities.
- 1.19 'Order' means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 'Project site', where applicable, means the place indicated in bidding documents.
- 1.21 'Purchaser' means the organisation purchasing the goods.
- 1.22 'Republic' means the Republic of South Africa.
- 1.23 'SCC' means the Special Conditions of Contract.
- 1.24 'Services' means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance, and other such obligations of the supplier covered under the contract.

1.25 'Written' or 'in writing' means handwritten in ink or any form of electronic or mechanical writing.

2. Application

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

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable, a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za.

4. Standards

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

5. Use of contract documents and information; inspection.

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1, except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself, mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

7. Performance Security

- 7.1 Within 30 (thirty) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in the SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.2 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser, and shall be in one of the following forms:

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

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

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention of such is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier, who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal, the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of the GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in the SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in the SCC.

10.2 Documents to be submitted by the supplier are specified in the SCC.

11. Insurance

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

12. Transportation

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

13. Incidental Services

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

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

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

14. Spare parts

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

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

15. Warranty

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

15.2 This warranty shall remain valid for 12 (twelve) months after the goods, or any portion thereof, as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for

18 (eighteen) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in the SCC.

15.3 The purchaser shall notify the supplier promptly, in writing, of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in the SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in the SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of any other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than 30 (thirty) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in the SCC.

17. Prices

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

18. Contract Amendments

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

- 21.4 The right is reserved to procure, outside of the contract, small quantities of supplies; or to have minor essential services executed if an emergency arises, or the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and, without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

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

23. Termination for default

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than 14 (fourteen) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated 14 (fourteen) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer/Authority will, at the discretion of the Accounting Officer/Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person is or was, in the opinion of the Accounting Officer/Authority, actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within 5 (five) working days of such imposition, furnish the National Treasury with the following information:
- (i) the name and address of the supplier and/or person restricted by the purchaser;
 - (ii) the date of commencement of the restriction;
 - (iii) the period of restriction; and

(iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period of not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction, and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. Anti-dumping and countervailing duties and rights

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

25. Force majeure

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

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

26. Termination for insolvency

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

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

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

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

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due to the supplier.

28. Limitation of Liability

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

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

29. Governing language

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

30. Applicable Law

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

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail, and any other notice to him shall be posted by ordinary mail, to the address furnished in his bid or to the address notified later by him in writing; and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and Duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, licence fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33. National Industrial Participation (NIP) Programme

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34 Prohibition of Restrictive practices

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act, Act 89 of 1998, as amended, an agreement between or concerted practice by firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/are or a contractor(s) was/were involved in collusive bidding (or bid rigging).

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has/have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act, Act 89 of 1998.

34.3 If a bidder(s) or contractor(s) has/have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy

TENDER NO: 253S/2019/20

provided for, invalidate the bid(s) for such item(s) offered, and/or terminate the contract in whole or part, and/or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding 10 (ten) years and/or claim damages from the bidder(s) or contractor(s) concerne